



**CITY OF LEAWOOD  
GOVERNING BODY  
MEETING AGENDA**

Council Chamber  
4800 Town Center Drive  
Leawood, KS 66211

**GOVERNING BODY  
WORK SESSION**

**Monday, September 20, 2021  
6:00 P.M.**

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**Mayor Peggy Dunn**

**Councilmembers**

**Ward One**

Debra Filla  
Andrew Osman

**Ward Two**

Jim Rawlings  
Mary Larson

**Ward Three**

Chuck Sipple  
Lisa Harrison

**Ward Four**

Julie Cain  
James Azeltine

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**Discussion of Development Agreement for 135<sup>th</sup> & Roe**

The public is invited to attend, however no comments will be entertained by the public during this Work Session.

**ADJOURN**

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

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For public safety, the City required that masks be worn in public areas of its buildings. The meeting will be livestreamed via YouTube. The link to the meeting will be posted at [www.leawood.org](http://www.leawood.org) prior to the meeting.

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

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If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at 913.339.6700 or at [CityClerk@leawood.org](mailto:CityClerk@leawood.org) no later than 96 hours prior to the scheduled commencement of the meeting.

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## Memo

**To:** Mayor Dunn and Members of the City Council  
**cc:** Scott Lambers  
**From:** Patricia A. Bennett  
**Date:** September 9, 2021  
**Re:** Work Session re: possible development at 135<sup>th</sup> and Roe Ave

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Mayor Dunn and Members of the Council,

John Petersen has requested that the Governing Body have a work session to discuss possible financing for a residential development at 135<sup>th</sup> and Roe Avenue. This is the property which is severely past due on property tax levies and assessments and is currently owned by Leawood Alberta, LLC .

Mr. Petersen indicates that he will be bringing forward a plan for a residential development in the area and the developer is seeking public Special Benefit District financing similar to that requested by a previous developer, but all in accordance with the City's policies. Attached is a summary sheet of the terms of the proposed financing, the exact amounts are to be determined at a later time.

While no action will be taken during the work session, Mr. Petersen asks for your input on the financing portion of the project with no commitment or actual development agreement being brought in front of you for consideration until you have had a chance to make a decision on the preliminary plan for the development. The developer hopes to file for preliminary and final plan approval by September 21, 2021 and hopes to have the applications to you for your review in November or December of this year.

Please let me know if you have any questions.

**135<sup>th</sup> and Roe SBD**  
**(City Constructed Improvements)**

**Term Sheet**

*Draft: September 1, 2021*

- 1) **City approves Preliminary Plan**
- 2) **City approves DA but not effective until approval of final development plan by City Council**
- 3) **Within 30 days of DA Effective Date:**
  - a. **Developer pays to City delinquent SBD special assessments (Approximately \$1,461,617). City will notify the County that all delinquent SBD special assessments have been paid in full.**
  - b. **Developer purchases TDD bonds. Developer shall thereafter tender to the Trustee a pro-rata portion of the outstanding TDD bonds equal to the TDD bonds attributable to TDD special assessments allocable to the development in satisfaction of all bond payments and past due and future TDD special assessments allocable to such development. City will notify County that the associated TDD special assessments have been satisfied.**
  - c. **Developer pays to County currently due ad valorem property taxes (including penalties and interest) (Approximately \$982,363).**
  - d. **Developer acquires title to land.**
  - e. **Developer submits New SBD Petition and Waiver of Assessments to City. Terms of New SBD:**
    - Allocation of Assessments:** Equally per lot, excluding greenspace and public right of way
    - Term of Assessment:** 15 years
    - Maximum SBD Financed Cost:** Construction cost of improvements plus project management fees, costs of issuance and capitalized interest (Eligible Improvements and costs to be determined). New SBD will fund only municipally-owned improvements approved by the City.
    - Improvements:** Constructed by City
    - Temporary Financing:** City issues GO Temporary Notes to finance costs during construction period
    - Permanent Financing:** City issues GO SBD Bonds to permanently finance costs
- 4) **Developer pays Financial Guarantee.** Prior to the approval of the New SBD Petition, Developer must provide financial guarantee (equal to the greater of 5 years of estimated principal and interest payments on New SBD GO Bonds or 35% of the costs of the SBD Improvements) in the form of an irrevocable Letter of Credit or escrowed with a 3<sup>rd</sup> party.
- 5) **City Council considers New SBD Petition.** If acceptable, Council adopts resolution creating New SBD. If the bids to design/engineer/construct the SBD improvements exceed the amount stated in the New SBD Petition, the Developer shall submit an amended SBD petition increasing the maximum amount to cover such additional costs.

- 6) **Within 15 days of New SBD Approval, Developer will:**
  - a. Pay to City remaining future SBD special assessments related to existing SBDs affecting the property to be acquired by the Developer (Approximately \$1,130,730) and City will notify the County that all remaining SBD special assessments related to existing SBDs have been paid in full; and  
If City does not create New SBD, these amounts are not required to be paid; current SBD assessments will continue.
- 7) **City adopts pre-construction assessment ordinance**
- 8) **After approval of final development plan and plat, City constructs the Improvements**
- 9) **City issues general obligation temporary notes to finance the SBD Improvements during the construction period and after completion of the SBD Improvements, City issues general obligation bonds to permanently finance the SBD improvements.**
- 10) **City certifies special assessments for New SBD to County.** Pursuant to State law, assessments must be certified by the immediately succeeding August 25 after bonds are issued. The initial levy of special assessments will appear on tax bills due in December following such certification.
- 11) **New SBD Financial Guarantee may be released to Developer once:**
  - a. (1) Certificates of Occupancy have been issued for at least 50% of the lots within the new SBD, and (2) Such lots are owned by entities unrelated to Developer;  
OR
  - b. (1) Certificates of Occupancy have been issued for at least 35% of the square footage of the most recent final development plan approved by the City Council, or (2) After 5 consecutive years of timely payments of all property taxes and/or SBD special assessments

## **Patty Bennett**

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**From:** John Petersen <JPetersen@Polsinelli.com>  
**Sent:** Friday, September 10, 2021 10:49 AM  
**To:** Patty Bennett  
**Cc:** Scott Lambers  
**Subject:** Request to appear before City Council Work Session-September 20, 2021- SW Corner of 135th and Roe.

Patty, would you please include the message below in the Council Packets. Thank you.

### **Mayor Dunn and Members of the City Council**

As the City's Professional Staff has advised you, I am leading a new development team focused on addressing the continuing financial burdens on the above referenced property and advancing a development initiative that will place the subject property in a productive tax generating mode. Since the prior applicant ceased efforts in regard to the property it has remained severely past due in terms of Property Tax Payments and SBD and TTD Assessments. As you recall, the prior efforts failed when the proposed developer objected to the terms and conditions proposed by Staff and the City's Bond Counsel.

My current proposal will not fail for that reason. All past due taxes, assessments will be paid upfront in compliance with the City's policies, procedures and conditions. I have reviewed the term sheet recently prepared by Gilmore and Bell and have affirmatively acknowledged it is acceptable.

With that background, I would appreciate a few minutes of your time to confirm our plan and intentions at the referenced Work Session. If there is specific information you would like addressed, please let me know I will provide it to Mr. Lambers and Ms. Bennett prior to the meeting.

**John D. Petersen**

*Shareholder*

[jpetersen@polsinelli.com](mailto:jpetersen@polsinelli.com)

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Admitted only in Kansas

Missouri license pending



Polsinelli PC, Polsinelli LLP in California