

Regular Meeting**THE LEAWOOD CITY COUNCIL****June 7, 2021****Minutes**

Councilmembers Present: Julie Cain, Mary Larson, Jim Rawlings, Lisa Harrison, James Azeltine, Andrew Osman and Chuck Sipple

Councilmembers Present via Zoom: None

Councilmembers Absent: Deb Filla

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

Staff Present via Zoom: None

Others Present: Julie Rome, Woodhouse Day Spa; Dr. Andy Bowne, Johnson County Community College; Aaron March and Greg Musil, Rouse Frets White Goss Gentile Rhodes, P.C.; Gary Oborny, CEO of Occidental Management; Chad Stafford, President of Occidental Management; Justin Strelow, Director of Construction and Project Management; Steve Labeda, VP of Construction Services; and Mark Sherfy, BHC Rhodes Traffic Engineer.

Others Present via Zoom: Kate Roach, Woodhouse Day Spa

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

Mayor Dunn stated there were two amendments to the agenda. Item 8C was replaced with an updated draft of the May 17, 2021 Governing Body Work Session minutes. The statement originally listed under Item 12 was moved to Item 15B.

A motion to approve the amended agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 7-0.

4. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters

or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

Julie Rome, 9809 Mohawk Lane, Leawood, KS, addressed the Governing Body. She introduced Kate Roach, Regional Sales Manager with Woodhouse Day Spa, who appeared via Zoom. Ms. Rome and her husband Mark are owners of Woodhouse Day Spa franchise. She gave the Governing Body a list of services that the Spa offers and gave a brief description of the franchise history. She explained that over the last few days they learned that two of their treatment rooms are in violation of the City's Massage Establishment Code.

Ms. Roach stated that tub and Vichy services are offered and explained what each procedure entails. She pointed out that the Vichy service is hosted in all their locations across the United States.

Ms. Rome requested that the City review the Massage Code for a possible amendment because of the enormous hardship to remove the features that have already been approved in the planning process. Mayor Dunn asked Travis Torres, Director of Building and Code Enforcement, to review what is allowed in other Johnson County cities. Mr. Torres confirmed that staff will review the code and also research what other cities are allowing. He pointed out that the City Code for Massage Establishments was updated in March 2020. Patty Bennett, City Attorney, confirmed that the prohibitions of the tub and shower were added at that time. She mentioned that Lenexa, Overland Park and Olathe prohibit table showers, but she could not recall those city's code on tubs.

Councilmember Azeltine asked what the infractions were. Mr. Torrez replied that the City's ordinance states that tubs and table showers are prohibited, per the Massage Establishment License. Councilmember Azeltine asked what a table shower is. Mayor Dunn replied that it is a Vichy and pointed out a photo that was included in Ms. Rome's handouts.

Councilmember Sipple asked if these items were allowed in the ordinance prior to the update in March 2020. Mr. Torrez stated the tubs and showers were not prohibited prior to the March 2020 update. He noted that during the building review process the full updated massage requirements were provided to the applicants and that one of the conditions to receive a building permit is that the applicant must comply with the massage code. Councilmember Sipple questioned how it got so far along in the process. Mr. Torrez stated that during the building permit review process the staff was looking at such items as the mechanical, ADA compliance, and energy requirements. Mr. Torrez stated that the Vichy shower is not a code violation, unless it is conducted with massage therapy. He mentioned that if the business were only a day spa establishment, these would not be a violation of building codes. Councilmember Sipple asked if any other cities in Johnson County allow these features. Ms. Bennett replied that she could not recall which cities allow tubs.

Councilmember Harrison expressed concern that there is not enough luxury day spas in Johnson County of this caliber to compare with and suggested staff may need to look at The Plaza or The Elms in Missouri. Councilmember Azeltine agreed with Mayor and Councilmember Harrison to broaden the scope. He stated he is interested in knowing if there have been any problems in the KC area from law enforcement.

Councilmember Rawlings asked what the difference is for a person who is fully covered during a Vichy shower versus other services where a person is fully draped. Ms. Rome replied that there is no difference with the Vichy shower other than water coming down.

Councilmember Osman welcomed the Woodhouse Day Spa to Leawood and stated that he hopes this will be resolved soon. He mentioned that the Leawood Development Ordinance (LDO) is very broad in scope, but it may need to be re-adjusted as new brands and concepts are introduced. He stated that he believes this is a totally separate business from a massage establishment because it is a day spa. Councilmember Osman stated that he interprets this situation in that Woodhouse Day Spa provides an ancillary service and massages are not their primary scope of business.

Councilmember Cain agreed with Councilmember Osman and suggested that perhaps other cities do not allow tubs and showers because they were never asked to consider them. She stated that a day spa such as Woodhouse does not exist anywhere in the state and that it is unique to Johnson County. She expressed her hope for this issue getting resolved quickly and have it reviewed comprehensively.

Scott Lambers, City Administrator, explained the timeline to make any possible changes to the LDO and suggested the Council suspend that provision of the ordinance to allow Woodhouse Day Spa to operate until the matter is resolved. Ms. Bennett explained that this is a City Code provision and that it does not need to go through the Planning Commission, so it could be resolved relatively quickly once it is published.

A motion to request staff to review a possible amendment to the LDO and allow Woodhouse Day Spa to operate until the matter is resolved was made by Councilmember Cain, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 7-0.

Dr. Andy Bowne, President of Johnson County Community College (JCCC), addressed the Governing Body. He thanked the Council for their support of Johnson County Community College and gave a brief update. He pointed out that out of approximately 35,000+ students, Leawood residents who are degree-seeking individuals equal about 1,000; approximately 300 are concurrently enrolled; and 525 continuing education students are Leawood residents. Dr. Bowne stated that 50% of students will be returning to in-person classes this fall. He stated that on June 1st the Nerman Museum of Contemporary Art re-opened and the Midwest Trust Center for Performing Arts will open in the fall. As of today, they have a full staff on campus. Dr. Bowne noted that there are grants available and tuition is still considered affordable.

Mayor Dunn stated that JCCC is a great asset to the state, county and Leawood. She congratulated Dr. Bowne on his new position. Councilmember Azeltine appreciated that Dr. Bowne came in person to introduce himself. Councilmember Harrison stated that she is happy that they are emphasizing the trade industries and loves the opportunities for concurrent degrees.

Councilmember Cain asked Dr. Bowne to elaborate on scholarship opportunities they offer. Dr. Bowne stated that there are multiple programs within five scholarship programs that are available for recent high school graduates or for those 21 years old and older who have lived in the state for at least 3 years. He stated the college is still working on the details and applications.

Mayor Dunn recognized Phil Dougherty, who signed in to speak on behalf of Woodhouse Day Spa, to address the Governing Body. Mr. Dougherty was no longer present at the meeting.

5. PROCLAMATIONS – None

6. PRESENTATIONS/RECOGNITIONS – None

7. SPECIAL BUSINESS

- A. Public Hearing: Consider the 2022-2026 Capital Improvement Program [C.I.P.] for the City of Leawood

Mayor Dunn opened the public hearing and called for anyone to speak on this item. No one in person or on Zoom came forward to speak.

A motion to close the Public Hearing was made by Councilmember Azeltine, seconded by Councilmember Rawlings. Motion was approved with a unanimous vote of 7-0.

- B. Resolution approving the 2022-2026 Capital Improvement Program [C.I.P] for the City of Leawood

Dawn Long, Finance Director, addressed the Governing Body. She stated that there were a few changes to the documents they received since the Work Session. She pointed out that these changes and replacement pages to their CIP binders were made available to them at the dais this evening. Councilmember Rawlings asked if an inflation factor can be included in projects that are projected to start 3 or 4 years in the future. Ms. Long stated that in recent years, an inflation factor was not counted in, but agreed that it can be discussed. She pointed out that some of the projects have had a change in scope. Councilmember Azeltine questioned if there is an inflation assumption in the budget. Ms. Long explained that most of the projects do not span over a number of years, as with the Fire Station, so keeping up with an inflation factor is difficult to do.

Mr. Lambers pointed out that with certain improvements projects if the costs were to escalate considerably, the City would keep the costs lower by making changes to the project.

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

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. 2021-20; 2021-21 and 2021-22
- B. Accept minutes of the May 17, 2021 Governing Body meeting
- C. Accept minutes of the May 17, 2021 Governing Body Work Session
- D. Accept minutes of the March 30, 2021 Leawood Arts Council meeting
- E. Accept minutes of the February 25, 2021 Ironhorse Advisory Board meeting
- F. Approve the 2022 Budget Calendar (F)
- G. Resolution approving and authorizing the Mayor to execute Amendment No. 2 to the agreement between the City and PGAV Architects in the amount of \$148,000 pertaining to the design of the Parks Maintenance Facility (PW)
- H. Resolution approving and authorizing the Mayor to execute a Maintenance Agreement between the City and Black and McDonald in the amount of \$212,870.55 pertaining to Traffic Signal and Street Light maintenance (PW)
- I. Resolution accepting a Temporary Construction Easement from Grantors Adam L. Murray and Susan P. Murray for property located at 2909 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)

- J. Resolution accepting a Temporary Construction Easement from Grantors Michael Lorenzo and Marilyn Lorenzo for property located at 2921 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- K. Resolution accepting a Temporary Construction Easement from Grantors John A. Stutz and Michelle B. Stutz for property located at 2917 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- L. Resolution accepting a Temporary Construction Easement from Grantors Andrew Haney and Renee Ann Sohn for property located at 2900 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- M. Resolution accepting a Temporary Construction Easement from Grantors Dennis G. Landis and Carol J. Landis, Trustees or their successors in trust under the Dennis G. Landis and Carol J. Landis Living Trust for property located at 2812 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- N. Resolution accepting a Temporary Construction Easement from Grantor Laura McGinnis for property located at 12826 Sagamore Road pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- O. Resolution accepting a Permanent Drainage Easement from Grantor Laura McGinnis for property located at 12826 Sagamore Road pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- P. Resolution accepting a Temporary Construction Easement from Grantors Brady Burgason and Kaylie Burgason for property located at 12828 Sagamore Road pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- Q. Resolution accepting a Temporary Construction Easement from Grantor Thomas Anthony Staab for property located at 12827 Sagamore Road pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- R. Resolution accepting a Temporary Construction Easement from Grantor Capital Foresight Golf & Fitness II, LLC, a Kansas limited liability company for property located at 12838 Pembroke Road, pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- S. Resolution accepting a Permanent Drainage Easement from Grantor Capital Foresight Golf & Fitness II, LLC, a Kansas limited liability company for property located at 12838 Pembroke Road pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- T. Resolution accepting a Temporary Construction Easement from Grantors Steven George Bucha and Jennifer Jenkins Bucha for property located at 2504 W. 131st Street pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- U. Resolution accepting a Temporary Construction Easement from Grantors Kenneth J. Moorman and Jodean Moorman, Trustees of the Moorman Revocable Trust for property located at 13004 Meadow Lane pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- V. Resolution accepting a Permanent Drainage Easement from Grantor Leawood South Townhouse Association for property located near 2200 Condolea Terrace at the northeast corner of Overbrook Road and Condolea Terrace pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- W. Resolution accepting a Permanent Drainage Easement from Grantor Leawood South Townhouse Association for property located near 2201 Condolea Terrace

- at the northwest corner of Overbrook Road and Condolea Terrace pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
- X. Resolution accepting a Temporary Construction Easement from Grantors John R. Holloway and Dorian Griffin for property located at 12825 Sagamore pertaining to the 2020 Metal Pipe Replacement Project [Project #80256] (PW)
 - Y. Resolution accepting a Permanent Construction Easement for Grantors The Board of American Missions of the United Presbyterian Church of North America for property at Lot 684, located near 2727 W. 83rd St., pertaining to the storm warning siren installation (PW)
 - Z. Resolution amending Resolution No. 4916 authorizing the improvement of a certain section of Mission Road, a main trafficway, between 119th Street and 127th Street within the City of Leawood (Project #82065) (F)
 - AA. Resolution authorizing the construction of a pool house / multipurpose building / bike hub in Leawood City Park in the City of Leawood pursuant to Charter Ordinance No. 33 and for the issuance of General Obligation Bonds or Temporary Notes of the City to pay the costs thereof; expressing the intent to reimburse costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and approving certain related matters and actions [Project# 80157] (F)
 - BB. Resolution authorizing the restoring and redeveloping of the Ironwoods Park pond in the City of Leawood pursuant to Charter Ordinance No. 33 and for the issuance of General Obligation Bonds or Temporary Notes of the City to pay the costs thereof; expressing the intent to reimburse costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and approving certain related matters and actions [Project # 80159] (F)
 - CC. Resolution authorizing the improvement of a certain section of 83rd Street, a main trafficway, between State Line Road and the western boundary of the City within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions [Project # 80176] (F)
 - DD. Resolution authorizing the improvement of Tomahawk Creek Parkway, a main trafficway, within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions [Project #80179] (F)
 - EE. Resolution authorizing the improvement of 143rd Street, a main trafficway, west of Windsor street within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation bonds; and authorizing and improving certain related matters and actions [Project # 80402] (F)
 - FF. Resolution authorizing the improvement of a certain section of Mission Road, a main trafficway, between 127th Street and 133rd Street within the City of

- Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation bonds; and authorizing and improving certain related matters and actions [Project # 82076] (F)
- GG. Resolution authorizing the improvement of a certain section of Mission Road, a main trafficway, between 97th Place and 103rd Street within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions [Project # 82078] (F)
- HH. Resolution authorizing the improvement of a certain section of Mission Road, a main trafficway, between 85th Street and 92nd Street within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said bonds; and expressing the intent to reimburse certain costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions [Project # 82082] (F)
- II. Resolution amending Resolution No. 4652 authorizing the replacement of Fire Station No. 1 in the City of Leawood [Project # 80158] (F)
- JJ. Resolution amending Resolution No. 5200 authorizing the construction of a Parks Maintenance Building in the City of Leawood pursuant to Charter Ordinance No. 33 [Project# 80173] (F)
- KK. Resolution amending Resolution No. 4946 authorizing the improvement of a certain section of Mission Road, a main trafficway, between 133rd Street and 143rd Street within the City of Leawood [Project # 80175] (F)
- LL. Resolution amending Resolution No. 4435 authorizing the improvement of a certain section of 143rd Street, a main trafficway, between Windsor Lane and Overbrook Road and Kenneth Road, a main trafficway, between 143rd Street and 145th Street within the City of Leawood [Project # 80129] (F)
- MM. Approve payment in the amount of \$26,573.00 to City of Overland Park for 2021 annual maintenance, pertaining to computer aided dispatch software and accompanying software products used in patrol cars (PD)
- NN. Approve the purchase in the amount of \$285,862.70 to Feld Fire for the purchase of breathing apparatus (SCBA) and all related equipment to upgrade the current inventory (FD)
- OO. Declaration of surplus items (3) office guest chairs, (1) plan/drafting folding table, (1) PreCor C93i treadmill, (1) TRUE CS550 treadmill, (1) Smith weight lifting machine, (1) Paramount FIT5000 cable fitness machine (FD) / (11) Office Chairs, and (1) 2002 Windstar Van (PW)
- PP. Approve payment in the amount of \$192,910.00 to Elliot Equipment Company for the purchase of a 2020 Schwarze Model A8 Twister Regenerative Air Street Sweeper (PW)

Councilmembers Cain and Harrison pulled Item 8I.

Councilmember Sipple pulled Item 8A.

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 vote of 7-0.

Discussion of Item 8A:

Councilmember Sipple recused himself from voting on this item due to his wife's name listed as a payee in the Parks Department.

A motion to approve Item 8A was made by Councilmember Azeltine, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 6-0. Councilmember Sipple recused for reasons stated.

Discussion of Item 8I:

Councilmember Cain inquired why there were so many resolutions for easements on the consent agenda for the stormwater metal corrugated pipe project. David Ley, Public Works Director, addressed the Governing Body. He explained that they are all for the 2020 Metal Pipe Replacement Program. He reminded the Council that they approved to pay homeowners for temporary and/or permanent easements, if needed. He stated the staff usually brings easements forward for approval as they are received, but in the case of this project, staff held them until they were all received. Councilmember Cain asked if the budget of \$30M includes the cost of the easements. Mr. Ley replied that the City is receiving funding of \$1M from the Johnson County Metal Pipe Replacement Project for this year and approximately \$500,000 for 2022.

Councilmember Harrison asked if any of the easement items on the consent agenda are related to the Leawood South project that abuts to the golf course. Mr. Ley replied that is a different project which is the flood improvement project.

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

9. MAYOR'S REPORT

- A. While I was out of town, I want to thank Councilmember Julie Cain for standing in for me at the Leawood Chamber Ribbon Cutting for Kitchen Tune-Up at their truck, which was located in Parkway Plaza. Councilmember Chuck Sipple was also in attendance.
- B. Congratulations to Parks & Rec Director Chris Claxton, Parks Superintendent Brian Anderson, and Public Works Director David Ley on their successful grant application to Kansas Department of Transportation for the "Sidewalk and Drainage Improvements" for the 2022 fiscal year in the maximum state award of \$937,500.00 from the State's Spring 2021 Cost Share Program.
- C. The Leawood Rotary Club recently held their annual dinner where Councilmember Lisa Harrison was recognized as the "Rotarian of the Year." Congratulations on this well-deserved award. Councilmember Rawlings also held that title 3 years ago, and 2 years ago Councilmember Chuck Sipple was recognized as the "Rookie of the Year." Councilmember Chuck Sipple will take the helm as Leawood Rotary President on July 1st. Congratulations and best wishes to him as well!

- D. My sincere appreciation to Leawood residents Kaitlin and Laurin Stotts, ages 10 and 12, who held a lemonade stand this past weekend to raise money for the Overland Park Police Officers Foundation honoring the service of Officer Mike Mosher. In 2016, 2017 and 2019, these same girls raised substantial donations for Captain Melton, Deputies King and Rohrer, Wayside Waifs and the Red Cross. There was great representation from the Johnson County Sheriff's Department, Leawood and Overland Park Police Departments. The girls originally tried to reach a goal of \$1500.00, but after deciding to continue a second day, they raised an amazing \$1800.00 for the Foundation.

10. COUNCILMEMBERS' REPORT

Councilmember Osman – Discussion: Referral to the Public Works Committee concerning the impact of Curé of Ars school parking

Councilmember Osman stated that he has been approached by several residents who live across the street from Curé of Ars Catholic School. They requested no parking signs on the street or assigned parking during the hours of after school pick up. Councilmember Osman requested a referral to the Public Works Committee to review the impact of students walking to and from school to determine the best course of action for parking on side streets before school begins in the fall.

Mayor Dunn expressed concern on whether or not the review could be completed and back to the Council before the fall semester starts. Mr. Ley replied that he believes it can be completed by the August 4th Public Works Committee meeting and Council meeting on August 18th. Mayor Dunn recalled a similar situation with Mission Trail Elementary School that included police, parents, and school officials in the discussion. She noted that this may involve more creative planning rather than installing signs. Mr. Ley stated that this request is for no parking on both sides of the street, which is not typical.

Councilmember Harrison stated that signs on both sides of the street is unrealistic, but she noted that the school should also be responsible in educating the parents and demand the parents behave properly with simple guidelines. She suggested the school could set up a dismissal policy to stagger times or cluster family groups together in the parking lot. Councilmember Harrison stated there is only so much the City can do, and she hopes the school will have a conversation with their parents.

Councilmember Cain agreed. She remarked that she hopes the City will consider the lessons learned from Mission Trail. Mr. Ley confirmed that Curé administration will be invited to the discussion.

Councilmember Sipple stated that he would like to have workable options before it goes to the Public Works Committee. He stated that this is an issue with many schools and would like to see what other municipalities do for their landlocked schools' parking situations. Mr. Ley replied that Curé had a traffic study done 2 years ago and he would ask to have it provided in the discussion. Mayor Dunn stated that their DARE officer has been present during dismissal time to observe and counsel the students on safety.

Mayor Dunn acknowledged that the Curé of Ars population has grown, so it is a challenge to get students picked up safely. Mr. Lambers stated that he has personally witnessed the chaos of the dismissal. He agreed that there needs to be a significant change and he recommended that no parking signs be placed on one side of the street. Mr. Lambers reiterated that in order for the school zones to work, they need to be enforced so a police presence will need to be there. Mayor Dunn pointed out that a worker (plumber, electrician, etc.) may need to be parked on the street during that time who may be working at a nearby

residence. Mr. Lambers agreed but stated that for the short duration of no parking allowed, it should not disrupt non-school related situations.

A motion to approve Item 8I was made by Councilmember Osman, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 7-0.

11. CITY ADMINISTRATOR REPORT - None

12. STAFF REPORT – None

13. COMMITTEE RECOMMENDATIONS

[From the April 22, 2021 Parks and Recreation Advisory Board Meeting]

Consider the recommendation for additional activities for 4th of July Celebration at City Park

Chris Claxton, Parks and Recreation Director, addressed the Governing Body. She stated that the Parks Board discussed the tentative activities of the 4th of July Celebration this year. She stated some of the activities have been scaled back due to social distancing precautions. She stated that the biggest concern are the buses, but they plan to ask people to wear masks on the bus. The food trucks and handwashing stations will be positioned far enough apart to allow for better social distancing. Mayor Dunn thanked her for their ingenuity and creativity.

Councilmember Sipple asked where the parking will be for bus riders. Ms. Claxton stated that it will be in lots along the parkway, but the City would still encourage people to walk the trail. She stated that there have been many improvements to the trail area and it will be lighted, weather permitting.

Councilmember Azeltine asked if this would be limited to residents of Leawood. She replied that the 4th of July Celebration is not limited to residents, but the City Pool is.

Councilmember Rawlings was in favor of allowing Ms. Claxton and staff to move forward with the recommendations, or make alterations if needed, based on their extensive experience in planning such events.

A motion to approve Item 13 was made by Councilmember Rawlings, seconded by Councilmember Azeltine. Motion was approved with a unanimous roll-call vote of 7-0.

14. OLD BUSINESS – None

15. NEW BUSINESS

- A. Ordinance amending Section 4-904 of the Code of the City of Leawood, 2000, to allow plans to be electronically submitted and disseminated, and repealing existing Section 4-904 and any other sections in conflict herewith (CA)

Mr. Torrez stated that due to COVID last year, the staff began taking electronic submittals, and at that time they made the temporary change to email HOAs, and had no problems. He stated that although City Hall is now open to the public, the staff is still accepting electronic submittals. He confirmed that they will be transitioning to Citizenserve for their online permitting system. Mr. Torrez stated that the code amendment is to update these changes and modernizations.

Mayor Dunn stated that people appreciate the change. Councilmember Cain agreed and commented that it is a wonderful movement forward.

A motion to approve Item 15A was made by Councilmember Rawlings, seconded by Councilmember Cain. Motion was approved with a unanimous roll-call vote of 7-0.

- B. Consider Appeal of Right of Way Permit Denial by Occidental Management, Inc., [Owner of Proposed Aspiria Development in Overland Park] for Median Break Located at Approximately 116th and Nall Avenue, pursuant to Section 13-327 of the Code of the City of Leawood (L)

**City Administrator's Statement: The City Administrator, Planning Director and City Engineer all support the Public Works Director's decision of denial on the median cut.*

Mr. Lambers stated that this is not a common occurrence in the City. He reminded the Council that this is not a Planning Commission decision or governed by quasi-judicial standards, but a decision of yes or no without reason. He stated that the City staff believes there is no benefit to the City of Leawood regarding this request and that the traffic issue should be handled within the City of Overland Park (OP.)

Mr. Ley gave some background of the permit request in a PowerPoint presentation. He stated that the proposed development is within the City of Overland Park on the west side of Nall Ave between 115th and 119th Streets, and the developer is requesting a full access signalized median break to serve the Aspiria development. He stated that the request required a Right-of-Way (ROW) Permit which was denied in March 2021.

Mr. Ley explained that Leawood and OP staff have worked together since September 2020 discussing the impacts along the Nall Ave corridor. He stated that the Overland Park staff did not support the proposed median break. In December 2020 the Overland Park Public Works Committee voted to move the item to their City Council with no recommendation. In January 2021 the Overland Park City Council approved the median break with a 10-1 vote with stipulations that the developer would need to obtain a ROW permit from the City of Leawood.

Mr. Ley explained the reasons and concerns that Leawood staff had leading to the denial of the permit request. Councilmember Sipple asked what changed in OP to go from a 3-3 vote to a 10-1 vote. Mr. Ley explained it was two different groups voting and he was unsure about what changed. Councilmember Sipple stated that one of the main corridors to I-435 is Nall Ave and he is uncomfortable about encumbering Nall Ave with more traffic. He questioned why 119th and 115th Streets cannot be used instead.

Aaron March, attorney representing Occidental Management, addressed the Governing Body. He stated that he and his partner, Greg Musil, have worked on this project for a long time. He introduced other members of their team: Gary Oborny, CEO of Occidental Management; Chad Stafford, President of Occidental Management; Justin Strelow, Director of Construction and Project Management; Steve Labeda, VP of Construction Services; and Mark Sherfy, BHC Rhodes Traffic Engineer. Mr. March stated that without the median break, they feel it would jeopardize the viability of the project. He remarked that the median break is more than a technical consideration and that it is for the good of the City, community and State, and is widely supported. He felt that the staff reviewed the request through a technical engineering focus and had not considered the greater good.

Mr. March confirmed that they did have a 3-3 vote at the Overland Park Public Works Committee meeting, but they made two significant changes to their plan which caused the Overland Park City Council to approve their zoning plan. He stated that the changes were that they reduced the amount of new office construction by approximately 350,000 sq. ft., and they agreed to immediately fund 2.8 million square feet of traffic improvements along Nall Ave. to solve existing traffic problems.

Chad Stafford, 218 N. Pershing St., Wichita, Kansas, addressed the Governing Body. Mr. Stafford clarified that the Overland Park City Council approved their preliminary development plan in April 2021, and the 10-1 vote referenced earlier was for the approval of the median break. He also clarified that they agreed to \$2.8M of improvements along Nall, not square feet. Mr. Stafford pointed out the location of the median break and stated that the median break is essential to the Jewish Community Center's (JCC) safety of their students, constituents, and tenants. He indicated that the site is long and narrow and has a drastic elevation change. Mr. Stafford stated that their intent for this infill parcel is to make it viable and contribute to the overall community. He stated that they wish to work comprehensively with all the neighbors.

Justin Strelow, 707 Chelsea, Haysville, Kansas, addressed the Governing Body. He listed the Leawood staff's reasons for denial and addressed each one. Mr. Strelow pointed out that the new west road suggestion was not feasible because of safety for the JCC and parcel width. He stated the suggestion of the 135th St. reverse frontage road is not comparable to their project because of the elevation change. He stated that staff indicated that a median break is not common in Leawood. Mr. Strelow presented examples of median breaks along 119th St. along Nall Ave and 113th and Nall Ave that have been previously approved by the Council.

Mr. Strelow acknowledged the concerns of queuing and increased density in the region and stated they designed the location of the median break to work as a "blow off valve." He stated they have conducted multiple traffic studies that indicate no conflicts at the intersection of 115th and 117th and Nall. Mr. Strelow stated that intersection timing of traffic lights would be performed with Aspiria. Mr. Strelow indicated that a median break improves the efficiency and safety and without it, the Level of Service at 115th and Nall drops from D to E, and 117th and JCC East Drive drops from A to F.

Mr. Strelow stated that there is no conflict with the right-in movement to Park Place because access from 116th St to 115th Place will occur safely due to northbound and southbound traffic being fully stopped. He stated that additional pedestrian crossings are not required because the existing crossings at 115th and 117th are convenient and adequate. He stated that the alternate routes do not impact Leawood traffic and that the traffic studies indicate drivers can use Metcalf Ave. or Roe Blvd. He explained that the studies indicate the median break maintains or improves the neighboring intersections and that the worst case scenario will be that Nall Ave. will function at a Level of Service similar to pre-Covid.

Mr. Stafford stated that they have received a lot of positive feedback for the development. He stated that they have met with representatives of the JCC many times to try and address their safety concerns. He stated that the median break acts as a relief valve and diverts traffic away from their entrances. He stated that it also is a requirement for the New to Market Entertainment and apartment users. Mr. Stafford outlined that the immediate street improvements will be along Nall at the intersections of 115th (Town Center Dr.), 116th, 117th, and 119th Streets.

Mr. Stafford noted that the Aspiria Development will be a benefit to Leawood businesses by adding 600 luxury apartments. He pointed out that the future resident's median household income would be

\$100,000+ and that grocery stores, restaurants, shopping centers and entertainment will be needed. He stated that with the new 1.1M sq. ft. of office space, they will create 350 immediate jobs to the region and that employees will need and want restaurants and shopping centers close by.

Mr. March suggested that the denial was based on information that the Public Works Director did not have or that it had been reviewed through a technical scope. Mr. March summarized that he hoped the Council will overturn the denial after hearing all the benefits of the development, and he offered additional letters of support and hard copies of their presentation to the Council.

Mr. Ley stated that the developers made an application in early March and provided all the materials, so if the staff was reviewing an application that was not updated, it was because the applicant did not provide it. Mayor Dunn asked if any of the modifications presented tonight changed his concerns. Mr. Ley stated that he still has the same concerns especially for the Park Place parking garage exit heading northbound on Nall Ave. He explained that the developers could do a right-in right-out for southbound traffic and northbound traffic could use 117th St.

Mr. Lambers inquired if the safety issues expressed by the Jewish Community Center leaders are a current concern or are they being created by the new project. Mr. March replied that any project on a site that has remained dormant for years is going to create traffic, so he remarked that either the property remains dormant or it can be designed in a way to have access as directly to the area as possible. He stated that regardless of the type of development, it would still generate traffic and the JCC does not want traffic entering through the main entrance of their campus. He pointed out that the service drive for trash trucks and delivery vehicles shown on their map is a limited service drive and does not go all the way south.

Councilmember Azeltine asked when the plan was approved. Mr. Stafford replied that the preliminary plan was approved in April. He stated that they went through the OP Planning Commission and City Council for the median break in January and February and they have final approval. Councilmember Azeltine asked when did they first contact Leawood Public Works Department. Mr. Stafford stated that their team submitted an application packet in March or April. Councilmember Azeltine commented that the developers knew they needed to make a request for a median break but had not done so until recently. Mr. Stafford replied that they needed to work through the process with the City of Overland Park first because they are the primary jurisdiction, so it was an issue of timing.

Mr. March clarified that they met with the Leawood staff prior to the Overland Park City Council approval and knew that the OP staff was working with Leawood staff. He stated that they sent information to the Public Works Director, as he requested. He stated that on March 2nd, the developers requested to schedule a pre-application meeting because of the uniqueness of the project. Mr. March stated that they were told it was a ROW permit application and they did have one meeting. Mr. March stressed that before they filed the application with the City of Overland Park or the City of Leawood, they were denied by the City of Leawood. He felt the application was pre-judged when the project was first announced in October 2020.

Councilmember Azeltine stated that the City of Overland Park did not originally support the median break. Mr. March confirmed it was not initially supported, but stated because of the revisions and changes to the plan, the OP staff stayed silent. Councilmember Azeltine questioned why their staff stayed silent and why three traffic studies were needed. Mr. Strelow replied that they did not have three different studies, but had three engineers review it. He explained that they had already hired BHC Rhodes, but due to the recommendation of the City of OP, they also worked with Transystems who has the largest

amount of historic traffic patterns in this region of Johnson County. Councilmember Azeltine asked why the developers could not use a frontage road instead of a median break. Mr. Strelow replied that it is due to fire truck access and the New Market Entertainment users do not support a rear-access drive. He explained the steepness of the site as another issue. Councilmember Azeltine remarked he is dumbfounded that Leawood was just made aware of this request a few months ago. He expressed concern that staff in OP did not support the median break. Mr. Stafford replied that the OP staff was not in support because of the ultimate condition which is why the developers agreed to reduce the total amount of office square footage and \$2.8M street improvements. Councilmember Azeltine asked why OP staff was silent. Mr. Stafford replied that since the developers agreed to the concessions, the OP staff did not need to make a report at their Council meeting, thus the Council voted 10-1 in favor of the zoning change.

Councilmember Sipple stated he would like to know what the traffic implications are for the area south of 117th St. Mr. Stafford stated that it is primarily office. Councilmember Sipple asked why there is no major entrance to the south that would tie into the intersection at Menorah Medical Center. Mr. Stafford indicated that there is one at that location. Councilmember Sipple stated that it does not appear on the map to be a major intersection. Mr. Stafford clarified that it will be a four-way, lit intersection and that they are requesting a T-intersection with a light at 116th St. Councilmember Sipple asked about the construction timing for the south side. Mr. Stafford replied that depending on the market, he estimates 10-12 years out. Councilmember Sipple stated that he is concerned that Leawood residents will be inconvenienced more than a little driving down Nall to I-435. He expressed concern for timing the traffic signal properly. Mr. Strelow agreed and stated that the Level of Service rating will drop at 115th and Nall if no median break is present.

Councilmember Harrison asked what the specific road improvement are for the \$2.8M. Mr. Stafford summarized all the immediate improvements planned at 115th, 116th, 117th and 119th Streets. Councilmember Harrison shared personal experience from sitting too long at a traffic light and commented that members of the Council were familiar with how traffic along Nall and 119th changed dramatically when the Sprint campus was built. She commented that the elevation problem is a man-made problem. Mr. Stafford disagreed because it is the same natural elevation at 115th and 117th Streets when the Copaken family owned a farm in that location. Mr. Stafford agreed with Councilmember Harrison's concern with timing of the traffic signals. He stated that the lights need to be optimized as traffic increases so that they communicate together. Councilmember Harrison opined if the Level of Service data is correct. She stated that if the median break measured the success of the entire development then why is it just now coming before the Council.

Councilmember Osman stated that he relies heavily on reports and letters from the public. He stated that he does not like the ranking system of the traffic study but would rather see traffic counts. Mark Sherfy, BHC Rhodes, addressed the Governing Body. Mr. Sherfy stated they had a unique challenge of trying to develop the existing Sprint campus as well as the undeveloped 17 acres on the site. He stated that since there is no current access to that location, to make it long-term viable it needs a full access point. He stated that they have strived to find the best location for a full access point. Mr. Sherfy explained that it is difficult to do a traffic study during a pandemic. He stated the main reason Transystem did the traffic study is because they have been doing traffic counts for the Sprint campus for almost 15 years. He could not recall the exact number of vehicles counted on Nall. Councilmember Osman suggested that the amount of density in that area needs to be determined. Mr. March responded that the City of OP staff did an analysis and stated the traffic improvements that the developer has agreed to do will satisfy the expected volumes. Councilmember Osman stated that if the entertainment district expects 600,000 visitors per year, what is the number of apartment units. Mr. Strelow stated the preliminary plan has 325 units at full scale and that the traffic counts at 115th St. are 153,000 vehicles a day, both directions. He

stated that at 116th St., the traffic counts at a T-intersection would be coming from the development a majority of the time. Councilmember Osman asked if there will not be a funnel effect on the Leawood side of Nall (northbound.) Mr. Strelow stated that traffic patterns for A.M. and P.M. hours can be timed according to the density or when the need arises. He explained that the added turning lanes on the west side will reduce time that pass-through traffic would have to wait. Councilmember Osman asked about the buildings within the development being set back along the outer road and if consideration had been taken to set them closer to Nall to maximize their exposure. Mr. Strelow replied that the site does not have enough depth for access and visibility. He remarked that the apartment developers requested to be in back of the site due to noise from the major arterial. He stated that the entertainment user requested to be in the back of the site for visibility and to have a large enough parking field.

Councilmember Rawlings asked about the entertainment district and he inquired why there has not been good communication with Leawood staff. Mr. March replied that Gary Oborny had a meeting with the City Administrator 18 months ago and the development team met with the neighborhood groups in Overland Park and Leawood, but Mr. March explained that prior to the ROW permit application being submitted to Leawood, they received a denial letter from staff. Mr. March stated that they had not yet filed an application with the City of OP at that time, so because of this he noted that staff may not have all the information. He stated they were not able to file an application, although they planned to do so. Mayor Dunn confirmed that there had been conversations with staff from Overland Park and Leawood. Mr. March stated that there had been a pre-application meeting with staff in Leawood.

Ms. Bennett replied that she agreed with Mr. March to some extent but she indicated that Greg Musil, attorney for the developer, had inquired why a full and detailed application needed to be submitted because they did not have all the details yet. Ms. Bennett stated that she thought staff sent the denial letter so that the developers could move past that process and come to the Council. Mr. Ley pointed out that the developer made their first application in March and the denial letter was dated March 31st. He indicated to the developer that the review process takes approximately 2 weeks. Mr. Ley also noted that they did not meet with Public Works 18 months ago. He stated that the staff of OP were in communications with Leawood last fall and mentioned this development was coming but did not give any details other than a requested median break.

Greg Musil stated that they did not make an application at their March 2nd meeting. He stated it was via Zoom with Leawood staff as a pre-application meeting. He stated that they were told that staff would get back to them in a couple of weeks, because they were unsure of what drawings they needed to submit to meet the ROW permit code requirement. He noted that at that meeting, they showed staff what they intended to do in anticipation of receiving instructions. He stated that the denial letter was received on April 2nd. Mr. Musil stated that on April 7th the City of Overland Park approved the final zoning approval. He stated that based on the denial, they had no other choice other than to appeal to the Leawood Governing Body.

Mr. Stafford explained that the potential entertainment user is a national tenant in most major markets across the county. He stated that they sign non-disclosure agreements with developers. He explained that they have committed to the site, provided that they can get the median break and traffic light added. Mr. Stafford stated that the entertainment user is not requesting any incentives from the state. He explained that they will offer many unique uses that are not competitive, but complementary, with Leawood.

Councilmember Cain stated that she takes exception to some of the comments made by members of the development team in that the Council would be hurting the JCC by not allowing the median break. She asked about the procedure if the request is denied or continued. Ms. Bennett replied that the ordinance

is very broad. She stated that the Governing Body could continue it in order for staff to review the application. Councilmember Cain asked what the applicant's options are if the Council denied the appeal. Ms. Bennett explained that they could continue discussions with staff for alternatives, or it dies.

Gary Oborny, CEO Occidental Management, Wichita, Kansas, addressed the Governing Body. He stated that he met with Mr. Lambers 18 months ago to discuss the median break and showed him the site plans. He stated that Mr. Lambers stated that he did not have any concerns at that time, but he would have to see all the details. Mr. Oborny stated that he explained they would need to go through the process with Overland Park for approvals. He told the Council that they do quality work, such as the Overland Park Trade Center project, and that communication is very important to them but he was given feedback that speaking to the City Council was not encouraged. Mayor Dunn confirmed that it is not encouraged because it is considered a circumvention of the Kansas Open Meetings Act. Mr. Oborny stated that they were attempting to be respectful of the culture and Leawood's process. He pointed out that they were denied even before doing the traffic study. He stated that the Public Works Committee in Overland Park was tied at 3-3 because they were tasked with making decisions on the technical items of the median break, and they wanted to move it to their City Council. He noted that the approval with their Council was unanimous because they were able to see the entire project and all the elements. Mr. Oborny indicated that they have requested multiple meetings with Leawood since the information had changed when they first met with Leawood staff. He stated he would support a continuance.

Councilmember Cain thanked Mr. Oborny for his information. She stated that she is in support of a continuance for further dialogue.

Councilmember Larson agreed that she supports a continuance in order for the two parties to work together to find a workable solution. She remarked that the Council supports the City staff and their recommendations.

Mr. Lambers addressed the Governing Body. He stated that the first meeting with Mr. Oborny was more of an introductory meeting and that he recognized that more information would be needed. Mr. Lambers summarized that the design of their project is to encapsulate all their commercial traffic in terms of egress and ingress onto Nall Ave. He stated that he believes they can do a right-in right-out and transform the traffic management to other places. He does not recommend a continuance because he does not believe the developers will change their minds and opined that they are doing too much in too little of an area causing a detriment to the City of Leawood.

Councilmember Osman stated that he would be in support of a continuance. He stated that he is interested in the master plan of the project for the next 5-15 years. He stated that he does not feel the information provided in the packet was substantial enough to make a decision tonight.

Alan Cobb, President of the Kansas Chamber of Commerce, 3429 SW Stonybrook, Topeka, Kansas, addressed the Governing Body. He stated that the Chamber members in the area think this is a unique project. He stated how Leawood decides will have a statewide impact on Kansas. He commented that it is an issue if Leawood staff is prohibiting the Council from talking to constituents or developers. Councilmember Azeltine interjected and clarified that staff does not keep the Council from talking to anyone, but that they recommend they do not do any ex parte communication.

Mayor Dunn recognized Mitch Hoefler who signed in to speak, but did not respond.

Scott Slabotsky, 5625 W 131st St., Overland Park, Kansas, addressed the Governing Body via Zoom. He spoke on behalf of the Jewish Community Center and has served there for three decades. He noted that they are excited about the project but mentioned that 117th St. will receive much more traffic. He stated that they would like consideration to be taken for the median break.

Robert Shaw, 11500 Cherokee Court, Leawood, Kansas, addressed the Governing Body via Zoom. He stated he is the President of the Jewish Community Campus Board. He stated that they have worked with Occidental Management with the traffic patterns to make sure their patrons and students are safe. He stated they are looking forward to the development.

Chuck Caisley, 2708 W 118th St., Leawood, Kansas, addressed the Governing Body. He stated that he is a Leawood resident and the Chief Customer Officer for Evergy, and explained that most of the economic development through Kansas and western Missouri comes through his office, so he is familiar with developers in Kansas. He expressed his pleasure in hearing that developers from Kansas signed on to re-develop the former Sprint campus because of their investment in the state. He pointed out that the development will impact Park Place and other surrounding businesses and agrees that it warrants more discussion. He stated that as a resident, he would be disappointed if this item is continued to an automatic no.

A motion to extend the meeting by 30 minutes was made by Councilmember Cain, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0.

Mayor Dunn stated that she does not believe anyone on the Council will approve a continuance with the intention of an automatic no. She stated that she is interested in learning more about 115th Place having multiple items for improvement for Park Place. She asked to clarify that the traffic from the 1.1 million sq. ft. development has to exit at 116th and Nall. Mr. Strelow explained that the 1.1 million sq. ft. of office space is spread out across the campus and that the median break is for the multi-family and entertainment user areas. Mayor Dunn expressed concern with traffic at the Level of Service rating becoming a D or F.

Councilmember Sipple stated that he hopes that both the staff and developer really look into alternative options.

Councilmember Azeltine stated that he does not appreciate the Council being in the position of just now hearing about this development and remarked that he wished they had more time. He agreed with Councilmember Sipple about finding alternatives.

A motion to continue Item 15B to an unspecified date was made by Councilmember Cain, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0.

C. Schedule Governing Body meeting June 21, 2021 at 7:00 P.M.

A motion to approve Item 15C was made by Councilmember Harrison, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 7-0.

ADJOURN

The meeting adjourned at 11:07 p.m.