

Regular Meeting

THE LEAWOOD CITY COUNCIL

June 15, 2020

Minutes

**Councilmembers Present:** Lisa Harrison, Debra Filla, James Azeltine, Chuck Sipple, and Mary Larson.

**Councilmember present via Zoom:** Andrew Osman, Jim Rawlings and Julie Cain.

**Councilmembers Absent:** None

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Dawn Long, Finance Director	Ross Kurz, Info. Services Director
Chief Troy Rettig, Police Department	Colin Fitzgerald, Fire Chief
Chris Claxton, Parks and Rec Director	Nic Sanders, HR Director
David Ley, Public Works Director	Mark Tepesch, Info. Services Specialist III
Kelly Varner, City Clerk	Stacie Stromberg, Assistant City Clerk
Holly York, Cultural Arts Supervisor	

**Staff Present via Zoom:** Richard Coleman, Planning Director and Mark Klein, City Planning

**Others Present:** Greg Musil, Rouse Frets Law Firm; Mark Simpson, Developer; Doug Patterson, Property Law Firm, LLC; Theresa Entriken, Shannon Maize, Bob McQuain and Imtiaz Moknijia

**Others Present via Zoom:** Chester Moyer, RubinBrown; Ann Blessing, Leawood Arts Council; David Swartz; Michael Lynch; Lori Hull; Connie Krupco; Karl Lavender

**Others Present via telephone:** Tim Schendt, Savage & Browning, LLC

1. PLEDGE OF ALLEGIANCE
2. APPROVAL OF AGENDA

Mayor Dunn stated there was documentation at the dais for each Councilmember for Item 6D, a modification on Item 7M, and an addendum added to Item 13A.

**A motion to approve the agenda as amended was made by Councilmember Azeltine, seconded by Councilmember Filla. Motion was approved with a unanimous roll-call vote of 8-0.**

**3. CITY CLERK STATEMENT**

The City Clerk read the Clerk Statement: To reduce the likelihood of the spread of COVID-19 and to comply with social distancing recommendations, this meeting of the Leawood Governing Body is being conducted remotely using the Zoom media format and some of the members of the Governing Body are appearing remotely. The meeting is being livestreamed on [YouTube] and the public can access the livestream by going to [www.leawood.org/](http://www.leawood.org/). The public is strongly encouraged to access this meeting electronically, however, City Hall is open and persons with

items on the agenda may, if necessary, attend the Governing Body meeting in person. Staff will strictly enforce social distancing measures.

Public comments on non-agenda items will not be accepted during this meeting. Public comments on agenda items not requiring a public hearing may not be accepted. As always, public comment on any agenda item can be submitted in advance. Written public comments received at least 24 hours prior to the meeting have been distributed to members of the Governing Body prior to the meeting. Public comments should be directed to [LeawoodPublicCommentGOVERNING BODY@leawood.org](mailto:LeawoodPublicCommentGOVERNING BODY@leawood.org).

**4. PROCLAMATIONS - None**

**5. PRESENTATIONS/RECOGNITIONS - None**

**6. SPECIAL BUSINESS**

- A. Resolution pledging the intentions of the Governing Body of the City of Leawood, Kansas, if the City is re-authorized by the electorate to levy a one-eighth of one percent (.125%) City Retailers' Sales Tax (F)

Patty Bennett reminded the Council that this resolution is to state the Governing Body's intentions after previously passing the ordinance.

Mayor Dunn asked if there will be any educational piece from the City indicating how it has been utilized since it was passed 20 years ago.

Scott Lambers stated the typical format is to notify the public via the City's website. Public Works will work on information for the City's website.

**A motion to approve the resolution was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

Mayor Dunn stated the key word is re-authorization and that there will be no additional tax. Councilmember Harrison asked if notification to the public could be pushed out through other social media platforms such as Nextdoor or postcards. Mayor Dunn stated the city attorney will need to assist in defining advocacy versus education when notifying the public. Councilmember Larson asked to inform homeowners' associations, as well.

Councilmember Azeltine asked Ms. Bennett if the language on the ballot could mention this having been in place for 20 years. Ms. Bennett stated the language for the ballot should be straightforward and to the point as possible.

- B. Presentation of the 2019 Annual Audit (F)

Dawn Long addressed the Governing Body and introduced Chester Moyer to make his presentation. Mr. Moyer addressed the Governing Body via Zoom. He explained the presentation is a requirement of the auditing standards. The purpose is to audit the financial statements of the Comprehensive Annual Financial Report. The report is published annually by the Finance Department. Mr. Moyer highlighted the following:

- The Engagement Team added a manager from last year.
- Required communications included an unmodified opinion. Under the title Planned Scope and Timing of the Audit, this year’s field work was not done on-site, due to the COVID shutdown of City Hall during March. Mr. Moyer reported the timing and the scope was not impacted. City management and the Mayor met with the Team remotely and via phone contact. He stated the City’s management had great adaptability and organization in this situation.
- GASB (Governmental Accounting Standards Board) sets the standards for state and local government financial reporting. The City of Leawood set two new standards this year regarding fiduciary activities (GASB No. 84) and disclosures related to debt (GASB No. 88).
- Management judgements and accounting estimates deemed reasonable.
- Financial Statements Disclosures, Notes 9 and 10 are relevant and significant, particularly in the City’s participation in the pension plan and KPERS.

Mr. Moyer reiterated there were no difficulties in performing the audit. He continued by stating they found no corrected or uncorrected misstatements and no disagreements with management. Management added an additional disclosure regarding uncertainties related to COVID-19. In addition, Mr. Moyer announced some of the GASB relief in upcoming accounting pronouncements.

Councilmember Azeltine asked Mr. Moyer what some examples of fiduciary activities are at the city level. Mr. Moyer said it would be the Employee Benefits Fund. Councilmember Azeltine asked how a TTD equates to a fiduciary activity. Mr. Moyer stated that activity was removed from previous presentations. Councilmember Azeltine asked Mr. Moyer to explain what depreciable lives are listed on page 5 of the report. Mr. Moyer explained when an organization purchases an asset, it incurs a cost which is often capitalized and shown on the balance sheet as an asset rather than an expense, and over what time it would be depreciated.

Councilmember Sipple asked Mr. Moyer to explain where the City would have a Conduit Debt Obligation. Mr. Moyer stated an example might be Industrial Revenue Bonds and the Transportation Development Debt. Councilmember Sipple stated he understood the conduit was the accumulation period but asked if GASB No. 91 will affect the balance sheet next year. Mr. Moyer stated next year there will be no changes as the implementation period is 2 years and because of the relief that GASB has provided.

Mayor Dunn thanked Mr. Moyer for his flexibility this year and appreciated all the good work by him and his team at RubinBrown.

- C. Resolution accepting the 2019 Comprehensive Annual Financial Report (CAFR) for the City of Leawood, Kansas (F)

**A motion to approve the resolution was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

Ms. Long thanked her staff for their time and effort. Mayor Dunn stated she feels the work should win an award, as it has in the past. Councilmember Filla congratulated Ms. Long and staff.

- D. Public Hearing: Park Place Development Improvement District Assessments [Project # 83196] (F)

Mayor Dunn opened the public hearing.

Tim Schendt, addressed the Governing Body via telephone. Mr. Schendt stated he provided a packet to the Governing Body outlining what the property owner is asking for in regards to the special assessment on street improvements for Plat 11, Park Place. Mr. Schendt referenced the city ordinance stating the assessment is to be based on the assessed value of the property as of March 1st. He stated the City based the amount on an appraised value, and stated that is not the assessed value of the improvements for 2020 but rather the initial estimate the county put out in February. Mr. Schendt stated that value has changed to a final value which was lowered and created a difference with the special assessment value.

Mr. Schendt stated that the property owner is asking to have the value recalculated based on the final and actual assessed value of the improvements for 2020. He stated as of March 1, there was only an estimate from the county, the only final assessed value as of March 1, 2020, was the value from 2019.

Councilmember Azeltine asked Mr. Schendt if the appeal was filed before or after March 1<sup>st</sup>. Mr. Schendt stated he was not sure.

Councilmember Filla asked Mr. Lambers to verify if the City has to recover all the special benefit district costs and if the formula used was the same for all the properties.

Mr. Lambers stated the same formula was used but were valued differently. He stated he would not recommend using that formula going forward because not all the properties were developed at that time. He stated it is a zero sum gain. He suggested the best way to proceed is to take Mr. Schendt's suggestion of taking the prior year and correcting it for next year.

Mayor Dunn asked Mr. Lambers if he is suggesting the Council use the amount prior to the appeal in this case.

Mr. Lambers stated the administration needs to discuss it with the Bond Counsel.

Mayor Dunn asked if this item can be continued.

Ms. Bennett stated there is an ordinance the Governing Body passed in 2011 that stated March 1<sup>st</sup> of such year is the deadline. Ms. Bennett stated she spoke with the Bond Counsel who said in order to change the date, the City would need a new petition from all the owners in Park Place to change the Benefit District Ordinance where the bonds lie. Ms. Bennett stated the bond ordinance itself gives the Governing Body the ability to correct omissions, errors or mistakes, and that is not the case in this appeal.

Councilmember Filla stated that going forward the Governing Body will need to assess the dollars back based on the formula they have, in order to be timely and treat everyone fairly.

Mr. Lambers agreed this needs to be remedied, and not to repeat it in the future.

Councilmember Sipple asked Ms. Long that if the Governing Body were to follow the appeal, would the 2019 value be used for everyone. Ms. Long stated if the Governing Body chose to use the 2019 value for this particular property, the City would have to start from square one on the entire process and evaluate which property year to use.

Mayor Dunn stated the recommendation is to go forward at this meeting and use the March 1, 2020 value for next year in this case. Councilmember Sipple agreed but stated he is concerned for next year.

Councilmember Azeltine asked if the City's dates could be moved to coincide with the County appeals deadline for next year.

Mr. Lambers stated if the dates were moved the City would have to go back to all the property owners. Ms. Bennett stated the date is in the benefit district ordinance accepting the petition.

Councilmember Filla asked Mr. Lambers to clarify if there were, for example, \$100 of assessments that have to be made, whether based on A or B, that there still has to be \$100 assigned to the property owners. He stated it is a zero sum gain.

Councilmember Harrison asked to clarify the appeal is strictly for Tract 39, 11<sup>th</sup> Plat. Mr. Lambers confirmed the appeal is only the 11<sup>th</sup> Plat. Mr. Schendt confirmed.

Councilmember Azeltine stated the March 1<sup>st</sup> date has been in place for some time.

Mayor Dunn reminded Council that this is a public hearing and will need to close soon.

Councilmember Osman stated he agreed with the Council that March 1<sup>st</sup> should be the deadline and it was agreed upon with all parties when the ordinance was passed. He commented that he hoped everyone will be cognizant of the retail shops located in Park Place. Mayor Dunn encouraged all to get out to dine and shop.

**A motion to close the public hearing was made by Councilmember Azeltine, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

- E. Ordinance levying assessments for tax year 2021 for improvements within the Park Place Development pursuant to K.S.A. § 12-6a01, et seq., and the City's Home Rule authority of Article 12, Section 5 of the Kansas Constitution [Project 83196] **[ROLL CALL VOTE]**

**A motion to approve the ordinance as is, acknowledging denial of notice of objection of calculation of assessment was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.**

Ms. Bennett stated for the record that approval of the ordinance denies the objection that was brought forward.

## **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. 2020-20 and 2020-21
- B. Accept minutes of the June 1, 2020 Governing Body Meeting
- C. Accept minutes of the March 10, 2020 Parks & Recreation Advisory Board Meeting
- D. Accept minutes of the February 27, 2020 Ironhorse Advisory Board Meeting

- E. Accept minutes of the January 28, 2020 Leawood Arts Council Meeting
- F. Accept minutes of the January 23, 2020 Leawood Tree Committee Meeting
- G. Resolution approving and authorizing the Mayor to execute a Community Service Agreement between the City and Blue Valley Unified School District No. 229 pertaining to the assignment of School Resource Officers [SRO] (PD)
- H. Resolution approving and authorizing the Mayor to execute an agreement between the City and ADP, LLC pertaining to software for HRIS & payroll purposes (HR)
- I. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$25,240.86, between the City and Vertiv Corporation pertaining to preventive maintenance service on Vertiv UPS and Vertiv internal batteries at the Leawood Justice Center, 4201 Town Center Drive, for a 3-year term (PW)
- J. Resolution accepting new GASB-34 Public Infrastructure in accordance with GASB-34 Guidelines of Reporting Inventory of Assets for property in the Park Place Development located at 5280 West 115<sup>th</sup> Place (PW)
- K. Resolution accepting new GASB-34 Public Infrastructure in accordance with GASB-34 Guidelines of Reporting Inventory of Assets for property in the Hallbrook East Village Development located at approximately Cambridge Road from 114<sup>th</sup> Street to 116<sup>th</sup> Street (PW)
- L. Resolution approving a Revised Final Sign Plan for Village of Seville – Revised Sign Criteria located north of 133<sup>rd</sup> Street and west of State Line Road (PC Case 24-20) (PC)
- M. Resolution approving a Revised Final Sign Plan for the Mansfield Multi-Tenant Building located south of 103<sup>rd</sup> Street and west of State Line Road (PC Case 26-20) (PC)
- N. Resolution approving a Final Plan for changes to the façade of a tenant space at Town Center Plaza - Dry Goods (Retail: Women’s Apparel), located north of 119<sup>th</sup> Street and east of Nall Avenue (PC Case 32-20) (PC)
- O. Resolution approving an Eligible Facilities request for the replacement of antennae and the replacement and addition of associated equipment at the Saddle and Sirloin Cell Tower for AT&T located south of I-435 and east of Mission Road (PC Case 41-20) (PC)
- P. Resolution approving a Revised Final Plat for Whitehorse Residential Subdivision, Lots 1 & 2, located north of 148<sup>th</sup> Street and east of Nall Avenue (PC Case 38-20) (PC)
- Q. Resolution approving a Final Plan for changes to the façade of a tenant space at Town Center Crossing – Peloton (Retail: Fitness Equipment and Apparel), located south of 119<sup>th</sup> Street and east of Roe Avenue (PC Case 37-20) (PC)
- R. Approve 3<sup>rd</sup> and Final Payment in the amount of \$7,406.74 to Dondlinger & Sons Construction pertaining to the Roe Avenue Wall Repair [Project #72088] (PW)
- S. Approve 12<sup>th</sup> and Final Payment in the amount of \$17,555.00 to Bruner Contracting Company, LLC pertaining to the Design/Build Public Works Facility, Two Bay Expansion Project [Project #76050] (PW)
- T. Approve an expenditure in the amount of \$23,729.05 for the 2020 maintenance fees to Hexagon Computer Aided Dispatch Systems (PD)
- U. Approve an expenditure in the amount of \$57,340.40 to Professional Turf Product for the purchase of a Ventrac Compact Tractor and various attachments (PR)
- V. Declaration of Surplus Property: Park Maintenance equipment (1) John Deere Lawn mower (PR)
- W. Declaration of Surplus Property: (1) Wheel Loader, (1) Grapple Hook, (1) Fork Attachment, (1) Sweeper Attachment and (1) VCR Machine (PW)
- X. Police Department Monthly Report
- Y. Fire Department Monthly Report

Z. Municipal Court Monthly Report

Mayor Dunn requested to pull Item 7M.

Councilmember Sipple requested to pull Item 7O.

Councilmember Filla requested to pull Items 7D and 7G.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Filla acknowledged there is a new Facilities Manager, Bill Chance, as listed in the Ironhorse Advisory Board Meeting minutes. Ms. Bennett stated he works for Public Works as a facilities supervisor over all the buildings. Mayor Dunn stated she has met him and he is very talented.

**A motion to approve Item 7D was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Filla asked Police Chief Troy Rettig what our School Resource Officers backgrounds are and if the funding comes out of the Police Department budget.

Chief Rettig stated they are regular police officers who volunteer for the SRO position. It is a popular and coveted assignment.

Councilmember Filla asked if there has been any consideration for this to be a position for someone not carrying a badge. Chief Rettig stated it has always been a good dynamic for a uniformed officer to have a relationship with students at a young age, not only with D.A.R.E. but to have a familiarity with the students and officer.

**A motion to approve Item 7G was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

The Mayor thanked Chief Rettig and his officers for their service in that role.

Mayor Dunn stated stipulation number 1 in Item 7M indicated five light fixtures in the final sign plan but the request is for six as mention later in the plan.

**A motion to approve Item 7M was made by Councilmember Larson, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Sipple stated he remembered considerable discussion on this item years ago regarding appearance and maintenance. He asked if the painting and landscaping had been completed to the satisfaction of staff.

Richard Coleman responded via Zoom by confirming that it has been done to staff's satisfaction.

**A motion to approve Item 7O was made by Councilmember Sipple, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Filla noted the number of mental health calls had increased, as reported in the monthly Police Department Report. Chief Rettig stated the report breaks down the type of calls, but they do not have an answer as to the underlying reasons. He stated if the Resource Officer that the City shares with Prairie Village and Mission Hills is not available to go along on the calls, she does follow up.

Councilmember Azeltine asked Chief Rettig if the police department tracks the number of times the Resource Officer goes out on calls and if a comparison can be done between last year and now. Chief Rettig stated they do track the calls and he would work on comparison information for the Governing Body.

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

- A. The June meeting of Johnson and Wyandotte Counties Council of Mayors, which is typically held with our legislative delegation, was held by Zoom this time and included only the Mayors. Discussions were primarily COVID-related and the impacts on summer events and activities.
- B. Police Chief Troy Rettig hosted a nice retirement reception for Donita Crossland, who has served the City for the past 16 years. We wish her well with her future endeavors.
- C. My thanks to Finance Director Dawn Long, Budget Coordinator Kathy Byard, City Administrator Scott Lambers, all Department heads, and the Budget & Finance Committee for their efforts with our 2021 Budget. In these precarious economic times, we will likely deal with a number of future amendments.
- D. I attended a virtual Kansas Legislative wrap-up session hosted by the Greater KC Chamber of Commerce. Guests participating included Senate Majority Leader Jim Denning, House Speaker Ron Ryckman and Minority Leader Tom Sawyer. Topics included the transportation plan, which was passed and funded with no tax increase. The K-12 education funding was resolved last year so was not discussed this session, and the tax deadlines were extended from April 15 to July 15. Unfortunately, the Medicaid expansion and other healthcare initiatives, which were the number-one priority for the GKCCC, failed to pass. As of June 10, 2020, the ending balance was \$200 million with May revenues coming in above estimates. There is an anticipated \$650 million budget deficit for next year. Primary topics predicted for next year's session include the budget and K-12 funding.

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

## **10. CITY ADMINISTRATOR REPORT**

Scott Lambers asked the Governing Body to consider changing the position's title from School Resource Officer to School Resource Advocate.

Councilmember Azeltine asked Mr. Lambers if there had been any update on the COVID dollars received by the county. Mr. Lambers stated the County created a steering committee that will meet later this week, but did not have any more details. Mayor Dunn stated those dollars have to be used by the end of 2020. Mr. Lambers stated the County will define the specifics on what is accepted as COVID expenses.

Councilmember Filla stated she loved the idea of changing the title from School Resource Officer to Advocate. She also stated she is happy that Leawood is already ahead of other municipalities for bringing in other resources to move dollars instead of defunding. Mr. Lambers stated the Leawood Chamber of Commerce could include it into their newsletter to bring awareness to the public. Mayor Dunn stated it is a partnership with all the Cities and Johnson County Mental Health.

## **11. STAFF REPORT - None**

## **COMMITTEE RECOMMENDATIONS**

### **12. LEAWOOD ARTS COUNCIL**

**[From the May 26, 2020 Arts Council Committee Meeting]**

**Recommendation:** Approve purchase of a temporary art piece “Skywriting 1” in the amount of \$37,500 from Artist John King

Holly York addressed the Governing Body. She stated the loan agreement was for \$2,500 which was taken off the total price of \$40,000. Ms. York explained the loan agreement ends in October and the Arts Council is still looking for artwork to place on the temporary site. Mayor Dunn asked Ms. York to explain the art piece’s location to the Council.

Councilmember Sipple stated he really likes the art piece but is concerned about its location since it is a kinetic piece and subject to damage from a traffic accident, snow plow, or lawn mower. He was in favor of the purchase.

Ms. Bennett stated a contract would be presented at a later time to the Governing Body that would outline the artwork’s location with the Planning Commission’s assistance.

Councilmember Harrison asked Ms. York if the Art in Public Places has a fund for repair, renovation, and installation.

Ann Blessing addressed the Governing Body via Zoom and confirmed that the Arts Council sets aside 10% of the cost of each piece for maintenance and they pay separately for installation. Ms. Blessing stated the Arts Council has had conversations with the artist about the proper way to maintain the piece.

**A motion to approve Item 12 was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.**

### **13. PLANNING COMMISSION**

**[From the May 26, 2020 Planning Commission Meeting]**

- A. Ordinance approving a Rezoning from R-1 (Planned Single Family Low Density 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 23-20) [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**

Mayor Dunn stated there is an addendum for this item for each Councilmember at the dais and that it had been emailed to them earlier in the day.

Applicant Greg Musil addressed the Governing Body. Showing a visual presentation, Mr. Musil stated there are dramatic differences from the plan prior to October 2019 to now. He stated the Planning Commission recently approved the improved plan 7 to 1. The improved plan overview included reduced number of lots, reduced density, increased lot sizes to full R-1 next to the legacy home neighbors, a mandated 10-foot landscape buffers, increased size of abutting lots, increased rear lot widths, increased rear yard setbacks, and created accountability measures. Mr. Musil stated to rezone this under the current R-1 or RP-1 is not reasonable or feasible. He stated he and the developer went back to the BZA (Board of Zoning Appeals) to get approval of a variance of less than 15,000 square foot lots, but it was denied at that time.

Mr. Musil stated the villas will be high quality and similar to other properties developed in the City of Leawood and throughout Johnson County by Mr. Simpson. The power line easement is stated incorrectly in the staff report, and should be reported as 160 feet wide, not 100 feet. He stated the easement was created in the 1960s and eight of 24 lots will be abutting power lines. Mr. Musil showed the Governing Body a side-by-side comparison image of the western boundary improvements. He stated all the concerns from the neighbors on density, compatibility, and buffering have been addressed and within city code. The only deviation requested is a front yard setback from 30 feet to 26.5 feet, which is allowed under the Leawood Development Ordinance (LDO), if additional open space is planned and that it would only affect internal neighbors.

Mr. Musil stated they would prefer to be zoned RP-1 but cannot because of the requirements in the LDO. He continued that if this preliminary plan is approved, the Governing Body still has the right to revise any plan under a rezone, subject to city code. He stated if the development does not occur within a specified pace, the owners and developers must seek rezoning back to R-1 with city control.

Mr. Musil stated the concerns of neighbors were traffic and stormwater, but the project is for 24 villas and not a large traffic generator. In addition, he explained all the storm water flows south and east and will not affect the western neighbors.

He stated there have been multiple meetings, correspondence and phone calls with neighbors. In turn, the opposition allowed the developers to receive an RP-1 zoning from the Board of Zoning Appeals (BZA.) This property will never be developed as R-1 or RP-1, so the only options for this plan is a change in the LDO or a deviation from the BZA, which they have refused to do.

Mr. Musil presented a drawing for the Mission Road entrance, which is not part of the plan and would need a private easement, that shows buffers and landscaping and to improve the entrance.

Mayor Dunn asked Mr. Musil if the size of these lots offered provided maintenance. Mr. Musil confirmed that maintenance is provided.

Councilmember Filla asked Mr. Musil the price range, story size, power lines, and why the need for an agreement back to the City. She questioned the hardship request on this land since part of it was already developed.

Mr. Musil confirmed the east side of the property had been sold. The villas will be a story and a half, walkout, or reverse story and a half, and the starting price will be around \$800,000. The power lines lots can be considered not as valuable as other lots within the development. The agreement with the City was a suggestion by staff at the last meeting, so that if Mr. Simpson does not develop the land in a timely manner, the land is returned to R-1 through the rezoning process.

Councilmember Harrison stated she appreciated the improved plan and that many of her concerns have been addressed. She stated she still is concerned with ground water coming into homes.

Mark Simpson addressed the Governing Body. He stated they improved the stormwater detention pond under the power lines adjacent to Iron Woods Park to be larger and deeper to accommodate the 24 villas on the north. Mr. Simpson stated none of the storm water will flow to the west. They plan to build underground storm water detention pods to meter the water to the existing 151<sup>st</sup> street. He continued stating the villas will be maintenance provided and most likely reverse story and a half, as the market demands.

Councilmember Azeltine stated there has been a shortage of this type of housing in Leawood and he is not concerned about the quality of the homes. He acknowledged and appreciated the effort and changes the applicant has done. He asked Ms. Bennett would the development agreement be considered separate if this plan was approved. Ms. Bennett confirmed yes, with a super majority.

Councilmember Sipple stated that 1.78 dwelling units per acre included the utility easement from southwest to northeast and asked Mr. Musil what the density would be if the easement was not included. Mr. Musil stated it is still within the 2.4 range and well below what is allowed in R-1.

Councilmember Sipple asked Mr. Musil about the western property line map provided in the presentation. Mr. Musil apologized that this slide was mistakenly left uncorrected.

Councilmember Sipple stated the legacy lots are on septic and asked Mr. Musil if there has been any discussion for those property owners converting to sewers. Mr. Musil stated the homeowners would have to pay for the connection, but it is available now for 5 lots. Mr. Simpson stated his development will build manholes for all 9 lots in which those homeowners can hook up to the sewer. The homeowners would be allowed to get discounted rates from Johnson County Wastewater but not allowed a permit to remodel their current septic tank system. Councilmember Sipple asked Mr. Simpson the location of the third underground detention basin. Mr. Simpson said the retention cell will be located near 151<sup>st</sup> Street.

Councilmember Larson asked the applicant about the communication between the legacy homeowners and the developer since last October. Mr. Simpson stated there have been several meetings in person, phone and INTERACT. The legacy homeowners concerns were traffic and stormwater. He stated they tried working with the neighbors with a landscape easement in which the HOA will maintain, made an offer for an easement for berms, and to redirect a driveway at the homeowner's choice. At this time, Mr. Simpson said the homeowners have not agreed to these offers.

Councilmember Cain asked Mr. Simpson regarding the height of a reverse 1.5 story. Mr. Simpson stated the villas would be concrete tile roofs and height would be approximately 28 feet for a 1 story and a 1.5 story is approximately 38 feet. Councilmember Cain asked if the Council will need to rewrite stipulation on the tree easement. Mr. Simpson stated this is a tree planting easement that will become a preservation

agreement for the new trees they would plant, since there are no trees present now. Mayor Dunn reminded the Council that this is a preliminary plan and they would receive a final landscape plan later.

Councilmember Cain asked if the Council could write in a stipulation that it is the desire of the developers to work with homeowners on 150th Street to provide additional buffers. She asked Mr. Simpson if the manholes will be a part of the utility easement. She also mentioned to the Council there is usually a cost to decommission a septic system. Mr. Simpson stated the manholes are included in the easement. Councilmember Cain stated she looked forward to hearing from the homeowners.

Mayor Dunn stated she will call the residents into the Chambers in the order in which they signed in to speak, starting with Gene Baldwin.

Mr. Baldwin did not appear or respond.

Ms. Bennett stated Doug Patterson is present and is representing many of the homeowners.

Mr. Patterson addressed the Governing Body and stated he represents 9 of the homeowners. He stated there are issues that he believes the developer and residents do agree upon: it is a difficult tract of land in which to build, power lines are a problem, sellers of the property are charging an exorbitant amount, the developers build high quality homes, there is support from many of the communities nearby, and there are at least three R-2 districts close to an R-1 district within the City. Mr. Patterson stated the homeowners understand this tract of land will be developed eventually. He stated, according to policy, there should be a transition area or physical barrier when two different types of zoning districts are adjoining.

Mr. Patterson stated the developers had asked for an R-1, which was denied by both the Governing Body and BZA. He stated there had been one INTERACT meeting since then that was not productive.

Mr. Patterson showed a diagram of an alternative plan to the Governing Body, in which there was 9 lots on the developer's west side abutting the 9 lots on their east side. He stated the homeowners are looking for consistency within the policy for an R-1 with a transition buffer. Mr. Patterson stated they appreciated the manholes that were offered and tree easement.

Councilmember Cain stated she understands and respects Mr. Patterson's comments and asked him if he accepted the new lot size from the applicant that are adjacent to the homeowners, to be R-1. She stated she agrees that typically the R-2 district does normally back up to commercial districts. Mr. Patterson stated it is not compatible to the legacy's east side.

Councilmember Harrison asked to clarify if Mr. Patterson represented 9 homeowners and if he also represented Mr. Karl Lavender who owns the two southernmost homes, who stated in a letter that he supports the development. Mr. Patterson stated he does not represent Mr. Lavender.

Councilmember Filla stated to Mr. Patterson that on the 8 lots shown on his diagram the homeowners could possibly see large 2-story houses built on these lots. Mayor Dunn clarified that Mr. Patterson is suggesting the area be zoned RP-2 with 6,000 sq. ft. lots, single-story homes on the east side. Mr. Patterson stated that would be okay since some of the existing homes are large 2-story homes also.

Mayor Dunn called homeowners to address the Governing Body if they signed up to do so, unless Mr. Patterson already spoke on their behalf.

Gene Baldwin was called to address the Governing Body again, but did not respond or appear.

David Swarts addressed the Governing Body via Zoom. He stated he resides in Florida and has owned the land since 1978. He stated he is in favor of the development.

Michael Lynch, 3305 Ironhorse Court, addressed the Governing Body via Zoom. He stated he is the President of the HOA of the Reserve at Ironhorse and they are in full support of the development.

Lori and David Hull, 15007 Mission Rd. and Connie Krupco, 15005 Mission Rd. addressed the Governing Body via Zoom and stated Mr. Patterson spoke on their behalf.

Paul Klehn was called to address the Governing Body but did not respond at this time.

Karl Lavender was called to address the Governing Body but did not respond at this time.

Theresa Entriken, 15009 Mission Rd., addressed the Governing Body. She stated Mr. Patterson spoke on hers and her husband Corey's behalf. She stated they both fully support the alternate plan as a nice transition.

Shannon Maize, 14913 Mission Rd., addressed the Governing Body. She stated Mr. Patterson spoke on hers and her husband Mark's behalf. She stated they would like to see berms and landscaping between their lots and the new development.

Bob McQuain, 14901 Mission Rd., addressed the Governing Body and stated Mr. Patterson spoke on his behalf.

Imtiaz Moknijia, 14909 Mission Rd., addressed the Governing Body and stated Mr. Patterson spoke on his behalf.

Karl Lavender, 3400 W 151<sup>st</sup> Street, addressed the Governing Body via phone. He stated he owns two properties in this area and his concerns are the traffic flow and having no secondary egress out of the property. He stated he felt it was important to have a road connecting to Mission Road. He stated Mr. Simpson has an excellent track record and hopes to buy one of his villas someday.

Mayor Dunn recognized Gene Baldwin and Paul Klehn once more. Mr. Patterson stated Mr. Klehn is one of the 9 homeowners he represents.

Mayor Dunn asked Mr. Musil to make any comments on Mr. Patterson's plan. He stated he has never seen the plan before tonight. He stated it reduces the number of lots by 21%, and reducing the density allows larger houses to be build. He stated the Hills of Leawood Villas 2020 proposed site plan already has 8 lots bordering the neighbors. Mr. Musil stated that not all the houses along Mission Road are 2-story, but some are small, 1-story ranches designed with septic tanks. Mr. Musil stated with Mr. Patterson's plan, would take estate-sized lots to try and support all the modern infrastructure needs in which the existing homes did not pay for when they were built in the 1960s and 70s.

Councilmember Filla asked Mr. Musil if the developers would be willing to add a stipulation of bordering with buffering and berms. Mr. Musil stated he does not believe it would need a legal stipulation but that Mr. Simpson would state on the record that it is a plan available to those certain neighbors, provided they can get a private easement right.

Councilmember Cain asked Mr. Musil if there was any discussion of an iron fence on the east side. Mr. Musil stated there was nothing in the plan to require it.

Mayor Dunn stated she was struck by a far improved plan than what had been before the Governing Body last fall. She stated going as low as 6,000/sf lots to the east would devalue the villa development, and that it is important that it is all attractive.

Mayor Dunn reminded the Council since there is a valid protest petition, it needs seven votes in the affirmative to approve. She also reminded the Council of the agreement before them drafted by the City's Legal Department and stated if this item is approved the next item on the agenda will be of great interest.

**A motion to approve Item 13A was made by Councilmember Azeltine, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Azeltine asked Ms. Bennett if the Council must vote on the agreement at this time. Ms. Bennett stated the Council would approve and authorize the Mayor to execute it at this meeting. Ms. Bennett explained it is not yet signed by the developers, so the City would hold it for the Mayor's signature until the rezoning application is submitted. The rezoning ordinance would not be published until all parties have signed the necessary paperwork.

Councilmember Sipple asked since this is a preliminary plan, why would the Governing Body not add the amendment at the time of the final plan. Ms. Bennett stated this is the actual rezoning and potentially a different preliminary plan could be brought forward, so it is a stipulation asked for by the Planning Commission.

Mayor Dunn thanked Mr. Patterson in his design effort and representing the residents and their involvement.

**A motion to approve the proposed development agreement addendum Item 13A was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

Councilmember Sipple asked how a future developer would know this agreement exists. Ms. Bennett stated it will be recorded.

Councilmember Azeltine commended Mr. Simpson and others for his creativity of the agreement. Mayor Dunn stated it was one of the concerns they had last fall so that the land would not be sold off and developed differently.

**[From the February 25, 2020 Planning Commission Meeting]**

- B. Ordinance amending Section 16-2-10.3 of the Leawood Development Ordinance entitled “Materials and Colors” pertaining to roofing materials for single family structures, and repealing existing Section 16-2-10.3 and other sections in conflict herewith (PC Case 19-20) [ROLL CALL VOTE]

Mark Klein addressed the Governing Body via Zoom. He stated the ordinance is a clarification of the roofing materials allowed for non-single family and single family. He stated the section of the code references single family districts and the use of laminated composite shingles within those areas, such as churches, schools, or assisted living centers.

**A motion to approve Item 13B was made by Councilmember Rawlings, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

**[From the January 28, 2020 Planning Commission Meeting]**

- C. Ordinance approving Planning Commission’s recommendation of denial of request for Revised Preliminary Plan for a Mixed Use and Medium Density Residential Development, located south of 135<sup>th</sup> Street and west of Kenneth Road (PC Case 04-20) [ROLL CALL VOTE] *[Continued from May 4, 2020, May 18, 2020 and June 1, 2020 Governing Body Meetings]* **CONTINUED TO THE JULY 6, 2020 GOVERNING BODY MEETING**

**14. OTHER BUSINESS - None**

**15. NEW BUSINESS**

Schedule Governing Body meeting on July 6, 2020 at 7:00 P.M.

**A motion to approve Item 15 was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous roll-call vote of 8-0.**

**ADJOURN**

*Meeting was adjourned at 10:02 PM*