

Regular Meeting

THE LEAWOOD CITY COUNCIL

September 21, 2020

Minutes

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

Councilmembers present via Zoom: Andrew Osman

Councilmembers Absent: None

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

Staff present via Zoom: Mark Klein, Planning Official

Others present via Zoom: John Petersen, Polsinelli PC

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

4. CITY 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/.

Public comments on non-agenda items will not be accepted during this meeting. Public comment 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 LeawoodPublicCommentGB@leawood.org.

5. PROCLAMATIONS - None

6. PRESENTATIONS/RECOGNITIONS Introduction of new Fire Marshal, Justin Ducey and Firefighter Thomas O'Malley

Fire Chief Colin Fitzgerald addressed the Governing Body and introduced Justin Ducey and Thomas O'Malley. He stated Mr. O'Malley started on August 17th, earned his Bachelor's Degree in Biology from the University of Kansas, and was previously with the Waukarusa Township Fire Department. Chief Fitzgerald stated Mr. Ducey is the City's new Division Chief of Fire Prevention and also the designated Fire Marshal. Mr. Ducey was previously with the Johnson County Fire District #1 (Gardner-Edgerton area) for 13 years and with Johnson County for 3 years as a building inspector. Chief Fitzgerald stated how pleased and excited he is to have both men as a part of the Department.

Mr. O'Malley addressed the Governing Body and stated he is genuinely thankful to be a part of a city that is progressive and forward-thinking. He stated his desire for wanting to work for the City for a while. Mr. O'Malley stated he feels lucky to be working at a job he loves. Mayor Dunn asked at which station he is assigned. He stated FS #2. Councilmember Sipple asked if he had attended any fires. Mr. O'Malley stated not in the City of Leawood.

Mr. Ducey addressed the Governing Body. He stated he is pleased to be here and thanked Chief Fitzgerald for the opportunity to serve the community. Mayor Dunn asked how many people he served in the Gardner-Edgerton area. He stated the total population is approximately 30,000. Councilmember Cain asked if he has any opportunity to work with schoolchildren. He stated they are trying to be creative in the current environment and are working on videos on fire safety to push out to the schools.

Mayor Dunn thanked both men for attending and welcomed them to the City of Leawood.

Councilmember Harrison asked if the Fire Department is fully staffed in which Chief Fitzgerald confirmed that they are.

7. SPECIAL BUSINESS

Resolution providing for a special call for a Special Governing Body Meeting for October 12, 2020, for the purpose of considering Planning Case Nos. 70-20 and 81-20, pertaining to the Villa De Fontana Development

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

Mayor Dunn thanked the Council for taking an extra night out of their schedules for an additional meeting.

8. 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. 2020-34 and 2020-35
- B. Accept minutes of the September 8, 2020 Governing Body meeting
- C. Accept minutes of the July 14, 2020 Parks, Recreation & Cultural Arts Board meeting
- D. Approve 2022 Budget Calendar (F)

- E. Resolution approving and authorizing the Mayor to execute a Subscription Agreement between the City and Thomson Reuters pertaining to providing electronic legal research services (L)
- F. Resolution approving and authorizing the Mayor to execute an Interlocal Agreement between the City and the Board of County Commissioners of Johnson County pertaining to the provision of Emergency Medical Services (LFD)
- G. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement between the City and BBN Architects, Inc. in the amount of \$18,860 pertaining to improvements at Ironhorse Golf Course (PR)
- H. Resolution approving a Revised Final Plan for Town Center Plaza – Amenity Area – located south of Town Center Drive and west of Roe Avenue (Case 65-20) (PC)
- I. Resolution approving and authorizing the Mayor to execute Change Order No. 1 in the amount of \$49,980.00 between the City and J.M. Fahey Construction Company, pertaining to the Mission Road Improvement Project from 119th Street to 127th Street [Project #72065] (PW)
- J. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$19,527.00 between the City and Myers Brothers of Kansas City, Inc. pertaining to replacement of the underground lift located at 14303 Overbrook (PW)
- K. Resolution approving and authorizing the Mayor to execute a Sales Agreement in the amount of \$22,750.00 between the City and CXTEC, for the sale of certain electronic equipment (IT)
- L. Police Department Monthly Report
- M. Fire Department Monthly Report
- N. Municipal Court Monthly Report

Mayor Dunn pulled Items 8L and 8M.

Councilmember Cain pulled Item 8L and 8H.

Councilmember Sipple pulled Item 8L.

Councilmember Osman pulled Item 8G.

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

Councilmember Osman stated the project for Ironhorse is well overdue. He asked what the objective is in terms of the scope of work for the architectural firm. Chris Claxton, Parks & Rec Director, stated the report from the architectural firm will help decide their budget. She stated after they receive information from the consultant, she will come to the Council to present the findings and ask how they would like to proceed. This will give the Council an opportunity to decide what to do.

Councilmember Osman was in favor of improvements similar to the Sykes/Lady Overland Park Golf Course, if the budget allows but reiterated there are some well-needed renovations the Council needs to review. Ms. Claxton stated she would ask the Council to work with staff on a list of priorities, starting with the kitchen.

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

Councilmember Azeltine asked when the improvements were made to the clubhouse a few years ago if any needs assessment was done at that time. Ms. Claxton stated there was not, but that the thought was to keep the operation for catering and not meal prep, but that the decision now needs to be whether it should be a grill or a full restaurant in terms of food service. Ms. Claxton stated a needs assessment was done before in 2006 for the proposed Community Center.

Scott Lambers, City Administrator, addressed the Governing Body. He recommended that Councilmembers visit the Silo Farmhouse in Lenexa to experience a level of expectation they may want to compare to.

Councilmember Cain thanked Town Center Plaza for their concept of the amenity area which will include a fire pit and outdoor games, and for increasing their pedestrian friendliness. Mayor Dunn wholeheartedly concurred.

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

Mayor Dunn stated the Police Department Report included “new faces” in the Department and invited Police Chief Troy Rettig to introduce new employees to the Council, if shifts allow for it. Chief Rettig thanked the Mayor for the invitation.

Councilmember Cain stated she was very pleased with how the Police Department’s new license plate readers (LPRs) are helping solve cases in the City.

Councilmember Sipple asked about the crime report data having substantial increases from the last 2 months. Chief Rettig stated that data was all specific to the midnight shift facing “very active groups” in the City. Chief Rettig stated the increase in crime numbers have risen not only in Leawood but also in neighboring cities. Mayor Dunn asked if the midnight shift staff stays the same throughout the year. Chief Rettig confirmed it does because it is easier and healthier for the officers’ sleep and family schedules. Councilmember Rawlings asked if the LPRs are on police cruisers or poles. Chief Rettig replied they are on both and also the new radar trailer.

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

Mayor Dunn indicated in the Fire Department’s monthly report the Administrative Staff who assisted in the face mask distribution to Leawood schools were Kelly Varner, City Clerk, and Fire Chief Fitzgerald and his staff. Masks were donated to the City due to our sister city relationship with I-Lan, Taiwan and were delivered on August 24th.

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

9. MAYOR’S REPORT

Fire Chief Colin Fitzgerald, City Administrator Scott Lambers and I attended the Fire Department Re-Accreditation meeting with Peer Assessor Team Leader Ken Horn earlier

today. The purpose of the interview was for the assessor to understand our local processes and to verify and validate what was written in the self-assessment documents that the Fire Department submitted. It will be included in their written report and recommendation to the Accreditation Commission. Final results should be available in the spring of 2021.

10. COUNCILMEMBERS' REPORT - None

11. CITY ADMINISTRATOR REPORT

Scott Lambers: Discussion on the reopening of City Hall

Mr. Lambers stated City Hall is still closed to the public. He stated it was his intention to wait until the Governor's Order expired, and while it did, the Governor decided to extend it another month. He explained the County agreed to concur with her recommendations. Mr. Lambers requested, with the onset of schools opening and the Labor Day surge that City Hall remains closed from the public at this time, until the Governor's Order expires next month. He stated if the Council chooses to open the building, staff would need to place certain limitations to lessen the threat of contamination. He is concerned that to give public access to the Chambers increases contamination risks. Mr. Lambers explained if the public wanted to be addressed at a Governing Body meeting they could gather in the Oak Room on the lower level.

Mr. Lambers stated there has been three exposures already at City Hall. He explained with an exposure, the City Hall building or a major portion of it, is shut down and decontaminated for a total of 4 days and at a cost of \$10,000.00. He did caution that the experts warn of more contagion this winter due to people staying indoors.

Councilmember Rawlings asked if there were any areas of concern in which any City services are lacking. Mr. Lambers stated the front desk staff is very cognizant of those coming to the front doors. The outer door is left unlocked so visitors can come into the entryway. Packages are left inside the entryway for staff to pick up. Mr. Lambers stated the City is doing more electronic approvals and permits and will continue to do so. He indicated staff is doing more electronically all the time, which will be a permanent part of our functions.

Councilmember Filla asked if the staff have heard of any complaints. Mr. Lambers stated no. He stated that while many businesses are not returning to traditional offices, the City is fully staffed inside the building.

Councilmember Cain expressed her pleasure in the creative ways that staff is continuing programs and events, such as opening the City Pool this summer.

Councilmember Harrison asked how many visitors usually come to City Hall during the work week before the pandemic. Mr. Lambers stated downstairs was between 50-100 people. Upstairs maybe a 1/3 of that. Steady but never sees lines at the front desk. She wanted to make sure communication is made clear to the public that we are not closed. She has received messages from the public who are confused as to whether staff is working or not. She suggested the signage out front of the building is made clearer. Mr. Lambers stated there was a time some planners were working remotely, but that word has spread that staff is available online.

Councilmember Azeltine stated the banner on the website's front page needs to be updated or changed because it gives the impression we are closed.

Councilmember Larson inquired how Municipal Court is operating. Patty Bennett, City Attorney, stated dockets are staggered, they use 6' spacing between chairs and the bench, and Zoom hearings and phone pleas are offered. She stated there have been no issues.

Mayor Dunn stated that the Governor's Order expires on October 15th and that she liked the idea of using the Oak Room for the public. She thanked Mr. Lambers for his recommendation.

The City Council body agreed with the City Administrator's recommendation.

12. STAFF REPORT - None

13. COMMITTEE RECOMMENDATIONS

[From the August 25, 2020 Planning Commission Meeting]

Ordinance approving a Revised Preliminary Plan and Revised Preliminary Plat for a Mixed Use and Medium Density Residential Development, located south of 135th Street and west of Kenneth Road (PC Case 04-20) [ROLL CALL VOTE]

John Petersen, Polsinelli PC, addressed the Governing Body via Zoom. He referred to the project as the Lashbrook Project, on which he is appearing on behalf. He shared a presentation to the Governing Body, first starting with the original plan that was approved with stipulations in 2018. Mr. Petersen stated the developers returned to the Planning Commission to work on the stipulations: phasing, timing of installation of a traffic signal, burying power lines, and adding an additional 3rd lane on 135th St. He stated they returned to the Planning Commission to request relief from timing and financing issues. Planning Commission recommended denial. Between the time they met with the Planning Commission but before meeting with the Council, the developers came up with a different design for the project, as asked by the Council. At that time, they presented a new plan to change the twin villas to townhomes north of 137th St. and redesigned the mixed-use area. Mr. Petersen stated they are not asking to change the stipulations, but wanted to present the new building use and configuration plan. He stated he is pleased that they have the recommendation from the Planning Commission.

Mr. Petersen stated they have reached an agreement with staff on the stipulation changes:

- Public Works Memo No. 19 Timing to Recording Final Plat(s)
- Public Works Memo No. 20 Issuance of Certificate(s) of Occupancy
- Planning Staff Stipulation No. 7 Burial of Power Lines

Mr. Petersen stated upon a discussion with the City Administrator and City Attorney, the developer will pay a portion of the costs to place underground the power lines in the amount of \$500,000.00 at the issuance of a building permit for the first building in the mixed-used portion of the project.

- Public Works Stipulation No. 2(c)(i) Additional 135th St Lane

Mr. Petersen stated the developer will remit \$600,000.00 to the City in the event that one of two things happen: if the intersection of 135th and Stateline Rd is operating at a Level of Service F, as reported by a third-party traffic engineer study; or if the City of Kansas City, MO completes an additional eastbound lane on 135th St. within its jurisdiction from Stateline Rd. to the Blue River Bridge. He stated if neither of these occurrences take place within 10 years from the date of occupancy of the mixed-use development, then the requirement would go away.

- Public Works Stipulation No. 2(c)(iii) Traffic Signal Escrow Fee

Mr. Petersen stated there was no disagreement on paying half of the fee, but rather when to pay. The estimate for half the fee is estimated at \$165,000.00 and would be paid prior to the final plat for either Tract H or Tract I in the mixed-use development.

He summarized by stating overall the developers would accept Planning Stipulations 1-38 with an amendment to Stipulation No. 7. They also would accept Public Works Stipulations 1-20 with amendments to Stipulation Nos. 2, 7, 19 and 20.

Councilmember Filla stated she appreciated all the work the staff and Mr. Petersen had done. She stated in the plan provided to the Council earlier, there was a larger green space. She asked if consideration was taken to save trees and if any covenant can be made to keep it a green space. Mr. Petersen stated the plan was the same one that was approved in 2018 and no green space was shortened. He stated there are 2 treed areas. One will stay relatively the same but will include a path; the second treed area will be the stormwater treatment area. He confirmed it will stay green space because it is part of the approved preliminary plan and will go to final plan. Councilmember Filla asked for him to consider adding verbiage to honor the green space after the development phase is complete. Mr. Petersen stated one approach they could take is to include that in the draft of the Homes Association declarations that the Council will have an opportunity to review. He explained the declarations will be recorded and run with the land.

Councilmember Rawlings stated he likes the changes to this proposed plan. He stated his concern is that there is only one entrance and one exit and wondered if it met the fire code in this high density plan. He asked if there was any consideration to have an additional exit out on the east side at 137th Street. Mr. Petersen stated the Fire Department did not have any concerns, but the developers did make some modification of the radius to the central green in the townhome area. He added that the market drives a tighter community characteristic.

Councilmember Cain stated she noticed in Stipulation No. 9 that the gate is no longer in the plan but asked if the roads will still be private. Mr. Petersen confirmed yes, but mentioned the roads will be built to city standards and that this type of development and living style lends itself to private streets. Councilmember Cain asked that language be added that the private road maintenance be the responsibility of the homeowners. Mr. Petersen stated it can be included to the HOA, but added that the streets for the villas are public. Councilmember Cain asked if the townhomes will be developed by Mr. Lashbrook or another developer. Mr. Petersen stated he will develop the twin villas and will be involved in the townhomes and some of the mixed-use development. Councilmember Cain asked if the traffic study will be updated or if it had been satisfied. Mr. Petersen stated it will be updated as part of the final plan analyst. Councilmember Cain asked how long of a time frame will there be between phases 1 and 2. Mr. Petersen stated the developers hope it will be in a year or less, but the streets and stormwater must be built first.

Councilmember Cain stated the reason she voted to approve the original plan was because the developer agreed to all the stipulations, but expressed frustration on just now seeing revisions to the stipulations with no time to prepare in making a decision.

Mayor Dunn suggested that Mr. Lambers speak to some of the revisions, as well. Mayor Dunn agreed that private roads have been approved by Council in the past, but they call them "private drives" so that it is clear that the homeowners are responsible for the maintenance in perpetuity. She suggested

that Stipulation No. 10 be re-worded to state “all private drives proposed within this development shall meet the requirements for public drives per the Leawood Public Ordinance...” Mr. Petersen stated they have no objection to that change.

Mr. Lambers stated staff and Mr. Petersen were working on this preliminary plan stipulation language until 3:00 p.m. this afternoon but feels comfortable bringing it forward tonight. He stated for the final plan he understands the Council is entitled to have all the information well in advance of the meeting, but that the language they see tonight should be expected in the final plan. He agreed there has been a lot of back and forth. Mayor Dunn asked if the Council can be given a paper copy of the stipulation changes that Mr. Petersen presented tonight. Ms. Bennett stated she has an email from Mr. Petersen that discusses the three major stipulations, but asked if Mr. Petersen could email them to her to print off at this time.

Mr. Lambers reiterated the agreed upon stipulations and recapped Mr. Petersen’s proposal.

Councilmember Harrison asked if the plan is to have one HOA or two. Mr. Petersen stated there will be two. She encouraged Mr. Petersen to use consistent terminology in his presentation. She asked about parking for the townhomes. Mr. Petersen stated parking will offer 2-car parking spaces per unit on the twin villas and the garages are rear-loading for the townhomes. She asked about the expected price point for the twin villas and townhomes. Mr. Petersen stated the villas will be approximately \$600,000.00 and the townhomes to be \$400,000.00. Councilmember Harrison asked about the ratio of bedrooms for the apartments. Mr. Petersen is unsure at this time, but stated the market will drive that decision. He guessed it will be 2-bedroom and 1-bedroom with studio units. Councilmember Harrison asked if the only private street is the cul-de-sac in front of the townhomes. Mr. Petersen stated it is the main entrance area and drive in front of the homes and drives behind the homes of the townhomes. She stated her concern of needing any private streets and that they give the impression of exclusivity. Mr. Petersen disagreed with that impression, but guessed that it could be a security issue for people who wish to live in that type of arrangement, whether it is justified or not. Mayor Dunn stated the lack of a gate is imperative in allowing non-residents to bike or walk through the area. Mr. Petersen stated this is an urban style living fashion, which is a choice of some people, and this one of the reasons of the private drives.

Mayor Dunn stated one advantage of a private drive to the homeowners is that they will be plowed sooner than when City plows can get to them, since it will be hired out.

Mr. Lambers stated, depending on how the developers designate the property, the sidewalks could belong to the HOA or property owners.

Mr. Petersen stated Stipulation No. 36 outlines the “funding mechanism to maintain, repair or replace all common areas...”

Councilmember Sipple asked what the percentages are of the developer’s fees to pay for the 3rd lane addition and burying power lines. Mr. Petersen stated an approximate amount is 1/3 of the burying of the power lines, and 90% of the road cost, and 50% of the traffic signal.

Councilmember Larson asked about the setback for the townhomes if those streets were public. Mark Klein, Planning Official, addressed the Governing Body via Zoom. He stated the public street is 50 feet of right-of-way and the pavement itself is 26 feet curb to curb. Councilmember Larson asked about the pool deck and parking mentioned in the preliminary plan. Mr. Petersen stated the pool is

on the roof of the parking structure that will serve the multi-family of the mixed-use development. She asked what the area was on the plan in the midst of the townhomes. Mr. Petersen explained that is a common green space. Councilmember Larson asked about the phasing. Mr. Petersen stated phase 1 will be the public street of 137th. The latter phases will be decided on what the market demands.

Councilmember Osman asked if there will be a fence around the perimeter of the townhomes since the gate has been removed. He mentioned the advantages to the developer of having a private drive in the setbacks and character style of the area. Mr. Petersen stated there will be no fence. Councilmember Osman asked about the construction material and suggested the developer use quality insulation on the middle units because there have been complaints of noise in the past with other projects. He stated his concern for one egress and entrance to 137th Street, and his desire to have had the changes to the stipulation before tonight. Overall, he stated he likes the project.

Councilmember Cain asked if the independent traffic study would be paid for by the City or the developer. She stated she does not know what Level of Service F is. Mayor Dunn stated Level F is significant. David Ley, Public Works Director, addressed the Governing Body. He stated a Level of Service of E, for example, is currently at 135th and State Line Rd. He explained if there is an average delay of over 80 seconds, then the Level Service would be F. Councilmember Cain asked if Public Works would initiate the study. Mr. Ley stated the 3rd party would be a professional traffic engineer company who would use the standard traffic PTOE certification.

Mayor Dunn stated she feels a second ingress/egress is important and logical. She recommends that be reviewed, as well as any signage regarding private drives or sidewalks.

Councilmember Rawlings complimented staff and Mr. Petersen on their compromises and overall work on the stipulations. He is in favor of moving forward with the plan.

Ms. Bennett stated she handed out paper copies of the stipulations to the Governing Body, which was discussed with Mr. Petersen earlier today and recapped what was listed with her suggestions for language revisions. Mr. Petersen stated he used language directly from Mr. Ley, especially on the phasing and that the exact language will be in the final plan.

Mr. Petersen stated having a second access is not required by the Fire Department. He stated the developers looked at other access points but it will lose units and the developers feel this is a good design as is.

Councilmember Azeltine stated the Council should not be in the business of redesign if the Fire Department has already given the approval.

Councilmember Larson thanked staff and Mr. Petersen for all their hours of work on the proposal and is looking forward to the project.

Councilmember Filla stated Stipulation No. 9 states no portions of this development shall be gated or shall restrict any vehicles or pedestrians.

Councilmember Harrison stated frustration on the terms private drive or private street.

A motion to approve Item 13 with stipulation changes was made by Councilmember Filla, seconded by Councilmember Sipple. Motion was approved with a roll-call vote of 7-1.

Councilmember Harrison voted nay due to the need of private drives or private streets.

14. OLD BUSINESS - None

15. OTHER BUSINESS - None

16. NEW BUSINESS

A. Schedule Work Session Monday, October 5, 2020 6:00 P.M.

A motion to approve Item 16A was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a roll-call vote of 8-0.

B. Schedule Governing Body meeting Monday, October 5, at 7:30 P.M.

A motion to approve Item 16B was made by Councilmember Filla, seconded by Councilmember Cain. Motion was approved with a roll-call vote of 8-0.

ADJOURN

Meeting was adjourned at 10:01 PM