

City of Leawood
Planning Commission Minutes
February 9, 2010
Meeting - 6:00 p.m.
Dinner Session – No Discussion of Items – 5:30 p.m.
Leawood City Hall Council Chambers
4800 Town Center Drive
Leawood, KS 66211
913.339.6700 x 160

CALL TO ORDER/ROLL CALL: Pateidl, Roberson, Jackson, Neff-Brain, Rohlf, Williams, Elkins, and Rezac. Absent: Heiman.

APPROVAL OF THE AGENDA:

A motion to approve the agenda was made by Roberson; seconded by Rezac. Motion approved unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

APPROVAL OF MINUTES: Approval of the minutes from the January 26, 2010 meeting.

A motion to approve the January 26, 2010 Planning Commission meeting minutes was made by Williams, seconded by Roberson. Motion approved with a unanimous vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

CONTINUED TO FEBRUARY 23, 2010 MEETING:

CASE 64-09 – CLEARWIRE WIRELESS BROADBAND – Request for approval of a Special Use Permit for a wireless communication facility for Clearwire Wireless Broadband, located at 13401 Nall Avenue. **PUBLIC HEARING**

CASE 54-06 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-10 – ARCHITECTURAL STANDARDS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 20-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-1 ACCESSORY USES (RESIDENTIAL EMERGENCY GENERATORS) – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 72-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – R1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 73-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-5.3 – RP1 DISTRICT FRONT ENTRIES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

CASE 86-09 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-4-6 – SIGNS – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

NEW BUSINESS:

CASE 07-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-7 – TABLE OF USES – Request for approval of an amendment to the Leawood Development Ordinance. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Mark Klein made the following presentation:

Mr. Klein: Madame Chair and members of the Planning Commission, this is Case 07-10 – Leawood Development Ordinance Amendment to section 16-2-7. This is in regard to the table of uses that's located in the Leawood Development Ordinance. Basically, two changes are being proposed. One is to add a footnote to page two of the table that reads "reservoirs, towers, filter beds and treatment plants developed pursuant to an inter-local agreement between the applicant and the governing body are exempt from the special use permit requirement." This amendment is being made for the table of uses specifically concerning the following case that is to follow with Water One, there has been an inter-local agreement between the City of Leawood and Water One. The second one has to do with kind of cleaning up, as far as the table of uses. "Water treatment plants, filter beds" was listed twice in the table, so we went ahead and deleted the duplication. Staff is recommending approval of this amendment and we will be happy to answer any questions.

Comm. Neff-Brain: Special use permits are normally for a period of time, whereas inter-local agreements can go for a lot longer. How are we considering that when we do an inter-local with one of the utilities? Are we putting a specific period of time in it like a special use permit would reflect?

Ms. Bennett: The inter-local is negotiated with the Governing Body and they have taken that into consideration when they negotiate it.

Comm. Neff-Brain: What period of time do we have on that?

Ms. Bennett: On this one... I was looking at Mr. Arner, I believe that there is no specific term. The idea behind this project is that once you build a reservoir and it's underground with a solid brick building that it didn't need to have a 25 year term, but if they violate things, if codes issues happen, if the building falls down and crumbles, if the property becomes unsafe, there are certain enforcement mechanisms involved in the agreement.

Comm. Neff-Brain: So if other utilities would come in and want to use this provision, we could put in a period of time?

Ms. Bennett: This is just for reservoirs, yes.

Comm. Neff-Brain: Yes, I guess with reservoirs, there wouldn't be any other utility wanting to use this provision?

Ms. Bennett: Well, and Water One will make an argument that they are different than all other utilities because of their statutory governing authority.

Comm. Neff-Brain: Yeah, I know. I've heard that before. Thank you.

Chair Rohlf: Does anyone else have any questions for staff? (The minutes should reflect that Mr. Heiman has joined the meeting this evening.)

Comm. Rezac: I do have one quick question.

Chair Rohlf: Alright, Ms. Rezac.

Comm. Rezac: I just wanted to know if the intent of the language of this footnote is something that's typical or a standard or other municipality ordinances.

Ms. Bennett: I don't think so. No. I think in other municipalities they have proceeded without any zoning process and done it via inter-local, without calling attention to the code. I'm not sure in other municipalities if they zone reservoirs, or require SUPs for them. I do not know.

Comm. Rezac: Thank you.

Chair Rohlf: Alright, anything else... yes, Ms. Neff-Brain?

Comm. Neff-Brain: One more question: could "towers" refer to communication towers also?

Mr. Coleman: It's referring to water towers.

Chair Rohlf: Wow, that's a good point. Maybe we should make it more specific.

Comm. Neff-Brain: Well, I... yeah. It says "reservoirs, towers, filter beds, or treatment plants." I would think that a communication tower could argue that they were within that definition.

Ms. Shearer: At the end of the table of uses there's another category, "towers, radio, television, and microwave," and then the very last item is "wireless communications facilities and antennae," and part of the definition of wireless communications facilities includes towers.

Comm. Neff-Brain: So, tell me what...

Ms. Shearer: Wireless communications towers are covered by the last item on the table of uses. That was our intention.

Comm. Neff-Brain: And there would not be an inter-local agreement with that type of utility?

Ms. Shearer: No. We can add the word "water" in front of towers if that will make you feel better.

Comm. Neff-Brain: That would. I think that would be a good thing.

Ms. Shearer: Okay.

Chair Rohlf: Okay, anything else? Alright, this case does require a public hearing. Is there anyone in the audience that would like to speak about this case? If so, please raise your hand.

Comm. Jackson: Madame Chair, seeing no one, I move we close the public hearing.

Comm. Roberson: I second that.

Chair Rohlf: Thank you Ms. Jackson, Mr. Roberson.

A motion to close the public hearing for CASE 07-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-7 – TABLE OF USES was made by Jackson; seconded by Roberson. The motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

A motion to recommend approval of CASE 07-10 – LEAWOOD DEVELOPMENT ORDINANCE AMENDMENT – SECTION 16-2-7 – TABLE OF USES with one modification: that the footnote referred to in the staff recommendation be amended such that it will now read “reservoirs, water towers, filter beds, and treatment plants developed pursuant to an inter-local agreement between the applicant the the governing body are exempt from the special use permit requirement,” was made by Elkins.

Ms. Shearer: Mr. Elkins, is it possibly your intention that the actual line of the table of uses include the word “water” in front of “tower” as well?

Comm. Elkins: Fair point. I would add that to my motion as well, Madame Chair.

Comm. Neff-Brain: One more quick question. Would filter beds and treatment plants include sewage treatment plants, and would that be... If we were working with waste water would we want to do an inter-local anyway?

Mr. Coleman: That’s a good question. The way to clarify that would also be to put the word “water” in front of “treatment plants.” It would be “water treatment plant,” rather than a sewage treatment plant.

Comm. Neff-Brain: If that’s our intention.

Mr. Coleman: That’s our intention.

Mr. Elkins: It’s currently in the table of uses as “water treatment plants.”

Ms. Shearer: Third from the end.

Comm. Neff-Brain: Waste water treatment plants. That’s separate from what we’re--

Mr. Elkins: Yeah, but if you look at the reservoirs, towers, filter beds, or water treatment plants; it already says “water treatment.”

Comm. Neff-Braid: But a waste water treatment plant needs a special use permit, correct? According to that?

Mr. Coleman: According to our table of uses, yes.

Comm. Neff-Brain: So, a water treatment plant, according to this table, needs a special use permit, “filter beds, reservoirs, and towers.” so would we be striking that?

Mr. Coleman: I think it was struck because we thought it would be redundant, and the “treatment plants,” shown under the asterisk subheading are considered to be water treatment plants.

Comm. Rezac: Madame Chair, maybe it would help if... Can you clarify, since there are two lines here that mention the treatment plants, and mention the reservoirs, which one? I assume that it’s the second one—the one on the very last page of the table of uses.

Mr. Klein: The one that we intended to strike is located on the very last page. It's the one toward the bottom of the last page of the table of uses. It says "water treatment plants and filter beds," and the reason why we struck that is that on the second page about halfway up where it has "reservoirs, towers, filter beds, or water treatment plants," that's the one that we wanted to focus in on. And that's also the page that will have the footnote that's located there. I believe the amendment is to include the word "water" in front of "treatment plants" down in that footnote, which would match "water treatment plants" which would be located on that line on the second page. So, I think we'd be in agreement.

Comm. Roberson: So we actually are adding two words to this; "water" in front of "towers," and "water" in front of "treatment plants." Commissioner Elkins?

Comm. Elkins: That's what I think I'm saying.

Chair Rohlf: I think that's where we we left off. Is there a second to the motion please?

Motion seconded by Williams; passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

CASE 05-10 – WATER ONE – NALL AVENUE PUMPING STATION AND RESERVOIR – Request for approval of a plat and plan – Located at the northeast corner of 147th Street and Nall Avenue. **PUBLIC HEARING**

Staff Presentation:

Senior Planner Joe Rexwinkle made the following presentation:

Mr. Rexwinkle: Madame Chair and members of the Commission this is case 05-10. It's a request for plat and plan approval for Water One – Nall Avenue pumping station reservoir located at the northeast corner of 147th Street and Nall Avenue. The applicant is requesting approval to construct a pumping station building and an underground reservoir. The building is proposed to be 8,730 square feet on two levels and will be constructed partially underground. The building entrances will be on the north side, and the building will be constructed of red brick with gray brick soldier courses. The concrete foundation will be stained a red color to match the brick. The underground reservoir will be located south of the pump station building. The plans show two underground reservoirs, one labeled east and one labeled west. Approval of this plan shall constitute approval of the east reservoir only, as the west reservoir is labeled on the plan as a future development. Future plan approval for the west reservoir will be required prior to its construction. The surface above the reservoir will be an open lawn area, and the applicant has indicated that this area will be unfenced and publicly accessible. The area immediately surrounding the pump station building will be fenced for security purposes with a seven foot tall black aluminum fence. This fence is designed to have a curved top that functions as a security fence with greater aesthetic appeal than conventional security fencing. Section 16-2-9.1f of the Leawood Development Ordinance allows a maximum fence height of six feet, so this is one foot over that maximum. Staff is not opposed to the seven foot tall fence; however, approval of that seven foot tall fence is contingent upon a future text amendment that would allow it in this case. A driveway from Nall Avenue to the pump station will provide access to the building. A decorative security gate is proposed at the beginning of the driveway near Nall Avenue. This gate is proposed to be eight feet tall and made of steel painted to match the security fencing that's around the pump station building. There will be decorative brick columns on either side of this gate. There will be a second gate that's at the security fence surrounding the building; this gate will be aluminum to match the fence surrounding the building. There are a total of four types of signs proposed; they're all informational signs. The first sign type pertains to the permitted vehicle weight limit in the open space area above the reservoir and a total of five of those signs are proposed. They will be placed on five foot tall poles with sign faces that measure

approximately 1'6" x 1'6". The second sign type pertains to access restrictions to the site and only one of these signs is proposed; it will be located on the gate at the security fence. The third sign type reads "danger, no trespassing," and four of these signs are proposed to be mounted to the security fence surrounding the building these signs will be about one foot by two feet in area. The fourth sign type is an address sign that will be located on the decorative brick column along Nall Avenue. Four building mounted light fixtures are proposed; they will all be located on the north side of the building, and the applicant has provided a photometric plan that shows that the lighting will comply with the requirements of the Leawood Development Ordinance. There are two existing trees on the property, both of which will be removed for construction purposes. There are existing street trees along 147th which will remain, and the applicant will plant street trees along Nall Avenue, as well as shrubs surrounding the base of the pump station building. The plans also show clusters of trees and shrubs to the north and east of the pump station building and to the south of the reservoir as well as along the driveway to the site. The plans comply with the landscaping requirements of the Leawood Development Ordinance with the exception of section 16-4-7.3b 2 which requires a minimum of one shrub per five linear feet in the front yard along Nall Avenue and 147th Street. The plans show several KCPL utility features in the front yard along Nall Avenue, two of which are existing and located immediately adjacent to the sidewalk, and cannot be screened because of their location immediately adjacent to the sidewalk. The proposed KCPL utility features that are located further north on the site will be screened with landscaping, however, the current plans show that landscaping as only being about 3 feet tall, and the LDO requires that this landscaping be a minimum of seven feet tall, so that is reflected as one of the stipulations in the Staff Recommendation. Finally, there is an existing public sidewalk along Nall Avenue, however, there is no sidewalk along 147th Street and the plans do not propose one at this time. Staff is recommending that the plans be revised to show a sidewalk along 147th Street, particularly since the lawn area will be publicly accessible, that's one of the reasons why we're asking for it. The applicant conducted a series of public informational meetings last summer, and a summary of those meetings has been included with the Staff Report. They also conducted an interact meeting on February 1st, 2010; and a summary of that meeting has also been attached. Staff recommends approval of this case subject to the stipulations in the Staff Report, and will be happy to answer any questions you might have.

Chair Rohlf: I do have one. How is this land show on the comprehensive plan? This parcel?

Mr. Rexwinkle: It's designated for public uses.

Comm. Neff-Brain: In your report you state that the staff had discussions with the applicant and encouraged the applicant to consider designing the structure with the appearance residential in nature, consistent with the surroundings. Any comments on that?

Mr. Coleman: After we talked to them about it, they still submitted the proposed building like it is now, like you see it. So that was sort of where it was left.

Comm. Neff-Brain: Okay. Thank you.

Chair Rohlf: I know they had a notice requirement, I believe of five hundred feet. Do you know how many people would have received notice?

Mr. Rexwinkle: I don't know off-hand, but I can check the file and figure that out during the meeting.

Chair Rohlf: I was just curious. It would seem like it's a pretty minimal number of homes, particularly with Nall being there.

Comm. Pateidl: Purely for the sake of my own edification, would either members of the Staff, or legal department, just give us a brief explanation of the nature of the negotiations between the city, the Governing Body, and the water department, or water company in the development of these inter-local agreements please?

Ms. Bennett: (City Attorney for the City of Leawood) The quick summary is, Water One approached the city, friendly, and willing to work with the city in many ways, but for a variety of reasons did not want to go through the formal zoning application process, believing that it was exempt from the zoning process under Kansas law. Kansas law is a little uncertain. The rest of what happened with council was executive session, so I don't feel comfortable sharing that in the public meeting; but the essence was a number of discussions to come to this point to essentially put this in front of you as you would look at any other plan, with the same input you would give to any other plan, and likewise, when it gets to council, treat it the same way as with any other plan, but without requiring the formal application process that we would have required under the SUP that was in the table.

Comm. Pateidl: So if I understand you correctly, there's been an agreement that has already been negotiated?

Ms. Bennett: There is an agreement that the city will consider this. That is all the agreement is. If the city ultimately approves it—

Comm. Pateidl: In plain English, short of a memorandum of understanding; this is what we're going to do?

Ms. Bennett: This is the process that we're going to use. If it is approved, ultimately with stipulations, and the stipulations are agreeable to Water One, that will serve as an amendment to the agreement, and that will be the final agreement that the parties will use going forward. If it is either not approved by the city, or approved by the city with stipulations that Water One cannot live with, then we will go a different direction.

Comm. Pateidl: Perhaps you'd be the best one, then, to clarify the comment within the documents that we received, about the storm water retention basin of the subdivision down below from this site; that Water One will not have any responsibilities to the maintenance of that, that that's going to fall upon the local homes association?

Ms. Bennett: I don't know anything about the storm water. That may be Mr. Ley's—

Mr. Ley: Detention was not required on this site. There is detention downstream for Highlands.

Comm. Pateidl: I'm sorry—

Mr. Ley: Detention was not required. This site, if you look at it, is mostly grass, so we did not require detention. They are constructing a bio-retention swale to treat their storm water, but they are not having a detention pond.

Comm. Pateidl: What is the retention pond that's referenced in these documents, then, as being the responsibility of the home owner's association? It specifically excluded Water One's responsibility.

Mr. Ley: Right, that's part of the Highlands Creek subdivision detention pond for their storm water.

Comm. Pateidl: So that is strictly a swale? There is no basin?

Mr. Ley: Highlands Creek has a detention pond that was built by the subdivision and is maintained by that subdivision.

Comm. Pateidl: Okay. Can you explain to me a little bit the reasoning, or the negotiations that took place that would exclude Water One from any responsibilities for that?

Mr. Ley: Well this is mostly residential. The pond was designed for this to be a residential subdivision, and since its mostly grass, there is not the runoff that you would get with a residential subdivision.

Comm. Pateidl: I can appreciate that in the long term, in a finished stage, and I can appreciate that with the above ground open area essentially remaining the same, that we're not really going to have an increase as far as water runoff is concerned. What bothers me is the thought that the excavation that's going to be involved on this site is going to be huge, and the term of construction is going to be lengthy by the time you get the concrete and all that completed. The runoff of silt and the fill of a downstream pond is very, very likely. I don't know that that was anticipated when this retention basin was designed, constructed, and the responsibility placed on those homeowners. And I'm reluctant to go without saying that I believe that there should be some responsibility inside of the inter-local agreement that either some measurements before and after the construction takes place as to the filling of that pond with silt, and responsibilities of Water One to rectify that problem, if that develops.

Mr. Ley: Right. And that's part of—They have to get an erosion plan approved through the planning department, and so that will cover silt pond and things like that during construction. They also have to get a state permit, so it would be well documented if there's any silt within that detention pond that Water One would be required to clean that out. I should say their contractor would be required to clean it out.

Comm. Pateidl: That is my point. That is my concern, and if that's specifically spelled out, I would highly encourage that that be done.

Mr. Ley: We'll cover that on the grading plan, once they make submittal on that.

Comm. Pateidl: I understand the intent of retention facilities to hold silt coming in from downstream, I also understand that the reality of what happens sometimes far outweighs what the intent was.

Mr. Coleman: We'll strictly enforce the erosion control plan.

Comm. Pateidl: Thank you.

Comm. Elkins: Just to follow up briefly on Commissioner Pateidl's comment, because I think it was very well taken, is there any concern by staff, from staff's perspective, that the specific calling out in the proposal here and the documents we've seen that exempts Water One from maintaining that retention basin that could down the road be used, notwithstanding all the good intentions by staff and whatnot, to say "Hey, this document says that we're exempt from having to maintain that basin?" I guess I'm following up on Commissioner Pateidl's concern.

Mr. Coleman: I think our main concern would be during the construction process and making sure that their approved erosion control plan is strictly followed. If it's followed properly, there should be little sediment leaving the site.

Comm. Elkins: Agreed. I guess I'm just speaking from personal experience where in private practice I represented somebody who absolutely abided by that municipality's erosion control, and they had the 100

year rainstorm and somebody's swimming pool filled up with silt. I'm concerned that Highlands of Leawood's retention pond will fill up with silt and we've got the "perfect storm," no pun intended, I guess, but the hundred year rainstorm right when all we've got is dirt that's disturbed and it rushes down that hill. But, if staff is confident, and the city's confident that what we have in here isn't construed to exempt Water One from that, then I'm comfortable.

Mr. Coleman: They're required to follow all of our laws, completely.

Comm. Elkins: No, I understand that, Mr. Coleman. My concern is that when the law gets followed, but nonetheless you have—I mean we're over in the civil side now, not a compliance issue. We're at a civil issue about silt runoff filling up the retention pond. Don't get me wrong. I'm not attributing any ill will to Water One here, I'm just trying to get a contingency plan for when the one in one hundred year thing arises and we've got a retention pond that has to be dug out by somebody.

Mr. Ley: Right. They're required to get a state permit for that also, for the grading and any type of erosion control measures that they will have to do on their site. So, they will be required. You know, the state gets involved. They come out also, and they make the contractor clean out any debris that's left their site, so we wouldn't be going after Water One, we'd be going after the contractor that has the permit. They'd be the ones responsible for doing the cleanup.

Comm. Elkins: Okay, great. Thank you.

Comm. Jackson: How long is construction expected to last?

Mr. Ley: You'd have to ask Water One. I'm not aware.

Comm. Jackson: Okay. Thank you.

Comm. Rezac: I do have a question. I understand that this area is zoned for residential, but it's listed here that the comprehensive plan also designates that it's public use. Can you just describe what "public use" means in this setting?

Mr. Coleman: It's a public utility and the public use designation is shown on the comprehensive plan.

Comm. Rezac: So for public utility?

Mr. Coleman: Well, it's for public use. It could be, you know, a school or some other public facility. It could be a parks and recreation facility, it could be other city facilities, it could be other utilities.

Comm. Rezac: Okay, so there's a broad range there of public uses that are covered in our comprehensive plan?

Mr. Coleman: That's correct.

Comm. Neff-Brain: You talk in here about having it as open, public space. That would be something that would not be maintained by the city though? It would just be grassy area that would be maintained by the water district, and if people want to come on there and have picnics or whatever, they're welcome? Is that the idea?

Mr. Coleman: I think what would end up happening would be some separate agreement between the city, if the city was involved in that public use, and Water One. Water One could simply leave it open, as an open public space, designated for anyone to use it.

Comm. Neff-Brain: But the city wouldn't be putting any facilities on it?

Mr. Coleman: Possibly, but not necessarily. That would be a future negotiation with Water One.

Comm. Neff-Brain: Okay. Thank you.

Comm. Elkins: I'm sorry. This is probably for legal counsel. I'm just curious. As I understand it, Water One is, at least, a quasi-governmental agency. Is that correct?

Ms. Bennett: To simply answer your question, yes.

Comm. Elkins: I guess it just raises a question for me in terms of enforcement and compliance. Do they have any sort of sovereign immunity that in the event that they move forward in a fashion that we believe is not consistent with the city, that they're exempt under theories of sovereign immunity?

Ms. Bennett: The city would claim "no," and there are some provisions regarding enforcement in the inter-local.

Comm. Elkins: Thank you, ma'am.

Applicant Presentation:

David Egger, Black & Veatch Engineers, 3500 W. 85th Street, Leawood, KS appeared before the Planning Commission and made the following comments:

Mr. Egger: Thank you for having us in tonight, to present to you this project. I wanted to offer, at the outset: we can spend a few minutes on the purpose and need of the project if you would like. We're prepared to do that, so I wanted to throw that offer out now, just to give you a bit of background. Speaking very shortly, it's mission critical infrastructure for Water One, to sustain water pressures, but if you would like detail on that, I would offer to present that now.

Chair Rohlf: I would just kind of like a little bit of background on why you started looking at this area and why. What do you measure need by, and that kind of thing. I was curious about that.

Mr. Egger: I would be happy to do that. I think I might need a little bit of help from staff to use the projector. There's a picture. A picture is worth a thousand words, in this case. Water One started to look at the need to increase water pressures in this part of Johnson County about six years ago. They have a pretty extensive master planning process, and if you look at the model here before you, you can see that there's been quite a bit of time and effort spent in looking at this site. This model was actually developed about four years ago. That's when they first started looking at this site and they went through a pretty rigorous process to look at the economics of where to put the facility, how it would impact the community, and how it would impact the environment, basically. The fundamental need, what you see on this site, what you're looking at here is, I believe, 135th Street. I need to get my glasses off. This is 135th Street, and this is a stretch of high ground. The red you see there would indicate a low pressure zone. The city has a hydraulic model that they run to predict how pressures will run during peak summer demand, and that red indicates that their service

pressure is below the forty pounds per square inch which are the minimum that are required to provide people water to have their showers work on the upper floor, to have their irrigation systems work properly, and very importantly, to provide minimum fire protection. So that's the short story, for the purpose and need of the project. Are there any other questions on that? It's kind of fundamental to what we're doing here tonight.

Chair Rohlf: What do you project that those will be then, after the reservoir is put in?

Mr. Egger: You know, it's going to vary on the time of year and the pattern of usage, but afterward it will have a minimum of forty pounds per square inch, and Tom Schrempp, who's here with Water One, could answer it better than myself, but I think that the pressures will range up to sixty-seventy pounds per square inch.

Mr. Schrempp: Yeah. That would be a common pressure in that part of Leawood. And the red you see there is really a ridge line. That's a ridge line that's running through Leawood, and it kind of makes sense, that on top of a hill, that's where the lowest pressures are going to be. Does that help?

Mr. Elkins: I have a quick question. What are those pressures now? The minimums; what are they hitting now?

Mr. Schrempp: I would say that probably, this evening, they're hitting fifty-sixty pounds per square inch. These red zones would be a predicted pressure in the summer time; very peak usage. Right now, I think we're a year or two away from seeing red, but we're right on the ragged edge. That's one of the messages tonight, that this is pretty mission critical infrastructure for Water One to meet demands in the future, and a large piece of infrastructure such as this takes a long time to build. I also wanted to answer the question someone asked about how long the construction period would be. It's about eighteen months strictly speaking, but we're going to have to allow two years for the complete cycle, to get it started up, disinfected, and putting water out to the system.

Chair Rohlf: Alright, I think that touches on that. Thank you.

Mr. Schrempp: Thank you for asking, I was hoping someone would.

Mr. Egger: We wanted to go through the purpose and need briefly, and I wanted to speak for just a moment about the planning process and the interaction with the public. I think it's been represented here that Water One has adopted an attitude of no surprises. That has, indeed, been the attitude. We've had about five public meetings, and one of the public meetings was very well attended, it was from the community called Grace Gardens, which is on your side of the model here. It's a retirement community, and I think we had forty or fifty people turn out that night. It turned out to be a very supportive group of people. They had questions, as you might expect, they had questions about the aesthetics, they had questions about the construction, and importantly, they had a lot of questions about the cost. They wanted to know how much this was going to cost, and how it was going to impact their rates. So we tried to answer all those questions for them, but I think we left the meeting, and the record will show in the notes of the meeting, with very strong support given their input. More recently, we actually held an interact meeting where there were two individuals who showed up, it was just a few weeks ago, and we also had very strong support at that meeting. I wanted to make sure you knew how much outreach had been conducted as part of the project development. With that said, what I'd like to do, is just go right to the Staff Report, unless there are more questions of a general nature, and actually try to respond to the questions that were raised. There were two, actually three items in the report that we want to speak to and give you a bit of background into why it kind of sounded like there was an exception being taken. There are three items that, indeed, we'd like to

comment on. One was item ten in the staff report, which was dealing with sidewalks on the south side of the site. Yeah, this is stipulation number ten. The staff was recommending a sidewalk on the south side of the site, which is the north side of 147th street. Water One agrees, first of all, to a sidewalk along the entire running length of Nall Avenue, that's no problem, and in principle, we have no problem with the idea a sidewalk along this side, except we have some site restraints. The trees that you see shown on the model here are, in fact, in place. They were put in by the developer of the site before Water One purchased it, and we're reluctant to put a sidewalk in there and have to damage those trees in any way, to have to pick them up and move them. We just don't think that would be well-received by the neighborhood. Plus, looking at the drainage on this site, by the time you get down to about this area, there's kind of a pinch point. We're creating a swale, and there's a pinch point, and there's not a really good spot to run a sidewalk through there. So, what we're asking for there, is a variance on that matter, to not have a sidewalk on that side of the property. So that was one item that we wanted to speak to, and I just wanted to provide the background on. The other one was on the shrubbery. This is item 14-c. Staff is recommending that we consider bushes. Staff is recommending that we have bushes that would run along the front of all these street trees on Nall Avenue, and our concern there is based on experience at other sites. It's a security issue that doesn't seem real apparent, but what we've found at other sites where there's large open space such as this, specifically there's a similar facility at the Nall Avenue Pump Station Reservoir, is that there ended up actually being some illegal uses, illegal activities going on, I should say, at the site, because there were trees, and there were bushes below, and it effectively created a screen. If you can imagine a big, wide open, green space that's screened from public view, it just drew the wrong kind of attention. So we have no problem with the trees at all, it's just the fact that, with the trees and bushes, our worry was that it would be more of a solid wall that would create a screened-in area that we just don't think would be good for the neighborhood. So that was the idea there. There is one other, minor matter. It's on stipulation eighteen. We just want to clarify that the building permit will be obtained by the general contractor, rather than by Water One. The general contractor of course, would be in agreement with Water One, but we just want to make sure that was clear, because that's the intent. So, if I could, if you want to respond or ask questions about those now, we could field those, at this time. Or, I could speak for a moment about the architecture, because we thought that was clearly a question, and we want to share the views on that. Our view is based on discussions with people at the public meetings, and our own experience. If you look at the actual structure, it doesn't really look like a house. There are plenty of pump stations around the Kansas City metropolitan area, and in Johnson County, that are smaller in scale, that are above ground, that utilities and agencies of all types, they embrace the idea of designing a facility that fits into the neighborhood. That's a pretty well accepted idea. In this case, the feedback we got very early on was, "let's try to bury it, and make it softer, greener space." We need access to the pumping station, it's just that this pumping station is a fairly massive facility, and our concern was that the scale of it didn't really lend itself to residential architecture. It really has more the look of the side of a grocery store or school, that sort of a scale, so the idea was, "let's use brick, let's use high quality materials," and we're willing to talk a little bit about how we arranged the brick. We've got some ideas if you'd like to see them, on making that as nice looking as we can. We think the base design here, which, I don't know if we have any views here that actually show it any better, I don't think I do, but there's some really nice coping, and some courses that are layered into the architecture treatment that are very attractive.

Chair Rohlf: One question I do have. It's a term I was not familiar with. I'm sure the architects are, but the "brick soldier courses?" I think that must be a decorative feature of some kind?

Mr. Egger: It is a decorative feature.

Chair Rohlf: I couldn't find it, that it was distinct from the brick color.

Mr. Egger: I believe I have another rendering of that. These would be the soldier courses here--the white layers that you see across there. So I wanted to spend a moment on the philosophy of the architecture.

The footprint of the pump station and the layout of the pump station would be very difficult and expensive to change. It is a large structure that moves a lot of water. There are a lot of motors, valves and pumps inside, along with cranes and trolleys to move the pumps and valves around should they ever need maintenance. It is a very large structure and that was our philosophy. There were also some comments on the runoff from the site and I just wanted to validate one of the staff comments that states that the site has been designed for zero runoff. There is a small bio-detention facility on our site. We're not adding anything to the downstream drainage issues. We covered the construction period, which was one of your questions, the runoff and the architecture. I believe that concludes all of our prepared remarks. I just want to reinforce the urgency of the project and it is our desire to be on the March 9th, Governing Body meeting. We would like to resolve all of the questions tonight, if possible, so we can maintain that schedule.

Comment [MK1]: Where Mark Started

Chair Rohlf: Is the landscaping shown on the model consistent with what is on the drawing.

Mr. Egger: It is close. I will not represent that it is exact. We have the final designer Michael Connell and the Landscape Architect here. I would say that this is much further from our final design than what you will see on the landscape plan, because there has been significant discussions with staff about getting us in line with the LDO, so it has changed significantly.

Chair Rohlf: Where are the existing trees you were talking about along 147th Street?

Mr. Connell: *Michael Connell with Berns and McDonnell Engineering Co. pointed out their location on a rendering.* This is a rendering produced prior to the street trees being added along Nall Ave. There now are street trees every 35 ft. along Nall Ave. Along 147th Street there are street trees approximately every 50 ft. Along 147th Street the trees are already in place. The model was built over 2 years ago when it was being determined what could fit on the site and how it might work on the site. It has not been updated since then. The most updated thing you see is the landscape plan and the renderings.

Chair Rohlf: So the landscape plan reflects not only what is there, but what you are proposing to add.

Mr. Connell: That is correct. The only thing that we would be using are there are the street trees along 147th Street. Otherwise on the site there are just two trees that sit in the middle the site and that is all the trees on the site currently.

Chair Rohlf: What was the reason for you not wanting the sidewalk along the north side of 147th Street?

Mr. Connell: There are a few reasons. The sidewalk would typically be placed between the edge of curb and the right-of-way. Typically the sidewalks are within the right-of-way. As it sits now a sidewalk could be put in this area between Nall Ave. and Rosewood Street. However to the east of this, the trees would have to be moved out because in this area we have to have drainage for the site. We do not want to put a sidewalk through a drainage swale. So it is difficult to fit the sidewalk within this area. Also there are currently utilities that are located within that part of the right of way. As it was originally laid out by the subdivision, it was not planned to have a sidewalk at this location. Therefore utilities were put in places that normally they would not have been located if there had been a sidewalk there.

Chair Rohlf: Does staff have anything else to add and if that is consistent with what you know.

Mr. Coleman: We felt that the sidewalk could go between the trees and the back of the curb. You might have to remove two trees near the swale that he is speaking of, but other than that, we felt that the sidewalk could be put in back of curb.

Chair Rohlf: What do you feel is the need for that sidewalk?

Mr. Coleman: If people were to use this as open space, which is about an acre and a half to two acres, it would be nice for them to be able to get out of their car onto a sidewalk rather than into the grass.

Chair Rohlf: What would you anticipate this being as a public use? Would these people be invited there, or would they just be using it.

Mr. Coleman: I think it would depend on whatever that use is. I don't know the exact use at this time, but Water One had indicated that this space would be available for public use. Though it could be a passive park with picnic tables, or someplace people go to walk, or walk their dog.

Chair Rohlf: Is this something that we could put off until we know that use, or do you feel that it is critical that it be built into the project?

Mr. Coleman: I think that it is important that there be some provision within the agreement should a future use be there we will not have to come back and get the sidewalk in through the Planning Commission.

Comm. Pateidl: In lieu of the sidewalk, given that we may have some problems with either trees or drainage areas, and in light of the fact that this could be used as a public area, what about a walking or riding trail concept that would break the starkness of looks like a pumping station?

Mr. Egger: We were going to suggest the consideration, particularly along this side, to steal a page from some of the creeks in Leawood that would just have a nice winding path through the trees. We thought that we could lay something like that out.

Comm. Pateidl: Would something like that be acceptable to the Planning Department?

Mr. Klein: We would like to see a design of what it will look like, but yes we do not see a problem with doing that.

Comm. Pateidl: In terms of the negotiations of the agreement, can that be worked out?

Mr. Coleman: I would think so.

Mr. Egger: I just want to clarify that we would be open to that along 147th Street, and if it is desired, we would be open to it along Nall Ave. as well. Although it just didn't seem like the winding trail would fit around Nall Ave., because there is already a sidewalk there, so we did not plan on any changes along Nall Ave.

Chair Rohlf: Do you require all of the acreage for this type of facility? Is it necessary?

Mr. Egger: It is very tight. With the pump station and the parking lot and driveway used to get men and materials in and out of the pump station, the initial cell that will contain about 6 million gallons of water stored underground, and the future cell, what is left after that with the landscaping, adjacent utility corridors etc. we really use the entire site. Construction of the reservoir would have been less expensive, if we could have done two rectangular cells, but the site just did not allow it, because we were trying to use every corner of the site.

Chair Rohlf: What is the general construction phasing? What do you start on first?

Mr. Egger: Generally you will start with the excavation of the reservoirs; mass excavation is how we refer to it. Then you would move to the reservoir and then the pump station. The pump station will be last.

Mr. Connell: Generally that would be correct. The excavation of the east reservoir would take place first. We would also probably be doing some excavation in the area of the pump station. There is a lot of concrete used to construct the east reservoir. We would be doing that at the same time that they would be building some of the pump station. The goal would be for the contractor to finish up everything within the seasonal boundary such that if they can pour concrete more in the spring, fall and summer, it is less costly for them than in the winter. It is all dependent on how the timing works out. We are anticipating approximately 18 months of active construction on the site.

Chair Rohlf: What will determine when the west reservoir is started and completed? Is that a usage issue?

Mr. Connell: It is a usage issue. It is estimated that it could happen as early as 10 years down the road. However, it could also be as late as 20 to 30 years down the road. It all depends on the demands and growth within both the City of Leawood and the service area of Water One.

Comm. Neff-Brain: As you excavate the site, are you going to haul the rock away immediately, or are you going to stage it on site and then remove it.

Mr. Connell: Most of that will be contractor's means and methods. However, my guess is that they will take the soil off the top, reserve that on site and remove the rock. They are going to have to take a lot of that off site because they do not have a lot of additional working room on the site.

Comm Neff-Brain: Will there be blasting?

Mr. Connell: Right now the contract is set up so that the contractor has the option of either doing blasting or using mechanical means to remove the rock. During the public meetings there was a preference for blasting to get in, get it done and get the noise out of the way rather than having 6 to 8 weeks of someone pounding on rock 8 hours a day to remove it.

Comm. Neff-Brain: Will the contractor have to come in and get the appropriate blasting permit?

Mr. Connell: Yes. The specifications are written such that they have to follow all of the Leawood ordinances and requirements for blasting.

Comm. Jackson: When the blasting is done, is it still underground so you have the tamping effect of dirt on top of it? It's not open/exposed when you're blasting?

Mr. Connell: Yes. They just drill holes in the ground from where they are and do the blasting with the surface as it is. They do not normally do any excavation prior to the blasting except occasionally they will do a little bit of excavation just to get a better feel for what is actually down there for rock, versus what the geotechnical reports might say, so they can more accurately complete their blasting to the depths that they need.

Comm. Jackson: And there must be some regulations as to how close to the property line you can do the blasting?

Mr. Connell: Actually, the regulations on this site for where they can blast is more controlled by the fact that along the west side of the site there are two gas lines, and the gas company requires you to be a certain distance away.

Comm. Jackson: That's good to hear.

Mr. Connell: And along this side, there's also a petroleum line, and they also require the blast to be a certain distance away, so that's actually controlling the area of the blast, or the area that can be blasted, versus where the houses are.

Comm. Jackson: So how much actual area can even be blasted in there?

Mr. Connell: It's pretty much the entire area where you see the two reservoirs and the pump station that can be blasted. We're right on the edge on the west side. You have to be seventy-five feet away from the gas line and we're about ninety feet away.

Comm. Jackson: Thank you.

Comm. Pateidl: Madame Chair, if I can move on to the discussion of the architectural features of this project. In reading through the material that was presented to us, I looked at some of the facilities that have been built elsewhere, and I was very impressed with the effort and the extent of the imagination that had been used to blend facilities into the local environment, and with equal impression, I'm not impressed with the pumping station that is being proposed in the center of this residential area. I understand that it's a major structure, and I understand it's got to do what it's got to do, which is pump water; but when I look at the starkness of the front of this building, with the parking lot as it's established and the door, it seems to me that there has been little thought given to breaking the starkness of this facility with a façade. To that end, given the history of Water One in its other projects, and given the starkness of this project, could you give me your thoughts, or the thoughts of Water One, as it relates to, "why this design?" Why not extend yourself to the point where you have something that blends better into a established and relatively high-end community.

Mr. Egger: First of all, respect for your opinion, and indeed, I know that Water One would appreciate you noticing how much effort has gone into some of their other facilities to make them blend into the surrounding communities. In this case, I think the design is really the byproduct of feedback from the community. Water One has been talking to the real estate people who are helping the developer in Highlands Creek for, I think, over 4 years. Renderings of this site showing very similar architecture and wide open green space were on display in the real estate office, and on top of that, we had the meetings with the people in Grace Gardens, and I've got to say the almost universal reaction was "soften it up, make it disappear; we like the idea of open, green space in a park-like setting." So from that standpoint, I think that the answer is, the message we got was "keep it minimal," and certainly, the message from the people in Grace Gardens, who it was pretty humbling to be with because you read, and you hear about the "greatest generation" of folks—those people are the greatest generation. There's WWII veterans in there, and just some really impressive folks, and the message we got from them is, "hey, do a nice job, think of us during construction, don't ruin our views," which we showed them, we walked all the way around the model, we walked through the renderings, and they said, "do it frugally. Watch your dollars. Don't spend money that you don't have to spend." That was a very clear message from those people, so we reacted to that; kept it pretty minimal, kept it soft. We wanted quality. We kind of looked at surrounding architecture, I know Mike had talked to some of the studies that were done of other architecture in Leawood. They actually drove around and looked at large buildings. We're not trying to do anything fancy, because you're right, it's not fancy, but it's solid, it's attractive looking, and that was the thinking on that.

Comm. Pateidl: Well I'm not totally up to date on the residents of Grace Gardens, I understand they're elderly, I understand that many are residents who are perhaps on contracts. I'm not certain, but I also understand that you didn't have a great turnout for some of the other public hearings. I'm not taking anything away from the people at Grace Gardens. I respect them, and I respect their opinions. I am concerned as a member of this planning commission that it appears that there has been a minimal effort to break. There's not a whole lot that you can do to make this building different, but it seems to me that there is much that could be done in terms of the appearance of the structure in its final stages, and in my opinion this is very stark, and I would encourage the utility to do something to approve that.

Mr. Egger: Well, if you'd allow, we did have some ideas, to take what we have there, and still taking a fairly low profile approach, but dress it up just a bit. Mike can you present some of the photographs? We challenged Mike to think about this.

Mr. Connell: Yeah, I talked to some of our architects. There are some things we could do to break up the building. One thing we're challenged with is that on the south side we have a wall that's about eight and a half feet tall. On the north side we have a wall about twenty-five feet tall. So, trying to find something that can work in both a short stature, and a tall stature, can be a challenge. Some of the things we could do to break up the north side would be to put in what I would call "faux window relief," to have some faux-type window relief along that, put some things on the corners, some scalloping up and down along the corners of the building to provide some break in that, or to put some different decorative brick work along the north side. Those are some of the things I talked to the architect about. We talked about it today, actually. We're willing to look at other things. What really would be difficult to do would be to do anything that's going to change the overall dimension of the structure, because it's as small as we can go, and we don't want to make it any bigger or any higher at all. We want to keep the profile down so that when people are looking from all the directions that they can, it's as low as possible. Those are some of the ideas we can put together, let the planning staff have a chance to look at, and get some feedback, but what we don't want to do is do anything that would make the building higher, at all.

Comm. Neff-Brain: Are those retaining walls colored concrete?

Mr. Connell: What they are is stamped concrete, and they will be colored concrete, yes. They will be stamped to look like stone.

Comm. Neff-Brain: Is it going to be a red color?

Mr. Connell: It's planned to be stained to match the brick that is currently planned to be used on the facility, the primary brick.

Comm. Neff-Brain: Were the folks across Nall notified? They were part of the 500 feet, probably.

Mr. Connell: Yes, they were.

Comm. Neff-Brain: The Lions Gate people?

Mr. Connell: Yes.

Comm. Neff-Brain: And did you have input from them?

Mr. Connell: There was a public meeting that was held in July, at Lions Gate. I'm not sure how many people attended that one; I was not able to attend that one in particular, but the interact meeting we had last

week—one of the people that did show up was from Lions Gate, so they did get the letter over there for the interact meeting. Yes, anyone within the 500 foot perimeter received a letter was invited to the various public meetings.

Comm. Neff-Brain: And were the homes association presidents notified, so that they could get it out to the rest of the homes associations?

Mr. Connell: I don't know the answer to that question.

Chair Rohlf: Could you find out that answer for me?

Mr. Connell: Yes.

Chair Rohlf: Did you find out anything additional?

Mr. Klein: With regard to the number of people were notified, we know that there were approximately 33 people that were notified on the Leawood side, and probably significantly more on the other side, but I did a buffer around there.

Chair Rohlf: Okay, thank you.

Comm. Rezac: First, I just want to say that I do appreciate the time and effort that's been put into the facility and how it's been designed thus far, not only the building itself, but the access to the building, thinking about how this area's going to be used, the landscape, and everything that's included. My two main comments are about the roofing, and the landscaping. It looks like there was effort put into this building, to put this building into the ground as much as possible, to kind of make it go away, and I think that's definitely the right direction from my perspective. I do have a question. First, I should ask about a rendering. I have a quick question on one of the renderings that we have in our packet. It looks like there's a fence? Is there some fencing material on the top of that roof? Is that an old rendering possibly? Okay. I guess that's what it was, because I didn't see it in any of the other renderings. So, that's a non-issue. Correct? Okay. Secondly, I was wondering if there was thought through any of the design process of covering that roof, meaning it is almost completely underground. I understand the cost implications of that, but I wondered if there was any other thought given to that, because right now, it's almost like you want the building to go away, but the worst part of the building is being shown the most.

Mr. Egger: Yes, and I know Mike can speak to the detail, but we would if we could. It's just a function in design requirement to have the ventilation on top of the building. I don't know. Do you have access-ways to remove the pumps out through the roof? Or do you have them coming out through the front door? They're coming out the front door. So we couldn't. Believe me, if there would have been a possible way, we would have buried the pump station as well.

Comm. Rezac: Okay, so the ventilation explains that. The other thing is, I'm not going to sit here and try to design the building, I understand the efficiency of the rectangular shape, and I think the brick material takes into account all the other buildings around it in the residential area and it's a high quality material. Similar to the comment I made previously about how we're trying to make it go away, it almost seems like the way the landscaping is placed calls attention to the building. Because of the access into the building, you're lining the access with trees, and it seems that more landscaping should be around the building itself, because as you drive by this, it's very noticeable that something's going on in there, something very different from everything else going on in that area. It seems like the landscaping could surround the building more, and be a little bit more randomly placed, to call less attention to it. Is that something that you would consider?

Mr. Egger: I'm fairly confident that we would consider fine tuning the placement of the landscaping that's there. There's been quite a bit of movement that's already been done in consultation with staff. If those ideas can be trickled down to us from the Commission, I know that we would consider it. I think the way that we were looking at it is, we have some mass balance of the landscaping, and we have some promises to keep, for sure, with Grace Gardens, about screening. We're trying to comply with those promises, and then we're also trying to meet the LDO. Other than that, we've got an attitude of trying to work with you all.

Mr. Connell: If possible, I'd like someone from Water One to address issues of security, and some of the security design requirements that they have, or that have been passed in the last ten years with the EPA, the ASC and things like that on how you want to be able to observe, or see facilities. I think they may be the best people to speak to that somewhat, because they have experience with changes that they've had to make at some of their facilities, to comply with some of the recent regulations.

Tom Schrempp, Director of Production for Water One, appeared before the Planning Commission and made the following comments:

Mr. Schrempp: I basically manage the operation of the facilities, including this pump station that's being proposed. Since 9-11 we've had to go through a process of doing a vulnerability assessment of all of our facilities and have had to evaluate the security of the facilities and what we need to do to make sure that these facilities are protected. One of the things that comes up is site distances and protections, and being able to see into the site so that if someone drives by the site, we're able to tell that there are not activities that are going on. So we try to strike a balance between landscaping that provides a visual break and screening of the building itself from the roadway and from the neighbors. At the same time, we need to leave a certain amount of visual access to the facilities where we can actually see in and make sure that there are not things going on there where someone's trying to access the facility, to break in. Then there is the potential for contamination of water. There's this constant battle. If you left it totally bare, it would probably be the ideal security thing that would allow us to see if there's something there, or not, but we recognize that is not appropriate. What we're doing here is to put in enough plantings to provide a good visual break to the facilities, but there is still a need to be able to see them. I think that's been the approach with the renderings that you see on the board. Do you have any questions? I'd be happy to try and answer them.

Chair Rohlf: I'm just curious. What are the on-site security measures, then? Is it all just recorded?

Mr. Schrempp: We do have security alarms, and video cameras which are included to monitor that. Obviously the fencing around the facility has a security outlook type top to the fence so it's not easy to climb. Some of the hatches to the reservoirs are covered with large concrete blocks. It's just a square block that's basically pretty low, but it means that someone can't just access a hatch, cut the clasp off, and open it up. It takes heavy equipment to be able to try and get in and access that. Those are the sorts of things that we do to try to provide security to the site.

Chair Rohlf: Does security come into play in the design of this overall feature? The underground part of it— is there any requirement that dictates what it needs to look like or be built like?

Mr. Schrempp: There are general industry standards as far as making sure that the structure is sound enough to provide security, and approaches to that. We've asked that the design engineers incorporate all of that in the design that they've put together here.

Chair Rohlf: Alright.

Comm. Elkins: I've got a couple questions here, starting with some of the comments that the staff made about the fencing. I think that our ordinance has a six foot limit; you all are proposing seven foot. We're kind of putting a conditional thing in here that it can go to seven if we have a change in the text of our development ordinance. Is the six versus seven a function of the security requirements that this gentleman just reported, or why do you need a seven foot fence?

Mr. Egger: It is, indeed. It's not an arbitrary battle that we picked. It's really related to requirements from the water industry. Mike can comment. What is it? American Water Works Association, or is it the ASCE? I can't recall.

Mr. Connell: It's both. It's a document that was put out after 9-11 regarding the security of water facilities, and actually, if you use a straight fence, the minimum height they want you to have is eight feet. With the type of fence that we are proposing, where the top curves outward, which makes it more difficult to scale, you can drop down to seven feet. That's the recommended minimum, per the industry standard. That's where that comes from. In fact, with this type of security fence, most of them you can't buy shorter than seven feet, because they know that's that industry recommended minimum for these type of facilities.

Comm. Elkins: Is it a TSA regulatory requirement, or is it merely an industry standard best practiced?

Mr. Connell: There are trial requirements out there that they want you to follow, and if you go to EPA and run your vulnerability studies through them, they will ask you to provide that.

Comm. Elkins: To provide a seven foot fence?

Mr. Connell: To provide the minimum fence. If we were to run this through EPA on vulnerability assessment, they would be asking for that.

Mr. Egger: There's an additional regulatory step that will be invisible to the city. It's the Kansas Department of Health and Environment, the KDHE, and they also have additional jurisdiction over the final plans and specifications, and like Mike said, the KDHE is very closely linked to the EPA and they will trigger these security reviews very quickly.

Comm. Elkins: Now, you mentioned, with respect to the roofing, that apparently there are ventilation requirements up there, as well as the ventilation that are on the vertical walls. Is that correct?

Mr. Connell: The louvers on the front are the air intakes. On the top of the roof, the air will come in and it will go out through what are openings in the roof that you don't really see, but they're there. So it comes in through the front and goes out through the ceiling as it would leave. Normally, it would be heated up.

Comm. Elkins: Looking at the renderings, and I apologize if I missed it somewhere, but my impression is that there is no mechanical on the roof. Is that right?

Mr. Connell: The only mechanical on the roof are those square—If you look at that, you can see about eight square places on the roof. Those are the louvers that will be up on the roof, but they will sit below the actual roof height.

Comm. Elkins: So while it may not be flush with the actual roof, there is a parapet there, so they're not visible from the street, or people that are out in their yard.

Mr. Connell: That is correct.

Comm. Elkins: With respect to the retaining walls that I see on the rendering that I have in front of me here, it talks about "stained concrete, retaining wall, form line or pattern," and it kind of looks like stone work, but do we have--? We have concrete, and I think you mentioned it being stamped. Can you tell me a little more about that?

Mr. Connell: Basically, the way it's done is, when you form the wall, the form that's used has a decoration to it, so when you remove it, the wall looks like it has stone shapes within it. Our plan was just to go in and stain that to match the brick.

Comm. Elkins: And this will be inside the fence, right?

Mr. Connell: Correct.

Comm. Elkins: But I would assume that there is still at least the possibility that when workers are inside the fence working, they could bounce into the wall and chip it, and that sort of thing. Is that a possibility?

Mr. Connell: We would hope that they wouldn't. There are curbs around the parking lot that would—You would have to hop a curb to get there. We wouldn't anticipate that. If it was chipped, they could go back and restrain over an area that was chipped, and chances are that, from more than fifteen feet away, you wouldn't notice.

Comm. Elkins: But, so when it does get chipped, the colors aren't the same underneath. The stain doesn't penetrate all that deep into the wall.

Mr. Connell: You are correct.

Comm. Elkins: Did you consider an actual true stone as a retaining wall, as opposed to the concrete?

Mr. Connell: It was considered. We prefer to stay away from the cost of the real stone.

Comm. Elkins: On to one of the other issues that was raised, and we've kind of gotten away from and onto the architecture, and that is, with respect to the landscaping and this issue about what's going on behind the screening that's created by, I think the recommendation from staff was a sort of seven foot shrubbery, and I may be visualizing this incorrectly, but I don't think that the current power utility boxes are shown on any of your plans that you have right here. If they are, I missed seeing them. My curiosity is that I've been concerned for a long time along that stretch of Nall, about the boxes that sit there along Nall Avenue. So I'm curious how you all plan to screen those boxes, if seven feet of bushes is too much.

Mr. Connell: Well, actually, I'll show you where they are on this plan I have down here. There are two existing, relatively small profile (a little bit bigger than this cabinet) that set here and here. Those would be difficult to screen, because they sit right next to the sidewalk. We actually have a utility box here and here, two next to each other, and another one here, and we currently show screening around them that is three feet. The staff report requests that be seven feet, and we are okay with that stipulation, we don't have a problem there. Where the question came in was the request to have (I'm trying to remember if it was three foot tall or five foot tall, I can't remember off the top of my head) bushes or trees that go along this frontage, and this frontage. That would be one every five feet. We'd be talking somewhere in the rage of three hundred to three hundred fifty bushes, and we're not sure that is really going to be providing any visual help along there. We're not sure that it's really designed for something to be used for this type of facility. Plus, we

prefer, from a security standpoint that Mr. Schrempp talked about earlier, that they be able to see underneath the canopy of trees toward the site, and they're afraid of those bushes providing some of that blockage for them to be able to see the building as they go by, from a security standpoint.

Comm. Elkins: So the landscaping screening for the utility boxes is not going to be an issue?

Mr. Connell: That's not a problem.

Comm. Elkins: Is it going to be taller than and it will cover the utility boxes?

Mr. Connell: Yes, on the plans we submitted it was only three feet tall, the utility boxes are a little over four, they requested seven, that's not a problem.

Comm. Elkins: But you did mention two that are right on the street, and there's just not anything you can do about those.

Mr. Connell: They're inches away from the existing sidewalk, and the sidewalk is only about four feet away from the edge of the back of the curb of the street. It's really too close for us to screen anything on the street side at all.

Comm. Elkins: Now if the landscaping that the city staff is proposing was limited to three feet instead of seven feet, I'm not talking about the utility boxes, but along the length of the property line, would that address Mr. Schrempp's concerns about visibility into the facility?

Chair Rohlf: It's three feet.

Comm. Elkins: Oh, I'm sorry. So, you're concerned about even the three feet. I guess maybe I'm just not visualizing the topography of the site very well, but I'm curious about what's going to go on below the three feet level that's got you concerned.

Mr. Egger: I think the concern more was the canopy of the tree, with the limbs of the trees drooping over time, and then the bushes growing up, effectively creating a visual wall, as it were, around the site, and then it's very tempting with all this open space behind that wall. Water One actually has direct experience with problems of illegal activities going on in an area like that. We're not trying to avoid the LDO in any way. It's just a legitimate security concern.

Comm. Elkins: Okay. I guess what I'm visualizing—maybe this is the in between time, but it would seem to me that when the trees are fully mature, hopefully their canopy would be substantially higher than three feet. Hopefully there would be a gap between three feet and the bottom of the canopy of the trees.

Mr. Egger: Yes. I think that was Tom's experience at Lamar. Was it at Lamar and Quivera, I think Lamar would have been forty years old, and Quivera was built in the eighties, so they actually had issues at both of them. It's just a tempting target.

Comm. Elkins: I did have one more question that didn't get checked off here. I think we addressed it with the idea of the path, but on 147th street, is there currently an existing sidewalk on either side of the street? If you look to the north is there not a sidewalk there either?

Mr. Egger: No. No, there's not.

Comm. Elkins: Okay. So the proposal that we've got in front of us to try to address that issue is some sort of an asphalt or all-weather sort of path that we're talking about?

Mr. Egger: It's an idea that has been kicked around, that with the trees that are already there, that were there before the site was being planned by us, that we thought that between the drainage issues and the trees that we want, that we thought we could take a strong try to weave a path through there, and it actually might be an amenity. We think it might add to the community to try to do that. I'm not saying that there won't be issues with it, because we haven't laid it out, and Mike hasn't laid pencil to paper, but it's certainly something that we would consider, and it solves some of the problems with the drainage constraints and the trees.

Comm. Elkins: And then the last question actually follows up on that. We've had some discussion about a kind of casual approach to the use that space will be put to, or the surrounding area, the green space, which I'm sure the residents of the area, and the seniors, they love having their view there, and I think that's fabulous. From a property owner standpoint, how does Water One feel about junior high kids playing football, or soccer, or pick-up baseball games on that space?

Mr. Egger: We actually have talked about that pretty extensively. We talked about it at the public meetings, and the kind of uses that Water One is very open to is people running around with their dogs out there, dog walks, soccer, baseball, or just people romping. Those are the kind of uses that we see. It's not uncommon within the water industry, in a different setting, it really wouldn't work here, but there are actually reservoirs designed with tennis courts on top of them. So it's not an uncommon concept to have mixed uses. The more urban our centers get, the more that occurs. Those are the kind of uses that are contemplated. The neighbors really didn't like the idea of anything that would be a magnet to a lot of people, but to have an amenity for the people who actually live around it, they were very supportive.

Comm. Williams: As critical as the discussion has been, of the landscaping and the screening from all directions, I'm assuming, from the notes that I can read on this, that the trees, especially the larger specimens, are going in pretty much per the requirement of the ordinance, which in all reality for a complex this size, are small trees. Has there been consideration given to trying to provide larger trees, more mature trees, to gain a few years on the quality of the screen?

Mr. Egger: There has been some consideration of that, and I'll let Mike speak to the actual design, but one of the areas where we've spoken about that directly is on the Grace Gardens side, which would be the side that's near your desks, is to provide some more mature trees there. I think the neighbors, rather jokingly, said, "we're not going to be around forever." I know Mike Armstrong feels pretty strongly about putting some larger trees there, so that there's some definite screening. I believe Mike can comment specifically, but I believe the rest of the trees, it's contemplated to have healthy, robust trees that meet or exceed the requirement of the LDO.

Comm. Williams: I think that in critical places, particularly closer to the building, and as you say, to screen from the complex to the north, it could be very beneficial. So you've looked at that? You're considering that? Or is that off the table at this point?

Mr. Egger: We're considering that there are no real residents that are impacted on this side. The view from the east side is very different because it's got a real rolling feature to it because of the swale that's through there. The residents that it really mattered to were the Grace Gardens residents, and that's where we were considering doing something a little extra.

Comm. Williams: So, I want to pose the question to staff. How can we monitor that, or are we basically out of control of them bringing in or encouraging the use of larger trees?

Mr. Klein: We always encourage trees that would exceed what the requirements are. The Leewood Development Ordinance are minimums that you're allowed. With regard to the screen that's with the shrubs, I just want to make sure that everybody understands, as far as that requirement by the Leewood Development Ordinance shrubs are allowed to be clustered. It's not something to where you typically see a wall of three foot shrubs that are going along. Occasionally we'll use those for parking areas to screen the headlights, and toward that end we'll do a row, or a double row of shrubs back and forth. However, a lot of developments plant these shrubs, and most of them don't get up over three feet in height, even after they're mature, as long as they're trimmed and maintained. They just have to be clustered somewhere within that forty foot setback. I just want to make sure everybody's aware that we aren't necessarily talking about a solid row going along Nall Avenue or 147th Street. Also, with regard to the requirement within the Leewood Development Ordinance.

Comm. Neff-Brain: Since this is an inter-local rather than the normal route we would take, can't we require a certain caliper of tree, maybe in lieu of some of the shrubbery?

Ms. Bennett: Generally yes, however, this inter-local is trying its very hardest to get it to comply with the LDO. So that's why there is the difference. The same thing on the fence; what we would like to do is, I think staff is supportive of changing the fence requirements in light of the security standards that the water district faces, but in doing that we'd like to draw that into the ordinance so that this building will comply with the ordinance, and with the inter-local too.

Mr. Egger: I just wanted to add the comment that we would be open to some clusters of bushes, as long as it didn't cross that judgment line that we've got. We kind of have to meet this standard of care from others looking at the facility through a security standpoint. As long as we think we can get by that barrier, we'd be open to putting some clusters of bushes along Nall Avenue, in the spirit of the LDO.

Comm. Jackson: What kind of illegal activity are we looking at? Are we just talking about trespassing, or are we looking at something more serious.

Mr. Egger: I would call it "drugs, sex, and rock-and-roll," but maybe Tom—it's those sorts of activities. I didn't witness it personally, but those are the stories that I've heard.

Comm. Jackson: Have there actually been arrests out there? Or is it more spottings?

Mr. Egger: I think it's more staff inspecting the grounds and seeing evidence. Whiskey bottles, etc.

Chair Rohlf: This case does require a public hearing. Is there anyone in the audience who would like to speak about this case? If so, please raise your hand.

A motion to close the public hearing for CASE 05-10 – WATER ONE – NALL AVENUE PUMPING STATION AND RESERVOIR was made by Jackson; seconded by Roberson. The motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

Chair Rohlf: That takes us up to any final discussion that we have on this matter. I think we've been discussing the three staff recommendations that the applicant has some concerns with. We would need to

take into account the discussions and comments that were made. If the motion maker would like to make an revisions to those three staff stipulations.

Comm. Neff-Brain: Is the staff agreeable to having, in lieu of a sidewalk, some kind of a meandering path?

Mr. Coleman: Yes. I don't think we have any objection to it meandering, or to working with them so that it can fit around the trees or their swale.

Comm. Neff-Brain: It could be in asphalt.

Mr. Coleman: It could be asphalt. It's a little softer to walk on, but it doesn't last as long, and so we'd have to look at the construction details.

Comm. Neff-Brain: Okay. Thank you.

Mr. Coleman: We don't have any problem, on item eighteen, with changing that to contractor, rather than applicant.

Chair Rohlf: And it appears that the applicant is willing to work on 14-c as well, with some clustering. So perhaps both 10 and 14-c can be worded to somehow allow some future work with staff on both of those points.

Mr. Coleman: I think it's just the modification of their interpretation of the whole ordinance in the landscape plan.

A motion to recommend approval of CASE 05-10 – WATER ONE – NALL AVENUE PUMPING STATION AND RESERVOIR – request for plat and plan approval – located at the northeast corner of 147th Street and Nall Avenue with 19 stipulations as set forth in the Staff Report with the following modifications: Stipulation 10 amended to read “prior to governing body consideration, a revised site plan shall be submitted showing a meandering path along the north side of 147th Street; stipulation 14-c amended to read “may be planted in clusters;” Stipulation 18 amended to say “prior to the commencement of construction activity, the contractor shall obtain a building permit from the City of Leawood” was made by Elkins; seconded by Williams. The motion passed unanimously with a vote of 7-0. For: Pateidl, Roberson, Jackson, Neff-Brain, Rezac, Williams and Elkins.

MEETING ADJOURNED.