

Regular Meeting**THE LEAWOOD CITY COUNCIL****March 1, 2021****Minutes**

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

Councilmembers Present via Zoom: Andrew Osman, Jim Rawlings

Councilmembers Absent: None

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

Staff Present via Zoom: None

Others Present via Zoom: Curt Petersen, Polsinelli PC

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

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

City Administrator, Scott Lambers, stated that because there is a request for a public comment and a revision to the City Clerk Statement not listed on the agenda, the Council will need to amend the agenda.

A motion to approve the amended agenda was made by Councilmember Azeltine, seconded by Councilmember Filla. 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 unless previously approved by the City Administrator. 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. CITIZEN COMMENTS

Curt Petersen, Polsinelli PC located at 900 W. 48th Place, Kansas City, MO, addressed the Governing Body via Zoom. He reminded the Council that he was able to briefly speak at the last City Council meeting regarding the Leawood Development Ordinance (LDO) in how it related to the Mixed-Use Development (MXD) zoning. He summarized that the Council approved an LDO amendment last week, which he stated was a positive step for future development projects and the proposed mixed-use development project at 8680 State Line Rd, also referred to as “8680.” He stated that until recently the 8680 Project was to consist of multi-family, retail, and a large office building, but after months of meetings and communications with the residents in the area, the large office building component is now proposed to be replaced with 24 high-end townhomes, as supported by neighbors.

Mr. Petersen stated the challenge to this project from an LDO perspective is the addition of the townhomes increasing the residential density to just under 18 units per acre. He stated there will need to be an additional LDO change to increase the residential density for this infill project. He explained that because of timing he was unable to request the additional LDO change at last week’s City Council meeting. Mr. Petersen is hoping staff can have adequate time to work on the change and present it to the Planning Commission on April 13, 2021, and the Governing Body on May 3, 2021.

He affirmed that without the LDO amendment, the 8680 Project with the proposed townhomes, cannot move forward. Mr. Petersen concluded that Council may have some concerns on how increasing the residential density could affect other development in Leawood, but he does not feel it would open up the City to problems because of many other requirements in place within the LDO working as protections. He is requesting the Council to give staff direction to research the issue and craft potential LDO language for the overall good of the City.

Mayor Dunn asked if the LDO amendment request would also equate to apartments. Mark Klein, Planning Director, affirmed that the increase in density would include apartments and does not differentiate as far as the type of housing. Councilmember Rawlings pointed out that the request is for 18 units/acres or more. Mr. Petersen stated it was not a request for the 8680 Project specifically, but for staff to review for future MXD LDO requests.

Mr. Lambers reminded the Governing Body that this request must be done through the planning process and the focus tonight is for the request of the Council to direct staff to initiate the LDO amendment process through the planning process and then bring it back to the Council.

Councilmember Filla stated that she is in favor of moving the request forward to staff. Councilmember Harrison stated she does not believe the price range of \$700,000 is an affordable price range for townhomes and questions why the number of townhomes cannot be lowered to reduce the density. She also asked how tall the buildings will be. Mr. Lambers interjected that now is not the appropriate time to discuss this project.

Mayor Dunn stated there were many suggestions made and a good discussions at the Planning Commission meeting.

Councilmember Azeltine stated that he is in favor of more discussion. Councilmember Osman agreed with Councilmember Azeltine. He mentioned that he received an email from a resident who had concerns by which the request is being made. Councilmember Osman responded that it is the responsibility of the Council to continue keeping it above board and with all due diligence.

Mr. Klein stated that staff is willing to research more information on neighboring cities' density requirements and mixed-use development. Councilmember Cain asked if the purpose of exploring information is just for infill, greenspace or both. Mr. Klein stated it was originally for infill space for 15 acres or less. Mr. Lambers recommended that both infill and greenspace considerations be left open for the Planning Commission to discuss.

A motion to approve the recommendation to direct staff to research increasing residential density in infills and greenspaces to present to the Planning Commission was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 8-0.

6. PROCLAMATIONS - None

7. PRESENTATIONS/RECOGNITIONS

Introductions of Nicole Lareau, Budget Manager, Finance Department; and Kristen Love, Administrative Contract Specialist, Public Works Department

Dawn Long, Finance Director, addressed the Governing Body. Ms. Long introduced Nicole Lareau as the new Budget Manager in the Finance Department. Ms. Lareau addressed the Governing Body and gave a summary of her work experience in local and state levels in Utah and Tennessee. Councilmember Sipple asked where in Tennessee she worked. Ms. Lareau stated she attended school in Knoxville and worked in Nashville for the State in the Finance Administration Division. She stated she was also the Budget Analyst for the Tennessee Department of Corrections and Bureau of Investigations. Mayor Dunn asked how many people lived in the city in Utah in which she worked. Ms. Lareau stated Orem has approximately 100,000 residents. Mayor Dunn thanked her for joining the City of Leawood.

David Ley, Public Works Director, addressed the Governing Body and introduced Kristen Love as the new Contract Specialist in the Public Works Department. He noted that Ms. Love came to the City from the Parks Department of the Unified Government of KCK/Wyco and has been busy filling the three recently vacated positions in Public Works. Ms. Love stated that before the UG she worked in college athletics at the University of North Texas and the University of Vermont. She stated that she prefers working in local government where the effects of work are seen within a community. Councilmember Sipple joked if she could drive a snow plow, and Ms. Love replied that she actually can since she grew up in New Hampshire. Mayor Dunn thanked Ms. Love for joining Leawood.

8. SPECIAL BUSINESS – None

9. 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. 2021-6 and 2021-7
- B. Accept minutes of the February 15, 2021 Governing Body meeting
- C. Accept minutes of the December 14, 2020 APPI Artist Selection Panel
- D. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Blue Valley Public Safety, Inc., in the amount of \$27,923.78 pertaining to Storm Siren replacement (FD)
- E. Resolution approving and authorizing the Mayor to execute Amendment No. 1 to the Architectural Service Agreement for the Parks Maintenance Facility, between the City and PGAV Architects in the amount of \$20,200.00 [Project #80173] (PW)
- F. Resolution approving and authorizing the Mayor to execute a Contract Agreement in the amount of \$379,773.00 between the City and J.M. Fahey Construction Company pertaining to the 2021 Mill & Overlay Project of Kenneth Rd [Project #72034] (PW)
- G. Resolution approving and authorizing the Mayor to execute a Contract Agreement between the City and V.F. Anderson Builders, LLC in the amount of \$3,674,132.23 pertaining to the widening of Lee Blvd. from 83rd Street to 95th Street [Project #72054] (PW)
- H. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement between the City and Continental Consulting Engineers in the amount of \$58,950.00 pertaining to pond renovation at Ironwoods Park (PR)
- I. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Pepsi Beverages Company pertaining to soft drink purchases (PR)
- J. Resolution approving and authorizing the Mayor to execute Amendment No. 1 to the Agreement for Aquatic Center Pool House Design, between the City and SFS Architecture increasing the Total Fee to an amount not to exceed \$316,000 (PR)
- K. Declaration of surplus, tables (29) 60' round tables (3) 6' banquet Table and (2) 8' banquet tables (PR)
- L. Approve purchase in the amount of \$33,600.00 from Precision Small Engine, for the purchase of (2) 50" platinum 7.5 HP cooling fans and (1) subsurface blower (PR)
- M. Approve purchase in the amount of \$67,200.00 from Professional Turf Products, for the purchase of (1) Ventrac Kubota tractor with attachments and (1) Toro Workman HDX (PR)
- N. Approve purchase in the amount of \$61,600.00 from ADW Turf Sprayers, for the purchase of (1) Sprayer for Toro Workman HDX (PR)

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

10. MAYOR'S REPORT - None

11. COUNCILMEMBERS' REPORT - None

12. CITY ADMINISTRATOR REPORT - None

13. STAFF REPORT - None

14. COMMITTEE RECOMMENDATIONS - None

15. OLD BUSINESS - None

16. NEW BUSINESS

- A. Ordinance amending Section 15-406 of the Code of the City of Leawood, Kansas, 2000, entitled “Collection and Disposal of Recyclables” and repealing existing Section 15-406 and other Sections in conflict herewith

Patty Bennett, City Attorney, stated this item refers to recyclables and the code section that states that trash haulers will provide collection every week. She explained that one of the trash haulers working in the City did not feel this was specific enough because of it being listed under a section entitled, Solid Waste. Ms. Bennett said the City Administrator asked to clarify the Section to state that recycling will be provided weekly, but that it does allow for a homeowner or home owners associations (HOAs) to contract for something different. She stated the Legal Department also did some clean-up to the language in regards to the size of the waste bins.

Mr. Lambers stated that staff has received communications from homes associations saying that Waste Management has advised customers of changes to their service. Mr. Lambers remarked that not only does Waste Management have contracts with HOAs, the City’s ordinance states a weekly collection of recyclables. He stated that staff will notify homes associations that if the changes are to go to a bi-weekly collection, it will be based on a mutually agreed upon condition and not decided unilaterally by Waste Management.

Mayor Dunn stated she has heard from many residents who are upset about a bi-weekly collection. She directed them to contact their HOA Board. Councilmembers concurred about their constituents contacting them about the changes. Ms. Bennett reminded the Governing Body that much of this is dependent on the contracts between the HOAs and the waste companies, and pointed out that it is very important that each HOA review their contract.

Councilmember Sipple stated that if the HOAs do agree to a bi-weekly collection, the residents will need larger bins. He stated that as a member of the Sustainability Advisory Board (SAB) they try to encourage more recycling efforts.

Councilmember Cain asked if Waste Corporation of America (WCA) contacted the City about any changes in their collection cycle. Mr. Lambers stated that he has not heard of any other companies moving in that direction, other than Waste Management. Mr. Lambers stated that the City will notify the trash haulers of the ordinance change, but more importantly will notify the homeowners via their HOA. Councilmember Filla stated that having separate recycling that is mandatory has been the standard for a long time. Councilmember Cain stated she heard the recycling center in Harrisonville, Missouri had closed down, so she is uncertain where WCA is taking the recycling now.

Councilmember Larson stated she called Waste Management and was told the old recycling bins will be picked up. She explained that if an HOA decided to go a bi-weekly collection, it would actually be less total recycling being collected, because the old bins are larger than half the size of the new bins. Councilmember Larson stated that she is on the HOA Board at Hallbrook and Waste Management did not notify them of the change in their policy and it was a unilateral decision on the part of Waste Management.

Councilmember Rawlings stated he is on the HOA Board at Leawood Estates. He is in favor of approving the ordinance.

Councilmember Cain indicated that the problem may be the end market because some of the recycling sites are closed. She stated she is in favor of the ordinance but cautioned about the future when there is no longer any recourse. Mayor Dunn mentioned if a homeowner is out of town and misses a bi-weekly collection date, then it would add up to a month's worth of recycling.

Mayor Dunn summarized that this agenda item is to clarify the ordinance. Ms. Bennett stated that the City Administrator has suggested that staff will contact each HOA as to what the City ordinance states and recommends that they review their contracts to determine how to proceed. Mayor Dunn asked about the timeline. Ms. Bennett stated if the ordinance is passed, it will then be published, and Mr. Lambers stated it would be 2 weeks to notify the HOAs. He added that the current ordinance is in effect and clear to Waste Management and they are on notice as to what the process will be if they want to make a change with their HOA customers. Mayor Dunn stated that many residents thought they had no choice in Waste Management's changes. Councilmember Azeltine asked when the expected effective date would be, if the ordinance is passed tonight. Mr. Lambers stated it would be a week from tomorrow, once it is published.

Mr. Lambers reiterated that it is the City's opinion that the term in the ordinance refer to both trash and recyclables. Waste Management is making the argument that it does not, so he noted that the ordinance is not changing, but rather being clarified. Mayor Dunn repeated that the City will encourage the HOAs to review their contracts with their trash haulers.

Councilmember Rawlings wondered if the City should look at all the HOA contracts to get a semblance of consistency. Mayor Dunn stated that since a homeowner's dues support the trash fees, that would be a monumental mix of duties, rules and regulations for the City to do. Councilmember Filla stated that the SAB could offer a forum to smaller HOAs to help answer questions and share information.

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

Mayor Dunn thanked Ms. Bennett and Mr. Lambers in having staff reach out to the HOAs to help educate them. Councilmember Larson stated she would like the HOAs to be clearly notified of their rights to negotiate the weekly collection in their contracts.

- B. Ordinance authorizing and providing for the acquisition of lands or interest therein by condemnation for the Leawood South Stormwater Project located east of Mission Road and South of 123rd Street in Leawood, Johnson County, Kansas [Project # 80256] (PW)

Mr. Ley stated that Public Works is requesting a condemnation for three properties within the Leawood South Stormwater Project. He stated a designer and appraiser were hired years ago, so the City has been working with property owners for some time, but are now down to 3 owners that the City cannot agree with on a price. Mr. Ley stated that in order to maintain the construction project starting in January, the City needs to proceed to acquire the easements. Councilmember Cain asked what happens when the City condemns the property and what the property owner receives. Mr. Ley stated that when the City condemns a property, the Court will assign two appraisers and an attorney who will meet with the property owner and the City. They will look at the site and determine a value

that the City will then pay. Councilmember Cain asked if this process is to the benefit of the property owners. Mr. Ley stated that in his experience, the City has been very close on the value at the first appraisal. He pointed out that two of the homeowners have hired their own attorneys, not to stop the condemnation but in determining the value of the property.

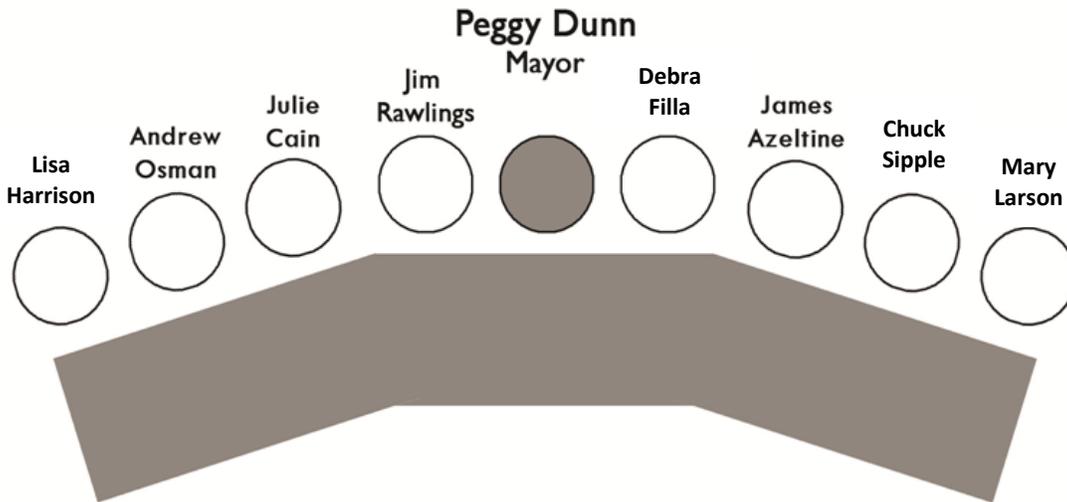
Councilmember Azeltine stated that in other cities, the property is automatically condemned, but although it takes more time, Leawood tries to work with property owners. Councilmember Harrison asked the location of the properties. Mr. Ley explained briefly and Mayor Dunn pointed out that there is a map located in the packet. Councilmember Filla noted that the City could have lost the matching dollars from the Johnson County Stormwater Management Advisory Council (SMAC) funds for this project, so it is for the greater good of the City to move forward in terms of cost effectiveness and the stormwater project.

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

ADJOURN

Meeting was adjourned at 8:40 p.m.

Mayor and City Council



Leawood operates under a Council/Mayor form of government, with a separately elected mayor and 8 council persons. Council members are elected on a non-partisan basis from 4 wards. The Council develops policies and provides direction for the professional city administration. Regular meetings of the Leawood City Council are held the first and third Mondays of each month. Copies of the agenda are available at the Office of the City Clerk on the Friday prior to the meeting.

Number of Votes Required:

Non-zoning Ordinances: Majority of the members-elect of the City Council [5]

Charter Ordinances: 2/3 of members-elect of Governing Body [6]

Zoning Ordinances and other Planning Commission Recommendations:

- **Passage of Ordinances Subject to Protest Petition:** ¾ majority of members of Governing Body [7]
- **Approving Planning Commission Recommendation:** Majority of the members-elect of the City Council [5]
- **Remanding to Planning Commission:** Majority of the members-elect of the City Council [5]
- **Approving, Overriding, Amending or Revising Recommendation after Remand:** Majority of the members-elect of the City Council [5]
- **Overriding, Amending or Revising Recommendation:** 2/3 majority of membership of Governing Body [6]

Note: Mayor may cast deciding vote when vote is one less than required.

DATE	TIME	SUBJECT	LOCATION
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Monday, Mar. 1, 2021	6:00 P.M.	Work Session – Review Climate Action KC	Council Chamber
Monday, Mar. 1, 2021	7:30 P.M.	Governing Body meeting	Council Chamber
Monday, Mar. 15, 2021	6:00 P.M.	Continued Discussion of possible property tax abatement and sales tax exemption through the issuance of IRBs	Council Chamber
Monday, Mar. 15, 2021	7:30 P.M.	Governing Body meeting	Council Chamber
Monday, April 5, 2021	6:00 P.M.	Work Session – C.I.P Presentation 2022- 2026 Budget Model Assumptions	Council Chamber
Monday, April 5, 2021	7:30 P.M	Governing Body meeting	Council Chamber