

**Regular Meeting****THE LEAWOOD CITY COUNCIL**

November 1, 2021

**Minutes**

**Councilmembers Present:** Andrew Osman, Debra Filla, Chuck Sipple, Mary Larson, Jim Rawlings, Lisa Harrison, and Julie Cain

**Councilmembers Present via Zoom:** James Azeltine

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Capt. Brad Robbins, Police Dept.	Fire 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	Mark Tepesch, Info. Services Specialist
Ross Kurz, Info. Services Director	Capt. Kirt Yoder, Police Dept.
Kelly Varner, City Clerk	

**Others Present:** Katie Pohlman, Gould Evans; Doug Weltner, State Line LLC.; Nicole Curry and Scott Bingham, BRR Architecture; Judd Claussen, Phelps Engineering, Inc.; Curt Petersen, Polsinelli Law Firm; Kevin Wimpy, Gilmore and Bell

The meeting was called to order at 6:01 p.m. by Mayor Peggy Dunn.

**1. ROLL CALL****2. PLEDGE OF ALLEGIANCE****3. APPROVAL OF AGENDA****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. A TOTAL OF 30 MINUTES WILL BE ALLOCATED PER MEETING FOR CITIZEN COMMENTS.**

**5. PROCLAMATIONS**

Lung Cancer Awareness Month

**6. PRESENTATIONS/RECOGNITIONS****7. SPECIAL BUSINESS****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. 2021-38, 2021-39
- B. Accept minutes of the September 20, 2021 Governing Body Work Session
- C. Accept minutes of the April 7, 2021 Bike/Walk Committee Meeting
- D. Resolution approving and authorizing the Mayor to execute 2022 Employee Benefit Plan documents (HR)
- E. Resolution approving and authorizing the Mayor to execute an Interlocal Agreement between the City and the Board of County Commissioners of Johnson County, in the amount of \$936,668.00 pertaining to the Stormwater System Renewal Project-Leawood South Phase I (PW)
- F. Resolution approving and authorizing the Mayor to execute an Engineering Services Agreement between the City and Olsson, Inc. in the amount of \$537,503.00 pertaining to the Tomahawk Creek Road Improvement Project (PW)
- G. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement between the City and Kruger Technologies, Inc. in the amount of \$21,970.00 pertaining to Special Inspections for the Leawood Aquatic Center Project (PR)

Councilmember Sipple pulled Item 8A.

**A motion to approve the remainder of the consent agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 7-0. (Councilmember Azeltine was not present during this vote)**

Discussion of Item 8A:

Councilmember Sipple recused himself from this item as his wife is listed as a payee.

**A motion to approve Item 8A was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0. (Councilmember Azeltine was not present during this vote)**

## **9. MAYOR'S REPORT**

- A. We would like to extend our sincere sympathies to the family and friends of Patricia Hattaway who recently passed away. Patty was a long-time member of the I-Lan Sister City Committee and currently served as an honorary member. She was also very involved with the Leawood Woman's Club as a Board Member and Officer. Mayor Dunn asked for a moment of silence.
- B. Congratulations are once again in order for the City of Leawood's recent recognition by Personal Finance Website WalletHub. Leawood was the only City in Johnson County to make the Top 20 list and ranked number 19 on the list, but ranked first in several categories including the "lowest share of the population living in poverty" and "percentage of population earning a high school diploma or higher." Wallet Hub compared more than 1,300 cities with populations between 25,000 and 100,000 across 43 key indicators of livability. The website graded each city on five metrics: affordability, economic health, education, quality of life, and safety.
- C. Mayor Dunn noted that tomorrow, November 2, is Election Day. Please take advantage of your great privilege to go to the polls and vote.

## **10. COUNCILMEMBERS' REPORT – None**

**11. CITY ADMINISTRATOR REPORT – None**

**12. STAFF REPORT – None**

**13. COMMITTEE RECOMMENDATIONS**

A. *From the October 5, 2021 Planning Commission meeting*

Resolution approving a revised final plan for Ranch Mart – Lot 2 – NBKC Bank, located north of 95th Street and east of Mission Road (PC 109-21)

Katie Pohlman, Gould Evans, 4200 Pennsylvania Ave, KCMO appeared via Zoom. Ms. Pohlman stated they are requesting approval for a renovation and update to the exterior of NBKC Bank, located at 95<sup>th</sup> & Mission in Ranchmart North. She advised that the application includes painting the existing brick to fit in with the new Ranchmart updates, updating the front façade which is on the south, adding a pergola with seasonal string lights outside that will be used for the employees to have lunch outside during nice weather, adding additional landscape, and updating the mechanical screen. Ms. Pohlman advised that some of the green space will be removed to add the pergola patio but will be replaced on other parts of the property.

Mayor Dunn stated that the elevations for the project are contained in the packet and it looks lovely.

Councilmember Cain stated that the plans look fresh and lovely and look like a part of the updates. She also commended Commissioner Holt that mentioned in the notes that she spoke with Mr. Andrew Hanson, Experience Manager and VP of the bank that perhaps the patio can be used by the Cultural Committee for art shows. This information has been passed along to the Cultural Arts Committee.

Councilmember Harrison noted that 8 parking spaces were being removed in the renovations and with a new restaurant going are there any concerns with that. Mark Klein, Director of Planning stated that those spaces were primarily being used for the bank, therefore, there is no issue.

Councilmember Sipple asked when all the improvements will be completed and how this will tie into the opening of other facilities. Ms. Pohlman stated they would like to start construction immediately after approval. The only delay will be to make sure they are planting in the correct season so that plants will survive. They hope to be completed by spring.

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

*From the October 5, 2021 Planning Commission meeting*

B. Resolution approving a final plat and final plan for State Line MXD, located south of 86<sup>th</sup> Terrace and west of State Line Road (PC 94-21)

Before the presentation, Mayor Dunn made a statement on the process and procedures for this meeting. She advised that the Applicant Doug Weltner will make his presentation and not have Council questions but go right to the Citizens that have signed into speak. This was the decision of the Council during the October 18<sup>th</sup> Governing Body meeting due to a discussion of Citizens wanting to leave to attend the Chiefs game. The Council will have their discussion at the conclusion of Citizens' remarks and the applicant will have an opportunity to speak again.

Doug Weltner, 4520 Main, KCMO, was present as a representative of the ownership group (which he is an owner) for the Leawood Village Project at 86<sup>th</sup> & State Line.

Doug Weltner asked if staff was giving a presentation. Mayor Dunn advised that Staff gives a presentation at the Planning Commission and the applicant gives a presentation at the Governing Body meeting but staff is present to answer questions.

Mr. Weltner read and provided a support letter from the Leawood Homes Association (HOA) stating that State Line 87 LLC and Leawood HOA have reached an agreement concerning the use of Lot 5 and that the HOA does not oppose the Final Development Plan.

Mr. Weltner stated that the plan before the Council has been vetted by City Staff, their architectural team, and the Planning Commission with a recommendation to come to the Governing Body. They have complied with every request concerning additional brick materials to add more masonry in response to the Planning Commission meeting. They have been really interested in making sure this project is of the architecture that the Developer and the City can be very proud of.

He showed a slideshow of things that have been done. The first slide was on the grading. He pointed out that on the southwest corner of the site which had been shown previously to the Planning Commission is where staff would have liked to have seen the area go with underground retention as opposed to above. The Developer agrees and it will be underground. This allows the Developer to stay out of the area and leave it as is which will make it a much nicer-looking area. Therefore, they will comply with the underground request. The next slide was the latest tree survey which shows that trees in the Southwest will remain, which are large 12-inch caliber plus on the site. Mr. Weltner said they were interested in the site because of the large number of trees and they have worked hard on grading tweaks and retaining walls at the back of the townhomes to try and save as many of the mature trees as possible. Mr. Weltner pointed out that along the existing fence line at the edge of the parking lot is where most of the trees will be lost which are not considered preferred species but have grown 30-40 years. There is a glade of grass behind this area and not many trees will need to be removed. Most of the mature trees are in the northwest corner of the project along the rear portion of the lot on 86<sup>th</sup> Terrace.

Mr. Weltner showed a Northeast Tree Map that focused on the northeast corner part of the site. He advised that there is a 50 foot no-cut tree zone on the map that shows the trees that will remain. It also showed all the new plantings in this part of the project. Mr. Weltner noted that what came out of the City Council meeting from June was the desire for the Developer to continue to meet with homeowners. They met with immediate neighbors on site August 16<sup>th</sup> and showed them what would be planted and have continued to have open communication. If weather permits and they have availability the plan is to plant as many trees as possible by the end of the year. If approval is granted tonight they will start immediately staking the area. Mr. Weltner stated that if some of the neighbors wanted a different location for the stakes they are open to doing that. A lot of the trees on the western end of the site will be preserved.

Mr. Weltner showed slides of the Mission Farms which is fully developed and there are no more to be purchased which is similar to what they are planning to do with this project. He stated that the reason for showing these slides is to point out that all of the homes in this development have exterior gutters. What he is asking is that the stipulation for the Stateline Project for all enclosed gutters be changed for the townhomes. They are not asking for this change to apply to other parts of the project. He stated that the request is not due to aesthetics but because the townhomes are being designed as a residential project and wants them to look as much like single family homes on the north as possible. He stated that a problem with enclosed downspouts is that you end up with box gutters that aren't at the edge of the roof, and if they ice up or clog you have a backup problem, also the flashing doesn't go far enough underneath

shingles on the roof. He stated that if you have a backup problem and a leak you will put that inside the house.

Mr. Weltner said they accept Stipulations 1-39 except No. 12 for the downspout to Townhome buildings.

Mayor Dunn thanked Mr. Weltner for working with residents. She then called for citizen comments.

Jane VanTassel, 8612 Sagamore Rd, addressed the Council. She stated she loves living in Leawood because of the beauty, especially the trees. She stated that when they met in June they came with 120 signatures to revise the plan as it was and all but one Councilmember approved the plan and she thanked Councilmember Cain for her opposition. She said that Councilmember Cain had the integrity to keep the residents at the top of her mind and oppose the plan. She stated that during that meeting Mayor Dunn requested that some of their concerns are addressed in the final plan and as of yet they have not and she does not see what has changed in the plan. Ms. VanTassel said she wished the plan was more progressive and what is not needed is another blighted office building or more retail space because Ward Parkway can barely keep tenants. She asked that at the bare minimum they keep all the current trees and add more and those be evergreen to offer a buffer like the densest project being built in Overland Park and if it can't be done for the residents do it for the environment.

Lisa Battani, 2019 W 86<sup>th</sup> Ter., thanked the Council for allowing the neighbors to speak again. She said she was sad to be here again because she had hoped that there would have been some meetings to work out some of the disagreements. One requested they were happy to hear at the last meeting was to work with the residents which happened one time that actually took place on August 18<sup>th</sup> and nothing else happened. She said they were surprised to hear that the Planning Commission took place because they knew nothing about it. Ms. Battani said the transcript from that meeting gave the impression that there had been several meetings and that things had worked out. She said when they got together with neighbors in advance of tonight's meeting, many neighbors said they were not going because there is no point, no one is listening and no one cares what they want. She said this makes her sad and should make the Council sad. She said their concerns have not changed, the trees and green space are number one. She said it makes her sad to hear Mr. Weltner say that what attracted him to this area are the mature trees and green space but he is planning on removing a majority of mature trees. Those trees provide a buffer for what is going in and what they have in the neighborhood and they are begging for those to not be removed but add more. She told of a story of kids playing in the green space for Halloween because this is all the green space they have. Ms. Battani said 50 ft. of 125 ft. is not very much but it is better than zero. She said there will be Townhomes going in and they have never seen anything that shows what that will look like from their neighborhood although they have asked several times. All they have seen is a cartoon drawing of a stick figure standing on top of the tallest building. The height and size of the project is overwhelming and they asked that it be reduced. She said that if the project was shifted a little further the trees and green space could be saved. Ms. Battani stated that the reason they are asking that the power lines be buried is because currently they run through their backyards and that is all they see and trees cannot be put in so this will allow them to put in some trees and provide some obstruction between their homes and buildings. The rooftop party patio still exists and faces the residential area and is an invasion of their privacy. They are asking that the patio be shifted to another portion of the project. She said a lot of people are watching tonight and are begging the Council to do more and make this project better. She said they are not against development but want it to be something everyone can live with for years to come.

Megan Relic, 2004 W 86<sup>th</sup> Terrace said her choice to speak tonight is to stand firm with the comradery of her neighbors. As a newer resident of Old Leawood, working to make MXD (Mixed Use Dev.) 8680 more accommodating to the community has strengthened her relationship with her neighbors. She stated

that she has learned more about why each person lives in the neighborhood and the neighborhood is precious to everyone. Ms. Relic said in her opinion the dialogue has been slanted for the Developer. While it is necessary to be progressive in the big picture for the priority for the community, every neighborhood should be valued and appreciated. She stated that this is not just a conversation for Old Leawood and her hope for the future is that the members of her City Council will truly consider the impact of the development project and realize that each neighborhood contributes to the big picture of Leawood. She offered her services of anything she can do to make this development a win-win.

Mayor Dunn called for Mark McFarland, he was not present in person or on Zoom. The Council was informed that Mr. McFarland presented the HOA letter that was read into the record but has left the meeting.

Mayor Dunn asked Mr. Weltner to respond to the citizen comments and concerns especially regarding trees and whether they will be evergreens. Mr. Weltner referred to the Northwest Tree Map and stated the trees that will be removed. He said a positive that came from meeting with neighbors is that they were able to revise the Code for the Office Building which allowed the multi-family project to move 200 feet from the existing property line and put the Townhomes at the edge of the parking line. He stated that they advised the neighbors that they will plant as quickly so they will have 2 years of maturation before the apartments will be occupied. He stated they are doing a lot of evergreens but will also have a few pines. This will give them a year round screen which they don't have today. Mr. Weltner said if the homeowners want the area trimmed they will do that or they can keep it woodsy. Mr. Weltner said he believes that this project will give their homes more value. Mr. Weltner said they have agreed with staff to put a 10:00 PM close time on the rooftop amenity.

Councilmember Sipple asked about the ratio of how trees will be planted and replaced. Scott Bingham with BBN Architects said they will be following the City's LDO as far as replacement of what will be removed and what will be kept. Bushes are not part of this; under bushes on the property will be maintained as it provides a nice screen. He stated about 50 trees will be planted.

Councilmember Filla asked what the evergreen tree ratio would be. Mr. Bingham, said they will all be evergreens but two. Councilmember Filla stated that at the right time she would like to see the wild bushes mainly honeysuckles be removed. She said she would not want to see them removed in the initial stage but over time remove because these keep out other beneficial plants and are junk food for birds and over time there could be more attractive underbrush growth. She thanked the Developer for the agreement to do the in-ground detention because this addressed the concern of the residents of where to walk their dogs and it saves 6 trees.

Councilmember Filla asked about staging and how it would affect the residents. Mr. Weltner advised that it will be at the south end of the site. Councilmember Filla stated that there would have been more support if they were able to put the power lines underground but due to cost that is not possible. She asked if what is being put in for the Townhomes would help to facilitate underground lines if the neighbors choose to do that. Mr. Weltner stated that they have met with Evergy and as a result, they will now service the Townhomes from the rear with transformers. They will be set in the back corner and extend the conduit to the corner of each homeowner, which allows the homeowner to go underground if they choose because they will have access to carry their lines. Councilmember Filla asked if an SBD could be used for neighbors to facilitate a project for this. Patty Bennett, City Attorney, advised that a Benefits district can only be done if the City owns the property.

Councilmember Filla said the project started with straight in parking so neighbors would have their headlights pointed toward their backyards but then the project changed to have 14 Townhomes on the

west for lease or purchase then it went to 24; with the modifications that the City did on the percentage of infill mix which allowed the project to move further south and bring the townhomes all the way around. She said this is a great example of the partnership that results from listening to neighbors, the Developer's flexibility and the City realizing the project is sitting in the middle of Mixed-Use. Mr. Weltner stated that some shared parking has been worked out with the tenant to the south.

Councilmember Filla stated that had this property been R1 homes it could have been constructed and the backyards would have been green space so with this project this is a better use of the green space. Mr. Weltner said it would have been a rear yard setback of about 25ft. from the house. She said this is better preservation of the green space.

Councilmember Filla stated that she saw the meeting notes from the Public Works Committee with the residents from various streets and that the concerns about traffic have been addressed. Councilmember Filla complimented Public Works and staff for holding that meeting and bringing forth some recommendations to move some capital expenditures, lights, traffic, and further consideration for already existing issues that can be improved with coordinating traffic lights.

Mr. Weltner stated that a traffic signal will be added at the main entrance and all utility lines along State Line Road will be underground. Judd Claussen with Phelps Engineering, Inc., addressed the Council and stated that the underground lines will start at the northeast corner because there is an existing pole. It will run south across the face of the development and stop at the southeast corner of the development which is the northwest corner of the current office building property. He stated that they have been working with Public Works and there are some additional right-of-ways that they are granting and they are also building a sidewalk across State Line along the frontage and setting the sidewalk back from the curb.

Councilmember Filla asked about the tunnel that is currently there and whether it will be completely pedestrian and what will be done to make it safe. Mr. Claussen stated that it will be pedestrian only, no vehicle traffic will be allowed. There will also be sidewalks that connect and some green space.

Councilmember Filla said she applauds Councilmember Osman for raising the question about the underground detention pond. She thanked City Staff and the Developer for working together to make this happen.

Councilmember Rawlings asked staff to comment on the request for Townhome downspouts to be placed outside as opposed to inside. Mark Klein, stated that internalizing downspouts have always been required by the City usually through a stipulation, and it is not required in the LDO. There are some that have not been internalized primarily in Mission Farms. Mr. Klein said they have heard from some Developers that if it is a flat roof they do not usually have any problems, however, a number of Developers said with a pitch roof they prefer to not internalize downspouts. Mr. Klein said that it does give a cleaner look if you do not have downspouts located outside. Council does have the authority to remove the stipulation.

Councilmember Osman said he has a concern with ice buildup and rain. He said these Townhomes are not commercial and the purpose is for a single-family to live in them. He said there is a difference between a multi-family complex, an office, or retail where you will have either flat roofs or roofs that are maintained professionally on a routine basis. When you have ice buildup or rain that is internal and it's going to cost more and you do not have the luxury of a maintenance tech like you would at an office building or apartment.

Councilmember Azeltine said that he agrees with Mr. Osman because this is not commercial. He said he does not agree with staff that the downspouts should be internalized.

Mr. Weltner said the elevation of the Townhomes are pitched homes.

Councilmember Cain asked when and how it will be determined if Townhomes will be for rent or purchase. She stated she and others on the Council are in favor of ownership. Mr. Weltner stated that the Townhomes are intended to be for sale and not rentals. He said if they have those available today they believe they would be very successful.

Councilmember Cain asked about the split rail fence with a coated chain link fence and when and where it would be placed. Mr. Weltner stated that the fence will be used at the 50 ft. line off the back of the 86<sup>th</sup> Terrace lots and that it will also serve as the back fence for the Townhomes along the north property and is the same fence used at Mission Farms and is about 4 ft. tall. The fence is designed to give a woody look and residents have seen the fencing.

Councilmember Cain thanked Mr. Weltner for the work on the underground detention pond. She asked about the path around the pond. Mr. Weltner said there will be an 8 ft. wide asphalt walking path but it will not be ADA compliant because of the bluff. Councilmember Cain also thanked Mr. Weltner for the consideration of closing the rooftop deck at 10 pm to show consideration and listening to the neighbors. She asked about the changes to the drive to help with traffic flow. Mr. Weltner said they are not a part of those changes. Those are being discussed with Public Works and they are also looking at all intersections to the south and are contemplating changes.

Councilmember Cain said it is paramount that there is open communication between the City, the neighbors, and the Developers. This is an example of that process working and she appreciates that. One of the things the City was able to do was to lower the percentage for retail, commercial and residential which allowed this project to be shifted. Councilmember Cain noted from the letter submitted by the Leawood HOA that they no longer have opposition to the final development plan. She said this speaks volumes from where they were to where they have come.

Councilmember Harrison said she wished that all neighbors, Developers, and City would work together as seen in this project. She said she believes the Townhomes will be an asset to north Leawood and will sell fast. She said homeownership is important but this is the sort of thing she hears that people want, which is to downsize. She thanked Mr. Weltner for his willingness to have conversations with the neighbors.

Mrs. Harrison asked if the City will bury power lines on private property. Mark Klein said no and that chances are if lines were buried trees would have to be removed. Mrs. Harrison stated she is impressed with how much they have been able to move this project to give the neighbors a bigger buffer. She stated that all the green space has been improved but as a reminder to the neighbors, the green space is private property.

Mayor Dunn said there has been a change in the City's ratio to 5 to 5 for infill. She stated that this project only has 5.59% retail and 5.6% office, therefore, this project has the bare minimum to comply and it is 88.77% residential in this project.

Nicole Curry, BRR Architect, stated that the project is 227,100 sq. ft. of residential and 52,800 of Townhomes. Mr. Weltner said the approximate cost of the Townhomes will be in the \$700,000.00 range but may be higher.

Mayor Dunn said a vote to accept the Developer's request on Stipulation 12 would be an override of the Planning Commission's recommendation and would take a super majority vote of 6. She said she believes there has been a good argument to override.

Mayor Dunn asked about the neighbor's request to move the rooftop. Mr. Weltner said they did look but there was no other location. She also asked about the entire project being moved. Mr. Weltner said it has been moved. She asked about height reduction. Mr. Weltner said they have shown several sections in the meeting and at the Planning Commission to show what they will see. He said if you stand in the back of the neighbors' homes you will see the back of the Townhomes.

Councilmember Sipple asked if they accepted the request to Stipulation 12, is this setting precedence elsewhere in the City, while they have held others to a different standard that will be given to Mr. Weltner. Mark Klein said staff usually has the stipulation that downspouts be internalized. This will be a change, however, this is a request they get all the time. This has always been Leawood's standard. He said he believes that others will point to this change.

Councilmember Filla took a moment to thank those that worked together with the Developer on this project. She said she believes that from the first approval to what is presented tonight there has been so much improvement because of the consistent communication. This has been the most positive give and take.

Mayor Dunn thanked Mr. Weltner for working with the neighbors and JoLynn Hobbs and the HOA, to get to the point of having this letter of no objections on a final plan approval is a great accomplishment. Mayor Dunn noted that Mr. Weltner recently had knee surgery which is the reason for him sitting during the discussion.

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

**[From the October 6, 2021 Public Work Committee meeting]**

- C. Councilmember Osman: Recommendation to approve the Design Consultant Selection Process on the 83rd Street (Mission to State Line) Mill & Overlay Project [Project #80176]

David Ley, Director of Public Works, addressed the Council. He said the Public Works Committee is recommending TransSystems for the designs for the 83<sup>rd</sup> Street Project. This is a reconstruction of the pavement. Asphalt curbs street lights and undergrounding of the power lines. In addition, they will be looking at 83<sup>rd</sup> & Lee and 83<sup>rd</sup> & Stateline to see what improvements can be made. TransSystems came in a close second on the Tomahawk Design selection and they felt as though they have the engineering experience to do this project.

Mr. Sipple asked when the actual road work would begin. Mr. Ley stated the design will start early 2022 and they have to work with Evergy Energy and they will begin the project spring 2023.

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

**[From the September 29, 2021 Stormwater Committee meeting]**

- D. Recommendation to pursue Option 1 in regards to the Lee Court Storm Sewer Project- Install storm sewer pipe from the existing area inlet on the northwest corner of 9320 Lee Court, install an area inlet on 9429 Lee Blvd and grade a swale east of the area inlet to direct overland flow to the inlet [Project #77024]

David Ley, Director of Public Works, addressed the Council. He showed an area map of the proposed storm sewer line. He stated that the Public Works Committee is recommending that this project be added to the 1/8 cent Stormwater Project list. It will exceed the storm sewer about 200 sq. ft. to the south. The problem is that there is too much water to be collected at the current inlet and flood so extending it to the south allows for a better collection. There were three options presented to the Stormwater Committee and this is the one that was preferred. It installs the swell and the area inlet on the upstream on side of a fence. Mr. Ley said they are asking to be able to proceed with this and add to the project list allowing them to work with the property owner at 9429 Lee Blvd. for their easement.

Mayor Dunn said it is good to see the 1/8 cent sales tax being put to great use. Mr. Ley said they have advised the homeowners that they will have to donate those easements, however, they will not proceed until they have them.

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

**14. OLD BUSINESS – None**

**15. NEW BUSINESS**

- A. Resolution determining the intent of the City of Leawood, Kansas to issue its Industrial Revenue Bonds in the amount not to exceed \$22,000,000.00 to finance the costs of acquiring, constructing and equipping a mixed use commercial facility

Mayor Dunn, advised that this comes down to a sales tax exemption only. It is estimated that the City's share will be 247,500.00.

Kevin Wimpy, Gilmore and Bell, the City's Bond Counsel, addressed the Council. He said this is for sales tax exemption and is discretionary, therefore, it is in the prevue of the Council to grant some, all, or none of this request. It is expected that these bonds will be purchased by the Developer so the City would have no liability for payment of the bonds. Mr. Wimpy stated that the approximate amount of the City's share in this financial incentive will be secured pursuant to the City's policy with the placement of a letter of credit that will secure completion of the project in accordance with the adopted plan. That letter will be released at the completion of the project. He said this resolution of intent is a strong indication of the City's intent to proceed and ultimately approve the issuance of bonds to complete the project to grant the sales tax exemption. The legal effect, for now, is that the Developer would have the opportunity to request a sales tax exemption certificate from the State of Kansas and proceed with purchasing materials on an exempt basis. This will come before the City Council again with an ordinance to issue bonds at a later date to get the project started.

Councilmember Osman stated that he thinks this project has merit, based on its unique nature and typography. He said certain things that are being done from a streetscape or detention that required a higher than normal cost and based on that he is in favor of using this tax benefit.

Mayor Dunn said she appreciated the comment on the agenda by the City Attorney for qualifying language. Ms. Bennett said the tax rate as a whole on this parcel is 9.1% which saves the Developer roughly \$2 million with the City's share being \$247,500.00.

Mr. Whimpy said the typical process is to issue bonds at or during construction and they will stay outstanding during the construction period. It will be at least six months to a year to see the ordinance but this resolution is key as it states the Council's intent to issue the bonds.

Mayor Dunn asked if the parking in the project is underground or structured. Curt Petersen, Polsinelli Law Firm on behalf of the applicant, addressed the Council and advised that the parking that is noted in the project is underground.

Patty Bennett, City Attorney, stated that a vote for this resolution indicates that the Council will act favorably when the ordinance is presented.

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

B. Schedule Governing Body meeting for November 15, 2021 at 7:30 PM

Mayor Dunn stated that the City Hall lighting ceremony is on the evening of November 15, at 6:00 PM, which everyone is invited to attend.

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

*Meeting was adjourned on Tuesday, November 1, 2021, at 7:46 pm.*