

Regular Meeting**THE LEAWOOD CITY COUNCIL**

December 21, 2020

Minutes

Councilmembers Present: Lisa Harrison, Debra Filla, Chuck Sipple and Mary Larson

Councilmembers Present via Zoom: Julie Cain, Andrew Osman, James Azeltine, and Jim Rawlings

Councilmembers Absent: None

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

Staff Present via Zoom: Richard Coleman, Community Development Director; Kathy Byard, Senior Budget Manager; and Julie Stasi, Public Works Administrative Services Manager

Others Present: Ryan Eckroat, Ironhorse Golf Club

Others Present via Zoom: Mark Simpson, Fontana Land Group; Rick Oddo, Oddo Development; Henry Klover, Klover Architects; Curtis Holland, Polsinelli Law Firm; Bob Regnier, Property Owner; and Fred Logan, Logan, Logan and Watson Law Firm.

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

Mayor Dunn stated there was a minor modification to the agenda on Item 13 stating that it should be an ordinance and not a resolution.

A motion to approve an amended agenda was made by Councilmember Sipple, seconded by Councilmember Cain. Motion was approved with a unanimous roll-call vote of 7-0. Councilmember Rawlings was unable to vote due to technical difficulties.

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

**Richard Coleman, Director of
Community Development, retiring after
12 years of service [2008 - 2020]**

Mayor Dunn recognized Mr. Coleman for his 12 years of service to the City of Leawood and listed his prior careers with the City of Overland Park and the Kansas City, Missouri Parks Department. She stated during the course of his years with Leawood, Mr. Coleman was involved in many successful projects as the Community Development Director. Mayor Dunn expressed her gratitude and appreciation for Mr. Coleman always being available for her questions or concerns and for his dedication and leadership to the Leawood Planning Commission. She presented an Outstanding Service Award to Mr. Coleman to be delivered to his home in recognition of dedicated service from the Leawood Governing Body.

Mr. Coleman addressed the Governing Body via Zoom. He thanked the Mayor, Scott Lambers, the Planning Commission members, and all his staff. He shared memories of his first days in Leawood during the Great Recession of 2008. Mr. Coleman also thanked Councilmembers past and present and mentioned other staff members who are retiring this year. He stated that he appreciated and enjoyed his time at the City of Leawood.

**Kathy Byard, Senior Budget Manager,
Retiring after 17 years of service
[2003 -2020]**

Mayor Dunn recognized Kathy Byard as serving the City of Leawood for 17 years in the Finance Department. Mayor Dunn stated that Ms. Byard started her career in 1985 with the Unified Government of Kansas City, Kansas, worked in the private sector for a time, and then came to the City of Leawood in 2003. Mayor Dunn pointed out that Ms. Byard was named Employee of the Year in 2004, and that she has been very instrumental in preparing the budget each year, has worked with department heads to stay compliant with the City's budget, and been a wise counsel to the Governing Body and staff. Mayor Dunn stated that Ms. Byard will be truly missed. She stated the Governing Body has a certificate of appreciation that will be presented to her in person.

Ms. Byard addressed the Governing Body via Zoom. She thanked the Mayor, Councilmembers, and staff. She remembered the early days of having 5 nights of budget meeting workshops for 5+ hours, and how it has come a long way since then. She thanked the cooperation of everyone, and that she feels this is a bittersweet moment. Ms. Byard thanked everyone for their kind words and appreciation and how much it means to her.

**Julie Stasi, Public Works Administrative
Services Manager, retiring after 34 years
of service [1986- 2020]**

Mayor Dunn stated that Julie Stasi began her work in Leawood in 1981 as an animal control officer, then took time off for her family. She returned a few years later as an assistant to the Public Works Director. Mayor Dunn pointed out that during her 34 years, Ms. Stasi has worked with 4 different Public Works Directors and created the Public Work Administration Division and Contract Management for Public Works and Capital Improvement Projects. Mayor Dunn stated that Ms. Stasi helped start the Public Works Committee and Stormwater Committee in the 1990s. Mayor Dunn recognized that during extreme weather events in the area, Ms. Stasi and the staff have worked hundreds of hours on the FEMA requirements and reimbursement requests. Most recently, Ms. Stasi came in to work the main switchboard to answer calls from residents while City Hall was shut down due to COVID. Mayor Dunn expressed her gratitude for Ms. Stasi's energy, congenial attitude, and knowledge and how much she will be missed. Mayor Dunn presented a certificate of appreciation that will be given to Ms. Stasi in person.

Ms. Stasi addressed the Governing Body via Zoom. She stated that she started with the City when she was 21 years old and shared some memories of her first day in animal control. She indicated that Leawood has been a big part of her life and thanked the City for its support and allowing her to stay for her entire career. Mayor Dunn thanked her for her incredible commitment to the community. Councilmember Filla commented on Ms. Stasi's knowledge of the City and the kind words shared by Public Works Director David Ley as her being the face of Leawood.

7. SPECIAL BUSINESS

- A. Ordinance amending Section 1-102 of the Code of the City of Leawood, Kansas, 2000, entitled "Definitions" and repealing existing Section 1-102 and other sections in conflict herewith (LD)

Patty Bennett, City Attorney, commented that the Legal Department has a goal to clean up some language in the City Code, but this item could not wait in light of Items 7B and 7C on this agenda. She stated if the Council passes this ordinance, it will be published on December 29, 2020.

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

- B. Approval of City Administrator's recommendation of appointment of Mark Klein as the City of Leawood's Planning Director, effective December 29, 2020

Scott Lambers, City Administrator, stated it is a benefit to an organization to promote within, so as to keep the institutional knowledge in place. He stated he hopes to maintain longevity in the Planning Department and recommended Mark Klein as the City's Planning Director. Mayor Dunn stated that she believes Mr. Klein is up to the challenge.

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

Mr. Klein addressed the Governing Body. He thanked the Mayor, Mr. Lambers, and the City Council for the opportunity and stated he will do his best to uphold the standards of the City. He also thanked the staff in the Planning Department.

- C. Approval of City Administrator’s recommendation of appointment of Travis Torrez as the City of Leawood’s Building and Code Enforcement Director, effective December 29, 2020

Mr. Lambers stated that the title of Code Enforcement was added to this position. The Community Development position oversaw both Code Enforcement and Planning, but he stated Code Enforcement is more in line with the current responsibilities of Mr. Torrez and his staff. Mr. Lambers stated Mr. Torrez handles difficult situations very well and feels he is best suited for this position. Mayor Dunn stated she is delighted with the recommendation and believes he is up to the task.

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

Mr. Torrez addressed the Governing Body. He thanked Mr. Lambers and his leadership. He stated he is looking forward to serving the citizens of the community.

- D. Resolution approving an amended policy for considering and issuing Industrial Revenue Bonds and repealing Resolution No. 598 (LD)

Ms. Bennett stated staff is working on large changes to the policy, but Mr. Lambers suggested taking it in smaller steps. Ms. Bennett stated the Council was in agreement to remove the prohibition of abatement section in the older part of the policy. She stated that in the next quarter, the Council should see a completely updated policy.

Mayor Dunn requested that language be added to the policy updates that indicate the exceptional qualities needed for any project to be considered, similar to that used in other policies throughout Johnson County municipalities. She expressed concern for future projects without this language in the policy.

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

Councilmember Sipple asked if any Industrial Revenue Bonds have ever been issued by the City. Ms. Bennett replied there have been two back in the 1980s. He stated that he supports the Mayor’s request and make it very finite and specific in terms of the application. Councilmember Azeltine concurred with the sentiment but cautioned about being too specific. He stated he would rather have the policy in the City’s arsenal.

- E. 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) [*Continued from the November 16, 2020 Governing Body Meeting*]

Alternative Resolution: Resolution overriding the Planning Commission’s recommendation of denial and approving a Final Plan and Final Plat for Villa de Fontana, located south of 135th Street and east of Roe Avenue (PC 81-20)

Ms. Bennett stated there has been recent communication with the Developer in the last few minutes. John Petersen, counsel for the developer, sent an email stating that if the Development Agreement is not going to be considered with changes that he would withdraw or at least ask for a continuance. She

explained that since the time of that email, the developer Mark Simpson sent an email that he is present on Zoom, and indicated in writing he would “withdraw just before a vote because wants to see how you (the Council) will react to the adjacent neighbors venting their frustrations...”

Mr. Lambers addressed the Governing Body and pointed out the tremendous amount of time and effort that staff, Bond Counsel, and the applicant has spent on this Development Agreement. He affirmed that there has not been any approved Final Plan, so he recommended that if this moves forward by the Council, that they take action on the Final Plan first before any further work is done on the Development Agreement.

Councilmember Sipple asked if the citizens’ comments that were recently submitted were in support of the project. Mayor Dunn clarified that the comments were asking that the project be included on the agenda and that there may have been some confusion on their part.

Mark Simpson, Fontana Land Company, addressed the Governing Body via Zoom. He stated he has been contacted by the neighbors who have indicated they wish to speak to the Governing Body. Mayor Dunn asked for clarification from Mr. Simpson if he is asking for a continuance or a withdrawal. Mr. Simpson stated he would like his plan heard tonight as well as the public’s comments.

Mayor Dunn recognized Dolores Holthaus for her comment. Ms. Holthaus, 13701 Granada Road, addressed the Governing Body via Zoom. She stated that their home backs up to the proposed development. She stated they have followed all of the proposals that have come and gone throughout the years for this property. She stated they support the Villa de Fontana development.

Elaine Gangel, 4644 W. 137th Terr., addressed the Governing Body via Zoom. Ms. Gangel commented about the previous developments that have gone bankrupt on this property. She stated that the Villa de Fontana is consistent with the City’s socio-economic profile. Ms. Gangel listed some of what the neighbors currently see happening on the property, such as a de facto dog park, bicycling track, and occasionally over-night parking of semi-trailer trucks. She mentioned the residents have contributed personal resources to hire attorneys in regards to lawsuits on this property.

Mayor Dunn asked if Mr. Simpson would like to ask for a continuance. He stated there is another resident wishing to make a comment. Lori Groom, 4640 W. 137th Terr., addressed the Governing Body via Zoom. Ms. Groom stated she agreed with everything Ms. Holthaus and Ms. Gangel mentioned. She said she is very supportive of Mr. Simpson’s project and would like the Council to take it into consideration.

Mayor Dunn asked Mr. Simpson if he would like to request a continuance, even without his counsel present, but he replied that he would like to make a presentation to the Council.

Mr. Simpson explained that City staff requested product details and a building material board that he has provided. (Staff held up the materials boards that were made available by Mr. Simpson.) He explained that he would like to work with staff on another option for the fencing around the dog park. Mr. Simpson listed the names of other individuals he is working with in regards to the landscape and fountains. He explained that the material for the fountains should last another 100+ years and further explained how the fountains and urns will be decorated throughout the year.

Mayor Dunn pointed out that there were a number of stipulation changes since the November 16th Governing Body meeting. She asked if Mr. Simpson were in agreement with all of them. Mr. Simpson was unable to find a copy of those stipulations.

Mark Klein, City Planner, addressed the Governing Body. He stated the Planning Commission did recommend denial of the application because it does not meet the Leawood Development Ordinance (LDO) Comprehensive Plan, which shows this area to be zoned for mixed-use (MXD.) He explained that there are two office buildings in the area and gave a brief explanation of the area's current zoning. Mr. Klein reviewed the stipulations regarding stucco, deviations on lot frontage, street names, entrance signs, screening of the fountain's mechanical equipment, and a sidewalk easement. Councilmember Sipple asked about the direct access onto 137th St. Mr. Klein stated that a compromise was worked out for those lots to use a shared driveway. David Ley, Public Works Director, also confirmed that agreement.

Councilmember Harrison asked if the new stucco and stone meet the stipulation and how many lots in the plan receive a deviation. Mr. Klein stated that the stone and stucco do meet the stipulation and there are two lots with deviations that are on cul-de-sacs, as listed on Stipulation No. 8 and 9. Mr. Simpson and Mr. Klein had a brief conversation regarding the signage at the neighborhood entrance. Mr. Simpson pointed out that the Council should have drawings of the elevations of the fountains at 135th and Granada.

Councilmember Sipple expressed his concern with the documents provided to the Council on what has already been agreed upon versus what Mr. Simpson is using for his presentation. Mr. Simpson disagreed with what he has provided to the Governing Body. Councilmember Larson agreed with Councilmember Sipple that she is also uncomfortable with not everyone being on the same page and expressed concern over the presentation being disjointed. Councilmember Filla stated that she appreciates the changes to the final plan being discussed, but the applicant is not organized to present his final plan. She reminded the Council that no Development Agreement has ever been approved, so that the final plan is a moot point.

Councilmember Harrison stated that without an approved Development Agreement there would be no project. She reiterated that there is no Development Agreement and this project does not meet the LDO.

Mayor Dunn pointed out that it does meet the LDO, but not the 135th St. Comprehensive Plan. Mr. Klein stated he stands by Stipulation No. 16 regarding the entry monument signs.

Mr. Simpson replied to the Councilmember's comments and spoke about bond payments and taxing entities.

Councilmember Osman apologized to the residents waiting to be heard on other items on tonight's agenda because of the length of time this item has taken up. He gave a history of the application, pointed out the number of meetings that this project has had, and the extra time staff has expended to try and work with the applicant. Councilmember Osman explained Mr. Simpson's efforts to try to persuade Councilmembers to change their votes after the City Council voted to deny the preliminary plan application, and Mr. Simpson's harassment of the Leawood Fire Department. He noted that Mr. Simpson even had to be escorted out of the City Hall building by police. Councilmember Osman stated that he feels Mr. Simpson is trying to bully the Council.

Councilmember Sipple reiterated that he is uncomfortable voting on this project because the presentation given by Mr. Simpson was very much disorganized. He agreed with Councilmember Osman.

Mr. Simpson responded stating that they provided what staff asked for, approximately 7 weeks ago, but did not get any response. He explained the challenge of getting items to City Hall when it is closed to

the public and did ask staff if they had everything that was needed, but never heard a response. He explained that he did not harass the Fire Department, but rather told the Fire Marshall that sometime next year they will not be able to practice and run drills on that property because of the future construction of home sites. He indicated that he has never called Councilmember Osman. Councilmember Osman stated it was Mr. Simpson's business partner, Saul Ellis, who contacted him. Mr. Simpson stated Mr. Ellis is his own person, and that he (Mr. Simpson) never contacted the Council. Finally, Mr. Simpson stated he attempted to contact the City Inspector regarding the Hills of Leawood for building permits, but was told the Inspector could not come for an inspection until all items were completed. He admitted he came to City Hall, wearing a mask, to meet with staff and when asked to leave, he left.

Mr. Simpson asked for a continuance until January but that he will be out of the country for part of the month.

Councilmember Cain expressed her frustration and stated she is a firm believer in the process, supports the extraordinary work of the staff, and the dedication of the Council and Planning Commission. She apologized to the residents and said they only have part of the actual story and truth.

Mr. Simpson asked if staff has everything they need. He also stated there were additional residents on Zoom who want to make comments. He strongly urged Councilmembers to consider a continuance.

Councilmember Azeltine stated that the Council has had multiple meetings on this project. He stated there needs to be good faith on both sides of the table, especially on a project this complex and remarked that Mr. Simpson has not done that.

Ross Kurz, Information Services Director, stated there were no residents waiting on Zoom to be heard.

Mayor Dunn reminded the Council that the discussed motion and the second is to approve the recommendation of the Planning Commission to deny the Final Plan and Final Plat, and that it would need five votes in the affirmative. Mr. Simpson said he would strongly prefer a continuance in January or February.

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

Mr. Simpson made final comments that he will no longer be doing projects in the City of Leawood and is withdrawing the application.

Councilmember Cain noted that Mr. Simpson does have a long history of successful projects within the City of Leawood and has not been denied before, but for valid reasons outlined by the Bond Counsel, the City Administrator and staff, this project ended.

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. 2020-47 and 2020-48
- B. Accept minutes of the December 7, 2020 Governing Body meeting
- C. Accept minutes of the May 21, 2020 Tree Committee meeting
- D. Accept minutes of the October 14, 2020 Bike/Walk Leawood Committee meeting

- E. Accept minutes of the September 22, 2020 Leawood Arts Council meeting
- F. Accept minutes of the March 3, 2020 Arts in Public Places Initiative (APPI) meeting
- G. Resolution approving and authorizing the Mayor to execute a Letter of Understanding in the amount of \$10,000.00 between the City and Johnson County Human Services pertaining to the 2021 Johnson County Utility Assistance Program (CC)
- H. Approve renewal of Cereal Malt Beverage (CMB) License for Cosentino's Price Chopper, located at 3700 W. 95th St (CC)
- I. Approve renewal of Cereal Malt Beverage (CMB) License for Walgreens Co. #13950, located at 4701 Town Center Drive (CC)
- J. Approve renewal of Cereal Malt Beverage (CMB) License for Walgreens Co. #09985, located at 5230 W. 151st Street (CC)
- K. Approve renewal of Cereal Malt Beverage (CMB) License for Breakout KC, located at 11535 Ash Street (CC)
- L. Resolution adopting the 2021 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution No. 5275, in accordance with § 1-701 of the Code of the City of Leawood, 2000 (CC)
- M. Resolution approving and authorizing the Mayor to execute Amendment No. 1 between the City and Lexington Plumbing & Heating Co., Inc. for an additional \$10,750.00 for the purchase and installation of touchless fixtures at Fire Station No. 3, 14801 Mission Road [Project #74109] (PW)
- N. Resolution approving and authorizing the Mayor to execute Change Order No. 2 between the City and Miles Excavating Inc., in the amount of \$11,439.66 pertaining to the 143rd Street Improvement Project from Windsor Drive to Overbrook Road [Project #80129] (PW)
- O. Resolution accepting new GASB-34 Public Infrastructure in accordance with GASB-34 Guidelines of reporting Inventory of Assets for property located on the 143rd Street Improvements, Windsor Drive to Overbrook [Project #80129] (PW)
- P. Resolution approving and authorizing the Mayor to execute an agreement for the coordinated delivery of emergency medical services medical direction within the boundaries of Johnson County, Kansas (FD)
- Q. Resolution approving and authorizing the Mayor to execute an Amendment No. 1 to Rand Construction Company Agreement in the amount of \$8,242.00 pertaining to the installation of isolation valve, repair leaking pipe, and replace a portion of waste pipe damaged by leaking water line at Leawood City Hall (PW)
- R. Request to approve 1st and final pay request to Lexington Plumbing & Heating Co., Inc. in the amount of \$22,679.00 pertaining to the installation of touchless fixtures located at Fire Station No. 2 and Fire Station No. 3 [Project #74109] (PW)
- S. Request to approve 1st and final pay request to Lexington Plumbing & Heating Co., Inc. in the amount of \$87,312.00 pertaining to the installation of touchless fixtures located at Ironhorse Golf, Ironwoods Lodge and other Park locations [Project #74109] (PW)
- T. Request to approve 1st and final pay request to Superior Electrical Construction in the amount of \$1,680.00 pertaining to the installation of under sink counter receptacles in six public restrooms for touchless soap dispensers located at City Hall [Project #74109] (PW)
- U. Request to approve 1st and final pay request to Ice Masters, LLC in the amount of \$4,776.20 pertaining to the installation of a water/ice machine for the City Hall breakroom [Project #74109] (PW)
- V. Request to approve 1st and final pay request to Rand Construction Company in the amount of \$32,516.00 pertaining to the installation of touchless fixtures at Leawood City Hall and Public Works Facility [Project #74109] (PW)

- W. Request to approve 14th and final pay request to Miles Excavating Inc. in the amount of \$66,156.78 pertaining to the 143rd Street Improvement Project located at Windsor Drive to Overbrook Road [Project #80129] (PW)
- X. Request to approve final pay request to Burns & McDonnell in the amount of \$32,225.81 pertaining to the 143rd Street Improvement Project located at Windsor Drive to Overbrook Road [Project #80129] (PW)
- Y. Resolution approving and authorizing the Mayor to execute a Small Cell Facility Deployment and Master Right-of-Way License Agreement between the City and New Cingular Wireless PCS, LLC pertaining to the attachments to City facilities and the construction, operation, and maintenance of a telecommunications system within the City (LD)
- Z. Resolution approving and authorizing the Mayor to execute Change Order No. 1 to Mega KC, Inc. in the amount of \$3,440.00 pertaining to the City Park to College Trail Renovation (PR)
- AA. Request to approve 2nd and final pay request to Mega KC, Inc. in the amount of \$109,825.60 pertaining to the City Park to College Trail Renovation (PR)
- BB. Declaration of Surplus Property: (3) 2016 Ford Explorers (PW)
- CC. Police Department Monthly Report
- DD. Fire Department Monthly Report
- EE. Municipal Court Monthly Report

Mayor Dunn noted that Item 8B has had an edit to the minutes as presented to the Council at the dais. She thanked Parks & Rec and Troon Management Company for further review and modification on Item 8L. Mayor Dunn pulled Item 8CC.

Councilmember Cain pulled Item 8G.

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

Discussion of Item 8G:

Councilmember Cain thanked Johnson County's utility assistant program and all those involved to help residents and also thanked the City of Leawood for contributing \$10,000 this year. Mayor Dunn concurred with her comments.

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

Discussion of Item 8CC:

Mayor Dunn recognized three Leawood Police Officers—Ethan Caldwell, Christina Farquhar and Morgan VanHarn—for the capture of two suspects in four auto burglaries after a foot chase into chilly creek waters. Police Chief Troy Rettig acknowledged the recognition on behalf of the officers.

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

9. MAYOR’S REPORT

- A. Our sincere sympathies to the family of Robert Perry who passed away on December 11th. Robert was a 20-year employee in the Leawood Public Works Department until his retirement. He leaves behind a wife, two sons and grandchildren.
- B. Leawood Chamber of Commerce Annual Meeting was held virtually. The 2020 Hall of Fame Awardee was The Barstow School in recognition of their donation of the use of their new IDEA space for the Kansas National Guard to prepare over 8 million meal packs for those in need in Kansas. Acceptance remarks were made by The Barstow School President, Shane Foster.
- C. I would like to extend my sincere appreciation to our Human Resource Director Nic Sanders for once again organizing the Leawood United Way of Greater Kansas City fundraising campaign and to all participants. The total contributions for the City’s 2021 United Way campaign were \$15,072.64.
- D. Congratulations are in order for Leawood Fire Chief Colin Fitzgerald, Deputy Chief Jarrett Hawley, Division Chief of Operations Scott Gilmore and the Leawood Fire Department for earning the 2nd Accreditation with the Commission on Fire Accreditation International (CFAI). It is a tribute to the fine work they do. Very few are internationally accredited and also have ISO1 (Insurance Services Office 1) rating.
- E. Finally, I would like to wish happy and healthy holidays to one and all.

10. COUNCILMEMBERS’ REPORT – None

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT

13. COMMITTEE RECOMMENDATIONS

PLANNING COMMISSION

[from the November 24, 2020 Planning Commission meeting]

Ordinance approving Planning Commission’s recommendation of denial of a rezoning from AG (Agricultural) and SD-O (Planned Office) to RP-2 (Planned Cluster Residential Detached) and MXD (Mixed Use Development District), Preliminary Plan and Preliminary Plat for Cameron’s Court, located south of 133rd Street and west of State Line Road (PC Case 49-20) **ROLL CALL VOTE *[Remanded to the Planning Commission by the Governing Body, October 5, 2020]***

Scott Lambers, City Administrator, addressed the Governing Body. He stated that staff has received a number of communication from citizens, some of whom referenced that this item had already been before the City Council and it was denied. Mr. Lambers clarified that the correct events that took place were after the Planning Commission recommendation, the applicant indicated they wanted to make several changes and asked for the application to be remanded back to the Planning Commission, so this has not been heard by the City Council nor has it had any formal action by the City Council.

Rick Oddo, President of Oddo Development, addressed the Governing Body via Zoom. He stated the original application was denied by the Planning Commission because it did not meet the strict adherence to the 135th St. Community Plan, but did meet the LDO. He stated that the Community Plan is in conflict with the LDO. He explained that the Community Plan allows for more density, yet that was not what the neighbors expressed to him. Mr. Oddo stated that Cameron’s Court is a \$350-\$400M horizontal, mixed-used community that does meet the LDO without asking for any deviations or extra densities.

Mr. Oddo gave a presentation pointing out that the area from Pawnee St. to State Line Rd., minus the 20 acres in the middle where the church is located, is the proposed development area. They are requesting the area to be zoned MXD, except for the RP-2 area for the protection of the neighbors.

Mr. Oddo stated that after many Interact meetings, the citizens asked for low density along 133rd St., to offset High Drive, limit the number of entrances to the commercial site, and make the main entry at Kenneth Rd. He stated that neighbors did not want Kenneth Rd. to be a straight through street, they wanted to maintain the natural trees on both sides of the church, and to direct traffic away from 133rd as much as possible, although he knows this goes against the Community Plan. Citizens also asked to minimize the density as much as possible, so Mr. Oddo stated they have designed the minimum amount of retail and commercial space that the MXD zoning requires.

He explained that residents wanted more hiking and biking trails which has been incorporated. Henry Klover of Klover Architects addressed the Governing Body via Zoom. He explained that the 135th St. Community Plan is designed as a grid street overlay plan, but feels their proposal is an improved pedestrian experience over a grid street system. Mr. Oddo went on to say that every time a biker or pedestrian crosses a street, it increases the number of issues. A grid street design reduces pedestrian and bicycle experience and reduces green space.

Mr. Oddo offered a site summary of the plan since it had been remanded back to the Planning Commission. They added a bike trail and they relocated the clubhouse from 135th and Chadwick to High Drive to improve traffic flow and to save all the natural trees. The traffic report recommended this change. Mr. Oddo stated they are requesting 662 units on 103.01 acres, which equates to 6.42 units/acre. He stated the LDO allows the density to be up to 15 units/acre in a MXD zone. Mr. Oddo stated parks and public amenities were added to the area. He stated the Planning Commission recommended bending the road in the RP-2 zone to add some character to the community.

Mr. Oddo stated the surrounding neighborhoods had four major concerns: traffic, property value, crime and overloading the school system. He stated that they conducted a traffic study and all traffic concerns and conflicts have been addressed and resolved. He indicated that quality development improves property value and that the uncertainty of a vacant lot retards the property value. He noted that a gated community always deters crime. Mr. Oddo stated that a high-end apartment community does not draw many renters with children. They do not have any apartment plans with 3-bedrooms and only a low number of 2-bedroom units in the duplexes. They have a letter from the school district that Mission Trail School is not near capacity and is between 75% and 80% utilization this year. The Blue Valley School District administration states that Mission Trail is designed to be prepared for the potential development growth in the 135th St. Community Plan.

Mr. Oddo stated the type of homes in the planned community on the west side are single family and apartment living. The single-family homes will sell between \$750,000 and \$850,000. Mr. Oddo pointed out he has won several awards for his developments. He stated the eastern development phase is a transition between the big house development and the commercial property. He explained the buildings are only 37 feet high – lower in height to the single-family homes across the street. They designed a variety of building materials on the outside and made it walkable.

Mr. Oddo gave an overall development tax summary. He stated the only road the City is responsible for is High Dr. and the street within the RP-2 zone, and they will maintain all the private drives.

Mr. Klover spoke to the Council in regards to the commercial building zone. He stated they left a significant amount of existing tree growth to create a buffer and for the trail. He stated all the parking is internal so that the buildings screen it. They are requesting a C-store (convenient store) that they believe is needed, and understand that will need a special use permit, if approved. Mr. Klover stated the main focus is on the office campus and plaza area. The architecture throughout will have a contemporary look, having strong base elements, portals and frames.

Mr. Klover stated that the City's current 135th St. Community Plan does not consider the church property or existing greenbelts. He explained the Community Plan proposed 9 through streets on a grid plan, while the proposed plan only has 1. The Community Plan proposes a total of 82 nodes, including 133rd and 135th Streets. He explained that there is not enough commercial uses available to activate these nodes. Mr. Klover stated that the LDO does not permit the street design and patterns proposed by the Community Plan.

Mr. Klover stated that all the roads would need to be private drives because the LDO has never been codified to create the type of streets that is designed in the Community Plan. He went on to state that creating nodes in a grid does not create a sense of place, feeling of belonging and ownership. He pointed out that he has been personally involved in many projects along the 135th St. Corridor over the last 20 years and not much has been completed.

Curtis Holland, Polsinelli Law Firm, addressed the Governing Body via Zoom in reference to the Golden Rule, which is the criteria that cities use to review zoning applications. He focused on No. 4 which stated "the time for which the property has been vacant." Mr. Holland stated this property has been vacant for decades and underdeveloped compared to Overland Park, Kansas and Kansas City, Missouri. He highlighted No. 6, which states "the relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner." Mr. Holland stated this is a very appropriate plan for this property.

Mr. Holland noted they were given approximately 50 stipulations in which he prepared a response for each one as part of the Planning Commission packet in November, which was also submitted to the Council. He stated that the developer received a stipulation report late this Friday. He stated Stipulations Nos. 2, 3, 8, 9 and 10 all refer to whether or not the application complies with the 135th St. Community Plan. He stated they believe the 135th St. Community Plan does not work for this corridor given the reasons explained earlier. Mr. Holland pointed out in Stipulation No. 4 there are two requests: widening of 133rd St. for bike lanes and the widening of 135th St. He stated the widening of 133rd St was not brought up until just before the Planning Commission report in November. Mr. Holland stated they do not believe this stipulation is necessary because there are already bike lanes striped on 133rd St, except at the intersections and also there is a 10' bike/hike trail already existing on the north side of 133rd St. He stated the cost is significant because widening the road would also affect the storm drains and utility lines. He stated there is no established need or impact caused from the development that would warrant bike lines, nor is there a city ordinance or policy that dictates bike lanes.

He stated the widening of 135th St. from State Line Rd. to Pawnee St. westbound listed in Stipulation No. 4 would not be needed because of traffic generated from their development. He stated that the traffic impact study indicated that any widening that is needed would not happen until the commercial development is started. He mentioned a similar stipulation was listed on the Public Works memo to add a third lane to 135th St. going eastbound, which is the requirement of the development on the south side of 135th St. (Lashbrook) and they are unsure why it is listed on their Public Works memo.

Mr. Holland stated they are required to pay a fee as part of the 135th St Corridor Impact Fee. Mr. Holland stated it does not seem fair to require the developer to pay to widen the roads and pay the impact fee, since that is the point of the fee to pay for those kinds of improvements.

He stated in Stipulation No. 6 they wanted to keep the RP-2 zoning for the residents' sake and keep it single-family. Mr. Holland stated that in Stipulation No. 7 they would prefer to keep it a gated community for the fact that residents in these communities like gates for security reasons. They would also like to keep the fencing that is similarly found in other communities in the City. Mr. Holland stated that Stipulations Nos. 37 and 38 are duplicates. He stated that in Stipulation No. 45 they object to the last statement referring to the Homes Association's common area maintenance and improvements to "jointly and severally assessed against each lot, and will be the responsibility of the owner(s) of such lot" because the developers did not want individual owners potentially be solely responsible for the common area maintenance.

Bob Regnier, 3400 W. 119th St., addressed the Governing Body via Zoom. He stated that his family has owned most of this property for over 30 years. He gave a brief history of the attempts to develop this area. He explained that in June 2019 he hired a nationally recognized consulting firm that specializes in mixed-use development to do a feasibility study on the area. Mr. Regnier read from the report summary that low and medium density are recommended on the western end of the project, and medium density residential and retail/office is recommended on the east side. He commented that this application has been denied twice – once because it did not comply with the LDO. Mr. Oddo went back to make it work with the LDO and it was denied again because it did not comply with the 135th St. Community Plan. Mr. Regnier stated that the Community Plan is a conceptual plan, not an ordinance of the City. He stated he has never seen a feasibility study on the 135th St. Community Plan. He mentioned Mr. Klover's comments of over 20 years of frustration and difficulty in the development efforts. He stated this project does meet all the percentage requirements for mixed-use development, although it is not vertical but horizontal. Mr. Regnier stated the Council has the power and obligation to direct a development that is feasibly constructed. He stated that if the 135th St. Community Plan is strictly interpreted, then it does not allow this property to be developed in the short, medium, or long-term.

Fred Logan of Logan, Logan and Watson Law Firm, addressed the Governing Body via Zoom. Mr. Logan stated he is the legal counsel for Mr. Regnier. He stated that Mr. Regnier has lived on the down side of the Golden Rule for 45 years, especially in regards to the time for which the property has been vacant. He pointed out that in 1975 the area was zoned as Planned Office (SD-O), and that still remains. The Golden Rule criteria has deprived the Regniers of development opportunities and forces the land to be vacant. Mr. Logan stated that another criteria of the Golden Rule is the relative gain to the public health and safety versus the demonstration of hardship on the landowner caused by unworkable zoning. He explained this is an issue of reasonableness defined by Kansas case law. He opined that when this is demonstrated over a long period of time, it is improper and almost like a city enforced green space.

Mr. Oddo summarized that the application meets the LDO requirements and the intent of the 135th St. Community Plan, He reiterated the Community Plan is not consistent with the LDO. He suggested that this plan better meets the feel of the neighborhood and what the residents want. He asked for approval or guidance in order to move forward.

Mayor Dunn stated the Council will hear citizen comments next because of the lateness of the meeting and that this item may need to be continued. She recognized each citizen in the order in which they signed in to speak via Zoom.

Lisa LaNoue, 14116 Fontana St., stated that prior to this evening she was against the project, but she liked what she heard in the presentation and that it has changed her mind.

Matthew Winston, 3289 W. 132nd Place, stated he is in favor of the applicant's plan. He stated the 135th St. Community Plan was designed pre-COVID and has led to confusion for both residents and developers. He stated they need the Council's clarification on several points.

Bill Johansen, 13294 Fairway St., stated he is speaking on behalf of the Wilshire Place HOA as a board member. He stated 80% of the residents voted in opposition to the project in a survey because of concerns with traffic, property values, and community amenities.

Chris Nelson, 13282 High Dr., stated he is adamantly opposed to the plan because the number of homes and apartments would compound the traffic problem on 133rd St. He does not feel it is a benefit to the residents because there is no plan for restaurants or shopping and the traffic issue has not been addressed. Mr. Nelson stated the look of the apartment buildings do not fit with the surrounding neighborhoods and that it is too dense.

Ryan Brunton, 3144 W. 132nd Terr., stated the development is incompatible to the surrounding neighborhoods and inconsistent with the 135th St. Community Plan. He believes it will cause a significant increase in traffic on 133rd and High Dr. and cause overcrowding on their amenities. He stated there is a large number of those in opposition for this project. Mr. Brunton stated the commercial development of this project would not be started for a number of years.

Julie Kincaid, 1324 Overbrook, stated she is the President of the Enclave at Cedar Point HOA. She stated they are not opposed to the preliminary site plan. Their greatest concerns are property values and livability, in terms of the existing tree lines. Their HOA is opposed to cut-through streets on the grid design as outlined in the 135th St. Community Plan and they would like to see the bike/hiking trails in the preliminary plan further developed for the enjoyment of the community. Ms. Kincaid stated their HOA will strongly oppose any deviation to the retail plan and also desire to be engaged in any change to the commercial side. They will oppose a plan without the 54 single-family homes because they feel it does increase their property values and the residential aesthetic.

A motion to extend the City Council meeting an additional 30 minutes was made by Councilmember Azeltine, seconded by Councilmember Sipple. Motion was approved with a unanimous roll-call vote of 8-0.

Councilmember Harrison stated she appreciates hearing the citizen comments, but asks that in their 5 minute time limit they do not read the same comments that they have previously emailed to the Council over the last few weeks. She reminded the citizens that their statements have already been added into public record, but would appreciate hearing new insights.

Chad Summer, 2608 W. 131st St., stated he agreed with the comments made by Mr. Brunton and Mr. Nelson. He stated one of the advocates supporting the development is a family member of the developer and believes that is a conflict of interest. He stated he believes Mr. Regnier has a fair complaint about the difficulty in developing the property but does not think he is suffering any hardship. Mr. Summer stated that he hopes the City Council does not settle for this project but would like to see something similar to Meadowbrook Park (in Prairie Village.) He questioned if the City should commission a new study to revisit the plans for future development to determine its needs in a post-pandemic world. He

stated this project brings the potential of blight with unused office and retail space and lacks walkable, entertainment options for the surrounding neighborhoods.

Mayor Dunn thanked the residents who stayed up late to speak and confirmed that the Council does read every email they receive. She stated the January 4, 2021 Governing Body meeting is open to continue this item for further discussion. Mr. Oddo confirmed he is available on January 4th.

Councilmember Filla asked if the church on the property has been contacted by the developer, in which Mr. Oddo replied they have been and are very much in favor of the plan as stated in writing. Councilmember Sipple asked if the developer's presentation slides could be forwarded to the Councilmembers.

A motion to continue Item 13 to the January 4, 2021 Governing Body meeting was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous roll-call vote of 8-0.

14. OLD BUSINESS - None

15. NEW BUSINESS - None

Meeting adjourned at 11:13 p.m.