

Regular Meeting**THE LEAWOOD CITY COUNCIL**

November 2, 2020

Minutes

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

Councilmembers Present via Zoom: Andrew Osman and Jim Rawlings

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Chief Troy Rettig, Police Department
Chris Claxton, Parks and Rec Director
David Ley, Public Works Director
Mark Tepesch, Info. Services Specialist III
Gerald Merrill, Municipal Judge
Ryan Eckroat, General Manager, Ironhorse Golf Club

Patty Bennett, City Attorney
Nic Sanders, HR Director
Chief Colin Fitzgerald, Fire Department
Ross Kurz, Info. Services Director
Kelly Varner, City Clerk
Stacie Stromberg, Assistant City Clerk
Brad Robbins, Police Captain

Staff Present via Zoom: Richard Coleman, Community Development Director and Mark Klein, Planning Official

Others Present via Zoom: John Petersen, Polsinelli PC; Mark Simpson, Fontana Land Group

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

A motion to approve an amended 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

Small Business Saturday, November 28, 2020

Mayor Dunn read excerpts of the Proclamation into record. She stated that it will be mailed to the requestor.

6. PRESENTATIONS/RECOGNITIONS - None

7. SPECIAL BUSINESS

- A. Approve the Mayor’s recommendation of appointment of Gerald William Merrill as Municipal Judge

Mayor Dunn first recognized the Selection Committee: Patty Bennett, Nic Sanders, and Troy Rettig. Gerald Merrill addressed the Governing Body. He introduced his young son, Titus, who accompanied him. He commented that the Leawood Court staff is phenomenal and take their jobs very seriously. He stated he is very happy to be part of a great system that is already in place and to work with a wonderful staff. Mayor Dunn thanked Judge Merrill for serving in Leawood and his appreciation of the Court staff.

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

- B. Administer Oath of Office: Judge Gerald William Merrill

City Clerk, Kelly Varner, administered the Oath of Office.

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. 2020-40 and 2020-41
- B. Accept minutes of the October 19, 2020 Governing Body Meeting
- C. Accept minutes of the October 12, 2020 Special Call Meeting
- D. Accept minutes of the October 5, 2020 Work Session
- E. Accept minutes of the June 23, 2020 Ironhorse Advisory Board Meeting
- F. Accept minutes of the August 6, 2020 Ironhorse Advisory Board Meeting
- G. Accept minutes of the August 5, 2020 Bike/Walk Committee Meeting
- H. Approve an expenditure in the amount of \$20,935 to Creative Displays of Kansas City, Inc. pertaining to installation and maintenance of Holiday Lights for City Hall (PR)
- I. Resolution approving and authorizing the Mayor to execute a License and Service Agreement between the City of Leawood and Club Car, LLC, pertaining to the use of software in golf carts at Ironhorse Golf Course (PR)
- J. Approve an expenditure in the amount of \$17,685 to American Dish Service pertaining to the purchase of (3) Ultraviolet Light Cabinets (FD)
- K. Resolution approving and authorizing the Mayor to execute a Lease Agreement and associated documents between the City of Leawood and DLL Finance LLC, in the amount of \$60,644.92 annually pertaining to the lease of golf cars, utility vehicles and a beverage unit for the City’s public golf course facility, Ironhorse Golf Course, located at 15400 Mission Road (F)

- L. Resolution approving and authorizing the Mayor to sign a Subrecipient Grant Agreement with Johnson County pertaining to reimbursement of expenses incurred due to the Coronavirus (F)
- M. Resolution approving and authorizing the Mayor to execute a Service Agreement between the City and Online Solutions, LLC, in the amount of \$75,500.00 pertaining to Citizenserve, an online system for permits and licensing (IT)
- N. Resolution approving and authorizing the Mayor to execute an Agreement between the City of Leawood and Design Mechanical, Inc., in an amount not to exceed \$110,000.00 pertaining to the purchase and installation of an HVAC ionization system for certain HVAC systems [Project #74109] (PW)
- O. Resolution accepting new GASB-34 Public Infrastructure in accordance with GASB-34 Guidelines of Reporting Inventory of Assets for property located at 117th Street and Town Center Drive, RW4 Building pertaining to a new development at 5100 W 115th Place (PW)
- P. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and K & W Underground, Inc. in the amount of \$23,999.00 pertaining to the installation of fiber along 143rd Street [Project #76048] (PW)
- Q. Resolution accepting a Temporary Construction Easement from Grantors Harold T. Gauert and Nancy J. Gauert, Co-Trustees of the Gauert Family Trust for property located at 12600 Wenonga Lane, pertaining to the Leawood South Stormwater Improvements [Project #80256] (PW)
- R. Resolution accepting a Temporary Construction Easement from Grantors James Winfield Hansen and Amy M. Hansen for property located at 12613 Wenonga Lane, pertaining to the Leawood South Stormwater Improvements [Project #80256] (PW)
- S. Resolution accepting a Temporary Construction Easement from Grantors James Winfield Hansen and Amy M. Hansen for property located at 12613 Wenonga Lane, pertaining to the Leawood South Stormwater Improvements [Project #80256] (PW)
- T. Resolution approving and authorizing the Mayor to execute Change Order No. 1 between the City and Realm Construction Inc. in the amount of \$35,000.00 pertaining to work performed on the 135th Street Concrete Repair Program (PW)
- U. Approve an expenditure in the amount of \$18,000.00 to Precision Small Engine for the purchase of (2) 50” platinum cooling fans (PR)
- V. Declaration of surplus property: (1) John Deere Rotary Cutter Mower (PR)

Mayor Dunn and Councilmembers Cain and Harrison pulled Item 8L.

Councilmember Azeltine pulled Items 8K, 8O, and 8U.

Councilmember Sipple pulled Item 8R.

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

Item 8K Discussion:

Councilmember Azeltine asked if the Council is to approve the contract only. Dawn Long, Director of Finance, stated it is for the approval of the lease. She stated the money is budgeted in the operating budget general fund. Councilmember Azeltine asked to include the budget line item in the staff report next time.

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

Item 8L Discussion:

Mayor Dunn thanked Ms. Long, Public Works Director David Ley, Information Services Director Ross Kurz, and Fire Chief Colin Fitzgerald for their involvement and efforts in finding reasonable, valid expenses for CARES Act funding. Councilmember Cain stated that it appears there is a remainder of \$330,000.00 in the fund. Ms. Long stated that in order to qualify projects must be completed and paid by December 30th. Ms. Long added that the Information Services staff is preparing to purchase equipment under the CARES Act.

Mayor Dunn replied that she had spoken to Senator Jerry Moran who is proposing a bill to extend the use of the funds for an additional calendar year. Councilmember Sipple asked where the money is being held. Ms. Long stated it is at the County and initially was allocated by the population.

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

Item 8O Discussion:

Councilmember Azeltine asked if this improvement was made in association with a certain project. Mr. Ley stated it was for Park Place east end – the office building and residential apartments.

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

Item 8R Discussion:

Councilmember Sipple asked if there are any more necessary easements to work out. Mr. Ley stated there are approximately four more easements to obtain. Mr. Ley explained the temporary easements listed on the agenda are because of a deadline and a delay caused by COVID. Mr. Ley stated that staff will begin the condemnation process to begin construction next year. Mayor Dunn suggested that since the project was delayed due to COVID and there were extra expenses incurred, it may qualify for CARES Act money. Mr. Ley stated he will contact the County to find out.

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

Item 8U Discussion:

Councilmember Azeltine asked if the item went out for bid. Ryan Eckroat, General Manager of Ironhorse Golf Course, addressed the Governing Body. He stated it did not because they used the same vendor as in the past. Mayor Dunn stated she has received comments recently on how beautiful the golf course is and thanked Mr. Eckroat and his team for doing great work.

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

9. MAYOR'S REPORT

- A. I had the pleasure of participating on a panel with Mayor Quinton Lucas of Kansas City, MO, Mayor Eileen Weir of Independence, and Mayor David Alvey of the UG of

Wyandotte County/Kansas City, KS, for the Kansas City Medical Society's Annual Meeting to discuss regional approaches to healthcare.

- B. Congratulations to Leawood Rotary Club and Councilmember Rotarians Lisa Harrison, Jim Rawlings, and Chuck Sipple on the completion of the Rotary Grove at Ironwoods Park in October with the planting of the 60th tree. The trees represent one tree planted for each Rotary member in this worldwide program for Rotary International. Much appreciation to Parks Director Chris Claxton and Parks Superintendent Brian Anderson and their teams for partnering on this project. It is a beautiful grove of a variety of trees.
- C. Congratulations are in order for the City of Leawood's ranking with online personal finance website, WalletHub. The last two years Leawood was No. 1 in the Country but this year was named No. 11 of Best Small Cities in the U.S. To determine its rankings, WalletHub compared more than 1,200 cities with populations between 25,000 and 100,000 on 43 key indicators of livability in 5 categories: affordability, economic health, education and health, quality of life, and safety. The City ranked No. 7 with its highest score in the affordability category. Leawood tied for 2nd for the lowest percentage of the population in poverty and landed at the No. 1 top spot for percentage of the population with a high school diploma or higher.
- D. Congratulations to United Methodist Church of the Resurrection Rev. Adam Hamilton who was honored by American Public Square with the Founder's Civility Award for demonstrating leadership and promoting civility in our community. This is the first time American Public Square has given this award.
- E. Last evening the Jewish Community Relations Bureau/American Jewish Committee had their virtual annual event where the Henry W. Bloch Human Relations Award was given to Leawood resident Debbie Sosland-Edelman for all her work leading the Sosland Family Foundation and numerous other causes.
- F. I would like to remind everyone that tomorrow is Election Day. It is our greatest privilege and our responsibility to vote.

10. COUNCILMEMBERS' REPORT - None

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT – None

13. COMMITTEE RECOMMENDATIONS

[From the October 13, 2020 Planning Commission Meeting]

- A. Ordinance amending Section 16-3-3 of the Leawood Development Ordinance [LDO] entitled "Administrative Approvals" and repealing existing section 16-3-3 and other sections in conflict herewith (Case 74-20) [ROLL CALL]

Mark Klein, City Planner, addressed the Governing Body via Zoom. He explained the purpose of the amendment is to help speed up the process in regards to exterior and tenant finishes. Currently, it can take up to 60-90 days to process and this amendment would allow for administrative approval and set a time frame of up to 2 weeks. It still requires that the developer provides a letter that would be reviewed and approved, in addition to meeting the design guidelines. He stated the Director of Community Development would have the option to deny, add stipulations, or get further approval by the Planning Commission or City Council.

Councilmember Sipple asked how many requests in a year does the Planning staff handle. Mr. Klein stated that they are common and he estimates 30-50 a year. Councilmember Filla complimented the staff for taking the initiative for trying to increase responsiveness to citizens. Councilmember Cain stated she is pleased with the staff coming together during these difficult times.

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

- B. Resolution approving a Revised Final Plan for Town Center Crossing – Revised Design Guidelines, located south of 119th Street and east of Roe Avenue (Case 66-20) *[Continued to the November 16, 2020 Governing Body meeting]*
- C. Resolution approving a Revised Final Plan for Town Center Plaza – Revised Design Guidelines, located north of 119th Street and west of Roe Avenue (Case 67-20) *[Continued to the November 16, 2020 Governing Body meeting]*
- D. Resolution approving a Revised Final Plan for Town Center Plaza – Revised Sign Guidelines, located north of 119th Street and west of Roe Avenue (Case 82-20) [ROLL CALL] *[Continued to the November 16, 2020 Governing Body meeting]*
- E. Resolution approving a Revised Final Plan for Town Center Crossing – Revised Sign Guidelines, located south of 119th Street and east of Roe Avenue (Case 83-20) [ROLL CALL] *[Continued to the November 16, 2020 Governing Body meeting]*

[From the October 19, 2020 Governing Body Meeting]

- F. Discussion of Villa de Fontana and Possible Motions to Rescind

If Motions to Rescind are Made and Passed, then the following two items may be considered:

- 1. Ordinance approving Planning Commission’s recommendation of denial of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office) and RP-3 (Planned Cluster Attached Residential) to RP-2 (Planned Cluster Detached Residential), Preliminary Plan, and Preliminary Plat for Villa De Fontana, located south of 135th Street and east of Roe Avenue (PC 70-20) [ROLL CALL]

Note: A vote to approve this ordinance is a vote to deny the developer’s application.

- 2. Resolution approving the Planning Commission’s recommendation of denial of a final plan and final plat for Villa De Fontana, located south of 135th Street and east of Roe Avenue (PC 81-20) [ROLL CALL]

Note: A vote to approve this resolution is a vote to deny the developer’s application

Patty Bennett, City Attorney, stated the Council has been provided additional information for the discussion as was requested in previous meetings. Scott Lambers, City Administrator, addressed the Governing Body. He stated the motion to rescind would be necessary to consider before the Preliminary Plan and Final Plan. He explained if there are changes that need to be incorporated into the Final Plan, those changes will not be in front of the Council tonight. He stated the Development Agreement incorporates much of the planning and financial parameters of the project and if the Council wished to move forward with the rescission and Final Plan, he recommended a Special Call meeting next Monday.

Councilmember Harrison stated two weeks ago she was under the impression that the Council would be receiving a very much changed plan tonight, yet nothing has changed in the main plan. Mr. Lambers stated the applicant would not change the issue with the wall or the diversity of housing. He stated staff does not disagree with the traffic signal but wants a traffic study.

Councilmember Larson stated she originally raised concerns on the wall, but still voted in favor of the project.

John Petersen, Polsinelli PC on behalf of Fontana Land Company, addressed the Governing Body via Zoom. He stated the project remains a 63-lot subdivision. He indicated it will not be considered affordable housing because of its location within the City of Leawood and especially along the 135th St Corridor. He stated in the Development Agreement the Developers will begin paying the City and County for the debt on the property and reiterated that the planning affects the financing.

Mr. Petersen stated the existing infrastructure could be used with some modifications. He stated there is an office building adjacent to the property in which the owner has written a letter of support for the project. He stated there is a small residential office building on the corner of Fontana that staff has stated is too close to the proposed residential lot. The Developers have designed screening and landscaping along the property line and that the owners of the building have provided their written support of the project. For these reasons, he stated the Developers are requesting that Staff Report Stipulation No. 2 be removed.

On Staff Report Stipulation No. 8, Mr. Petersen stated that all the streets will be constructed to the City's standards and dedicated as public streets. He stated they presented a proposal in which the streets would remain private and the residents would reserve money to maintain the streets. He stated this issue can be discussed further if anyone on the Council wishes to do so.

Mr. Petersen stated on Public Works Memo Stipulation No. 1(a) that staff has proposed an eyebrow street to accommodate the two lots on 137th St., although it still creates two points of entry onto 137th St. He stated the Developer's concern is that the eyebrow street pushes the houses back on the lots into a no-build area. He stated losing two lots completely would have a significant financial impact.

Mr. Petersen stated that Public Works Memo Stipulation No. 1(c) sets out the right-of-way and back of curb measurements. He stated if the streets were dedicated they would meet the requirements except in a few areas.

Mr. Petersen stated the Public Works Memo Stipulation No. 16 states that building permits will not be issued until all street improvements are approved by the City. He stated the implications are that the construction traffic would be driving on the newly constructed streets before any permits would be issued.

Mr. Petersen summarizes the following stipulation requests:

- Staff Report Stipulation No. 2 –delete
- Staff Report Stipulation No. 3 – revise
- Staff Report Stipulation No. 8 – clarify amount of right-of-way
- Staff Report Stipulation No. 20 – reference to Public Works Memo
 - Public Works Stipulation No. 1(a) – revise
 - Public Works Stipulation No. 1(c) – clarify amount of right-of-way

- Public Works Stipulation No. 16 – delete

Councilmember Sipple asked if the Developer has built any projects in the past with final or partially improved streets. Mr. Petersen stated he has done both, but stated it caused problems when the final product is put in place before the construction is completed. Councilmember Sipple asked at what point of the 63 lots sold would the final streets be put in. He stated the basic rule is before the first occupancy permit is issued for reasons of public safety.

Mayor Dunn asked about the request to delete Stipulation No. 2 and what type of buffer would be allowed. Mr. Petersen stated there is enough space to install landscaping along the green space of the lot and they would be pine, not deciduous trees. The Developer has already agreed with the owner of the office building to install landscaping on his side of the property as well. He stated there is an agreement with the owner of the second office building to finish the parking lot for stormwater purposes and to make improvements to a wall. He stated they plan to add landscape screening along the residential lot.

Mayor Dunn stated on Stipulation No. 8, dedicating the streets to the City would not be considered a gift to the City but rather to the homeowner. Mr. Petersen replied that the Stipulation uses the word “may” be dedicated as a public right of way. Mayor Dunn stated the important part is that they are brought up to City standards. She stated the memo from the City’s Public Works Director David Ley, states the estimated costs to improve the streets to public standards with the curbs is \$345,000.00 additional to the \$180,000.00. She reminded Mr. Petersen that he stated in earlier discussions that the homeowners would be required to keep a fund that they would pay into for future maintenance.

Councilmember Cain stated she would like to have further discussions on certain items and is interested in a rescission if there can be an agreement with some items. She did warn on the maintenance costs of fountains and counted 12 in this project.

Councilmember Harrison agreed with the fountain costs. She said it seems like a lot for 63 homes to support all the amenities. She stated her concern with the lot size of the dog park and why that is not designated for a home. She also asked if any consideration was made to the lots along 135th St. that could be townhomes instead of single-family homes. Mr. Petersen replied that the dog park may be the biggest selling point of the project because the lots are smaller and are not fenced. He stated the dog park is in that location because of the stormwater pipes coming into the area from 135th St. He replied that townhomes are along the 135th St Corridor already so there is market penetration, but also there is not enough room and the existing infrastructure, it would have to be completely taken out and replaced. He stated this with the existing debt burden would break down the entire financial model.

Councilmember Filla stated she appreciates the work the staff has done and does not doubt the reputation of the Developers’ quality of work. She stated she believes the lack of support from the Planning Commission is because of the existing overall plan for the 135th St. Corridor. She expressed her concern with how she feels it is being rushed through the process and that she disagrees with leaving the homeowners and builders left with debt and the risk. She stated the biggest issue for her is sticking to the 135th St. Corridor Master Plan that has worked well for the City. Councilmember Filla stated this property is not a financial crisis for the City and is comfortable waiting for the right proposal. Mr. Petersen expressed his disagreement on her comments to wait for another opportunity on this property and corrected some of the figures she mentioned.

Mr. Lambers disagreed with Mr. Petersen’s position and stated he believes the City will get its money back eventually. He stated nothing will happen to the property until all the taxing entities are paid back.

Mayor Dunn stated the traffic study needs to be completed in order to determine the cost of the traffic signal as listed in the stipulations.

Councilmember Larson stated she supports rescission, and as representatives of the citizens of Leawood, the Council needs to be good stewards of taxpayer money. She stated she has concerns over the public impact fee stipulation of \$45,000.00 and that she would like to see a traffic study done. She appreciated the letters of support from the office building owners. She stated she is still in support of the project if the stipulations can be worked out.

Mayor Dunn asked about the lots that are proposed to have an eyebrow street, and if any consideration could be made to have one shared driveway entrance off 137th St. that could split into two. Mr. Petersen stated he believes they could make that change in the plan. He mentioned the Developer has agreed to pay the impact fees. In terms of the traffic study, Mr. Petersen stated the Developers offered to pay \$70,000.00 of the cost for the traffic signal, being half the cost to be shared with the other businesses in the immediate area. Mr. Lambers agreed that it is a fair amount to pay because it was the figure at which City staff derived. Mr. Ley stated the one driveway is a good option, although staff would prefer the eyebrow street because of parking and deliveries.

Councilmember Cain asked how many votes are needed to rescind. Mayor Dunn replied five are needed. Mr. Lambers replied that if the Council wished to move the Preliminary Plan forward for approval, then the Council will come back on November 9th for a Special Call to approve the Final Plan and then discuss the Development Agreement. He stated six votes are needed to approve the Preliminary Plan and Final Plan tonight and five to rescind.

A motion to rescind Ordinance No. 3011 approving Planning Commission's recommendation of denial of a Rezoning from SD-CR (Planned General Retail), SD-O (Planned Office) and RP-3 (Planned Cluster Attached Residential) to RP-2 (Planned Cluster Detached Residential), Preliminary Plan, and Preliminary Plat for Villa De Fontana, located south of 135th Street and east of Roe Avenue was made by Councilmember Cain, seconded by Councilmember Sipple.

Ms. Bennett reiterated that this motion will re-open the Planning items and allow the Council to proceed if they want to approve them.

Motion was approved with a roll call vote of 5-3. Councilmembers Rawlings, Larson, Sipple, Azeltine and Cain voted AYE. Councilmember Osman, Filla and Harrison voted NAY.

Councilmember Sipple asked if the Council has to vote on the Preliminary Plan tonight or if it can wait until staff and the Developers have done more negotiations. Mr. Lambers stated that by delaying the plan the Council would create the same situation, where if any changes need to be made to the Final Plan, it would be delayed. Mr. Petersen and Mr. Lambers agreed the stipulations should be discussed tonight.

Mr. Petersen reviewed the earlier summary of stipulation requests. He stated the following:

- Stipulation No. 2 – they still ask that this be deleted.
- Stipulation No. 3 – they will remove their objection and pay both impact fees
- Stipulation No. 8 – they will agree to do the street improvements as outlined by Mr. Ley in the Public Works memo. Further discussion is needed regarding private or public streets.
- Public Works Stipulation No. 1(a) – they asked it be modified to allow one driveway to serve both Lots 22 and 23

- Public Works Stipulation No. 1(c) – can be removed due to agreement of Stipulation No. 8
- Public Works Stipulation No. 16 – Mr. Petersen asked that the curbs and storm drains not be torn out prior to construction. He stated the Developers will bond the work and that the Developers would have the streets completed prior to 80% of the certificate of occupancies.

Councilmember Cain asked for clarification that the streets will remain in the same condition during construction for the approximate 40 homeowners. Mr. Petersen stated the streets are in good condition now and it would be mainly construction traffic using it. He stated that once 80% of occupancy is reached, the street improvements will be done to City standards. Councilmember Cain asked if the City has allowed that to occur in other projects. Mr. Ley stated he is unaware of what other cities allow for construction as Mr. Petersen referenced earlier but he will do research on it. Mr. Ley stated in another development within the City, some streets needed repair because of failure during the same time as the construction of the homes. Mr. Ley stated it was very difficult to do and ultimately used much of staff time. Mr. Ley indicated once streets are brought up to City standards, the roads should be able to handle the construction traffic. Mr. Petersen asked if there is a point when the heavy construction vehicles can be brought in to dig basements and foundations. Mr. Ley stated the requirement for streets in the City of Leawood have been the same for years. He added that the curbs are high back so the driveways for the homes would have to be torn out. Mr. Petersen stated that to move forward with the discussion, the Developers request that the City give them until the first occupancy permit. Mayor Dunn repeated that the Developers now agree to 100% with the first certificate of occupancy.

Mr. Lambers stated he would like the stipulation to remain and leave it as a staff recommendation until the Final Plan is brought before the Council again. He stated Mr. Ley will research the street policies of neighboring cities.

Councilmember Filla stated her concern with street construction for new homeowners. She questions why the Developers are having an issue with this stipulation and if having money upfront is a problem. Mr. Petersen stated that money is not a problem since they have stated they will bond the project.

Councilmember Sipple stated he is excited about the use of the former Villaggio property. He stated he is 100% in favor of Mr. Simpson's plan, in addition to it bringing tax dollars to the City.

Councilmember Harrison asked about the floor plans in the \$700,000 range and if there is a limit on how many of the lesser priced home plans would be allowed. Mr. Petersen stated there would be no limit.

Mayor Dunn commented that all the details of the Final Plan have not been provided to the Council. Ms. Bennett stated this was discussed with Mr. Petersen, but in speaking with Mr. Ley, the Developer would need to provide some design specifications. Mr. Petersen stated that the Developer will not have all the details ready in a week, but that the technical requirements are submitted. Mayor Dunn stated that there are some hand-drawn sketches in the Final Plan. Mr. Lambers stated that is not acceptable for a Final Plan. Mr. Petersen stated they will do their best to have details next week but that some material boards have already been submitted. He suggested City staff and Mr. Simpson discuss the details over a Zoom meeting.

Councilmember Azeltine stated that the Developer has structured this project and financing plan in a small window of time, and he emphasized how the taxing liabilities will continue to grow on the property. He stated this is a tremendous opportunity for this parcel of land.

Councilmember Filla expressed frustration that the Developer asked for a list from the City on what needs to be provided in a Final Plan. She stated she does not appreciate the City standards of the streets being referred to as “Mr. Ley’s standards.” Mayor Dunn stated she agrees with Councilmember Filla and that Mr. Simpson and Mr. Petersen should know what has to be brought to the Council in the Final Plan due to how much experience they have in this process.

Ms. Bennett stated that the Councilmember who makes the motion will need to list the stipulations that will or will not be included. If the Council moves to approve the override of the Planning Commission’s recommendation of denial, the Council will need to list any changes that Mr. Petersen suggested. Mr. Petersen stated there are 23 stipulations and they have accepted all except those listed in his summary earlier.

Mayor Dunn read:

- Stipulation No. 1 – as printed
- Stipulation No. 2 – would be deleted. Mr. Lambers stated there needs to be a letter of recognition from the building owner.
- Stipulation No. 3 – accepted by the Developers
- Stipulation No. 4, 5, 6 and 7 – accepted by the Developers
- Stipulation No. 8 – Ms. Bennett suggested to delete the section stating the “Developer shall dedicate...” Ms. Bennett stated there is a section in the Public Works memo that part of the street system is privately owned by the bank and the Developer indicated to the City that they will obtain consent from the bank owner for an easement. Mr. Petersen stated they accept that burden to acquire it. He stated they accept Stipulation No. 8 and prefer to keep the streets private and adhere to the Leawood Development Ordinance (LDO).
- Stipulation No. 9 – remains as is.

Mr. Petersen replied that they have accepted the remainder of the Staff Report Stipulations, except for No. 20. Mayor Dunn stated the Developers have agreed to pay \$70,000.00 on Stipulation No. 2(c), of which Mr. Petersen confirmed. She stated Public Works Stipulation No. 16 was deleted. Mr. Petersen stated they would work with staff to modify Public Works Stipulation No. 1(a).

Mr. Klein stated that he believes everything has been covered in terms of the Planning Stipulations. He stated on the Final Plan there will be much more detail listed.

A motion to override the Planning Commission’s recommendation of denial and to approve Case 70-20 with the stipulations as specified at this time was made by Councilmember Cain, seconded by Councilmember Azeltine.

Ms. Bennett reminded the Council that this motion approves the Developer’s Preliminary Plan. Mayor Dunn stated a vote in the affirmative is approving the Preliminary Plan and it would need six votes to be approved.

Motion to override was approved with a roll call vote of 6-3. Councilmembers Rawlings, Sipple, Larson, Azeltine and Cain voted AYE. Councilmember Osman, Filla and Harrison voted NAY. Mayor Dunn voted AYE.

Mayor Dunn warned that the Council has not seen a Development Agreement yet and is not in favor of using a financial policy that does not exist in the City.

A brief discussion between the Council and Ms. Bennett regarding what is allowed and not allowed under a variety of financing policies took place.

Mayor Dunn asked if Council is available for a meeting on Monday, November 9th at 6:00 p.m.

A motion to schedule a Governing Body Special Meeting to discuss the Final Plan and Plat and Development Agreement for Villa de Fontana on Monday, November 9, 2020 at 6:00 p.m. was made by Councilmember Cain, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

A motion to rescind Resolution #5419 approving the Planning Commission's recommendation of denial for a Final Plan and Final Plat for Villa de Fontana located south of 135th St and east of Roe Avenue (PC Case 81-20) was made by Councilmember Cain, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

14. OLD BUSINESS - None

15. NEW BUSINESS

- A. Ordinance appropriating the amounts set up in each fund in the budget for Fiscal Year 2021, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts [ROLL CALL VOTE] (F)

Mayor Dunn stated this is considered housekeeping and done every year. Mr. Lambers explained it is in case of a disruption to a Council meeting, the City will continue making scheduled payments to avoid late fees.

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

- B. Ordinance amending Sections 14-308 and 14-310 of the Code of the City of Leawood, Kansas, 2000, pertaining to Parking, and repealing existing Sections 14-308, 14-310, and any other Sections in conflict herewith [ROLL CALL VOTE] (PD)

Police Captain Brad Robbins addressed the Governing Body. He stated this is cleaning up old language in the code and to remove a provision that is never used.

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

- C. Schedule Work Session for Monday, November 16, 2020 at 6:00 P.M.

Mayor Dunn stated the topic for the Work Session is a continued discussion of Economic Development Policies.

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

- D. Schedule Governing Body meeting Monday, November 16, 2020 at 7:30 P.M.

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

Mayor Dunn gave a special thank you to City staff for working on Villa de Fontana over the weekend and late hours.

Meeting was adjourned at 10:01 P.M.