



1. CALL TO ORDER

Present: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

Others in attendance were City Manager Wilkes, Assistant City Manager Sherman and City Attorney Shaver.

2. BEGIN TELEVISED SESSION – 7:00 P. M.

3. PLEDGE OF ALLEGIANCE

4. SPECIAL BUSINESS

- A.** Recognition of Frank Devocelle on his recent retirement from Olathe Health.
Mayor Copeland recognized Mr. Devocelle and presented him with a specially crafted pen from Chur, Switzerland, one of Olathe's sister cities. The pen is contained in a special box made by the vo-tech students at the Kansas School for the Deaf in Olathe.
- B.** Proclamation designating February 2019 as "National African-American History Month".
Mayor Copeland invited Community Relations Manager Vanessa Vaughn-West to the podium to introduce the Reverend Dana Patterson Nelson who accepted the proclamation.
- C.** Proclamation honoring Michael Wilkes' 20 years with the City of Olathe.
Mayor Copeland presented Mr. Wilkes with a proclamation honoring him for his twenty years of service to the City of Olathe as City Manager. Mayor Copeland thanked Mr. Wilkes for his service to the City.

5. CONSENT AGENDA

Approval of the consent agenda.

Motion by Randall, seconded by Bacon, to approve the consent agenda with the exception of items C and L. The motion carried by the following vote:

- Yes:** Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland
- A.** Consideration of the City Council meeting minutes for January 22, 2019.
Approved.
- B.** Consideration of a pawnbroker/precious metal dealer license application for M West, Inc. - Moshiri Jewelry, located at 14937 W. 119th Street.
Approved.
- C.** Consideration of Resolution No. 19-1013 authorizing various improvements to the Water and Sewer System of the City and setting forth the intent to issue Water and Sewer Revenue Bonds..
Councilmember Campbell asked if this item was on the agenda to express an intent for issuing the bonds.

Resource Management Director, Dianna Wright stated this is a step in the bonding process, which Council authorizes the projects and utilization of revenue bonds. Ms. Wright indicated each project would come back before the Council for approval.

Motion by Campbell, seconded by Bacon, to approve consent item C. The motion carried by the following vote:

- Yes:** Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland
- D.** Consideration of business expense statement for Mayor Copeland to attend the US Conference of Mayors in Washington DC, January 23 - 25, 2019.
Approved
- E.** Consideration of Resolution No. 19-1014 establishing the date and time of a public hearing regarding the establishment of a redevelopment district pursuant to K.S.A. 12-1770 et seq.
Approved
- F.** Consideration of Consent Calendar.
Approved
- G.** Consideration of Resolution No. 19-1015 authorizing a survey and description of land or interest to be condemned for the Lakeview Avenue Sanitary Sewer Improvements Project, PN 1-C-024-18.
Approved
- H.** Consideration of an Agreement with Johnson County for construction of the Santa Fe Street and Ridgeview Road Geometric Improvements Project, PN 3-C-083-15, and the Santa Fe Street Arterial Mill and

Overlay, PN 3-P-001-19.

Approved

- I. Consideration of Resolution No. 19-1016 authorizing the 2019 Streetlight LED Conversion Project, PN 3-C-009-19.
Approved
- J. Consideration of an Inter-local Agreement with the City of Overland Park for construction of the 151st Street Arterial Mill and Overlay Project, PN 3-P-004-19.
Approved
- K. Consideration of Engineer's Estimate, acceptance of bids and award of contract to O'Donnell & Sons Construction Co., Inc. for construction of the 151st Street Arterial Mill and Overlay Project, PN 3-P-004-19.
Approved
- L. Consideration of a Professional Services Agreement with Black & Veatch Corporation for design of the replacement standby generators for the Harold Street Wastewater Treatment Plant and the Renner Pump Station. Continued from the February 5, 2019 Council Meeting. Councilmember Randall asked this item be tabled to the next Council meeting for further study.

Motion by Randall, seconded by Bacon, to table consent item L for two weeks for deliberation. The motion carried by the following votes:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

- M. Consideration of Engineer's Estimate, acceptance of bids and award of contract to Teague Electric Construction, Inc. for construction of the 151st Street and Lennox Drive Traffic Signal Improvement Project, PN 3-TS-004-18.
Approved
- N. Acceptance of bid and consideration of award of contract to Elliott Equipment for the replacement of two (2) street sweepers for the Stormwater Division of Public Works.
Approved

6. NEW BUSINESS-PUBLIC WORKS

- A. Consideration of a special use permit (SU18-0005) to allow more than four (4) animals at a residential household; located at 1512 E. Frontier Lane. Planning Commission recommends denial 5-0.
Zachary Moore, Planner II with Public Works Planning Division completed a presentation of the special use permit request. Mr. Moore stated staff and the Planning Commission recommend denial

of the special use permit request.

Councilmember Randall asked if there was ever a consideration of pulling the special use permit process due to the violations.

Mr. Moore stated staff had discussed with the applicant the commercial activity would not be permitted even with the approval of the special use permit. Mr. Moore stated the applicant wished to proceed.

Mayor Copeland asked if the applicant was present and would like to make remarks.

Mr. Moore stated he believed the applicant was not present.

Councilmember Vogt asked if this was a breeder and not a foster.

Mr. Moore stated this is what staff has found.

Motion by Randall, seconded by Bacon, to deny special use permit 18-0005. The motion carried by the following vote:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

- B.** Consideration of Ordinance No. 19-04 (VAC18-0005), requesting vacation of public utility easements; located on the property at 1234 E. Santa Fe Street. Planning Commission recommends approval 5-0.

Motion by Randall, seconded by Bacon, to approve ordinance no. 19-04. The motion carried by the following vote:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

- C.** Consideration of Ordinance No. 19-05, RZ18-0021, requesting approval for a rezoning from CP-3 to PD (Planned District) and preliminary site development plan for Mentum, mixed-use development, on 105.5± acres; located in the vicinity of 151st Street and Harrison Street. Planning Commission recommends approval 5-0. .

Sean Pendley, Senior Planner with the Public Works Planning Division completed a presentation covering the rezoning and preliminary site development plan. Mr. Pendley stated staff had one additional stipulation to not publish the rezoning ordinance, if

approved tonight, until the land contract with Woodbury Corporation closes on the property as the City does not want to update the zoning map until it is official. Mr. Pendley stated the applicant is okay with this stipulation.

Chet Belcher, Transportation Manager with the Public Works Department completed a presentation on the stormwater management plan and traffic for the property.

Applicant Joshua Woodbury, 2733 E. Parleys Way, Salt Lake City, Utah, gave a presentation of the project and rezoning request.

Councilmember Randall asked Mr. Woodbury what their investment will be in the project.

Mr. Woodbury stated the project would cost more than 300 million dollars and they are looking for a partnership with the City of Olathe.

Councilmember Brownlee inquired as to where the Legato property is located.

Mr. Belcher brought up the map and indicated where the Legato property is located.

Councilmember McCoy asked if there was anything on the Legato property.

Mr. Belcher stated just the detention basins.

Councilmember Bacon asked about the stipulation that would revert the rezoning back to CP-3 if the closing on the property did not happen, or is it contingent on the STAR bonds being issued. Mr. Bacon also asked if the closing occurs two years from now is it still all good.

Mr. Pendley stated there is no expiration date and the intent is if the zoning were approved it would be a condition the property closes and there would be a purchase. Mr. Pendley further stated if the

property was not closed on the ordinance would not be published. Mr. Pendley stated an expiration would probably need to be done and there was discussion of possibly setting a deadline of one year. Mr. Pendley stated the applicant is ready to move forward very quickly on development of the arena and plan to close quickly.

Councilmember Campbell asked what the next steps are to moving this to final approval.

Mr. Pendley stated if rezoning occurs the next steps would be closing on the property, replatting of the property and final development plans.

Councilmember Campbell wanted to be clear that no automotive maintenance would be allowed.

Mr. Pendley stated that is correct and included in the list of prohibited uses.

Councilmember Campbell stated no STAR bonds, no project.

Mr. Pendley stated that is correct.

Councilmember Randall asked why Planned Development (PD) zoning as opposed to CP-3, or other zoning and what does that give us.

Mr. Pendley stated Planned Development zoning allows for integration of mixed uses, flexibility and allows for more interactive development.

Councilmember Randall asked if we have several planned development zonings.

Mr. Pendley stated we have a few and cited the Archer subdivision on Lone Elm being one.

Councilmember Randall asked if we were simply approving a

rezoning from CP-3 to PD and a preliminary site and development plan.

Mr. Pendley stated that is correct.

Councilmember Randall asked if Planning has seen any other development projects come to you on this land since the mall went out.

Mr. Pendley stated there have been no new development plans within the interior of the development. Mr. Pendley stated they have had proposals for redevelopment of the pad sites.

Councilmember Randall asked if warehouse use might be requested down the road if this did not develop.

Mr. Pendley stated someone could make that request, but it is not consistent with our future land use.

Councilmember Vogt asked what the recourse is if the assumptions made by the stormwater report came back with enough negative impact.

Mr. Belcher stated if any use came back that would have a negative impact they would have to mitigate those increases onsite.

Councilmember Vogt inquired about attention to detail as there will be an arena, retail and parking that goes with all of this.

Mr. Pendley stated staff wanted to make sure of this as part of the development plan and the applicant has provided a pedestrian connectivity plan as well a multi-modal transportation.

Councilmember Brownlee asked if there are 4,000 people at the arena, do they feel the plan accomodates moving cars in a timely manner.

Mr. Pendley stated the traffic impact study looked very closely at

this. The development plan and recommended traffic impact study does account for additional traffic improvements.

John Duggan, 9101 W. 110th Street, Overland Park spoke on behalf of Legato. Mr. Duggan stated there is an issue concerning the stormwater discharge. Mr. Duggan stated there is no law that requires his client to store the adjoining property owners water on their property. Mr. Duggan stated there is a settlement agreement his client entered into in 1993 which states there is 240 acres that was part of a benefit district that paid for those ponds, which are on private property as well as the drainage ways. Mr. Duggan stated the only agreement his client entered into was that 10 acres of the 105 acre site was permitted to use those ponds. Mr. Duggan stated the City is suggesting to his client that instead of the 240 acres that was specially assessed as part of the benefit district that paid for these improvements, should now be expanded by fiat to 335 acres so that the applicant can drain an additional 95 acres of their property into something they never paid for and a prior owner never paid for. Mr. Duggan stated the City is only inviting his client to protect their rights and bring a claim in court prohibiting this entire matter. Mr. Duggan stated there is a contract that makes it very clear there is 240 acres, which is part of phase 2 in the benefit district area, that paid for these improvements. Mr. Duggan stated no one else paid for them and no one else gets to benefit from them unless his client agrees to it and they are not agreeing to it. Mr. Duggan stated his client disagrees with the staff's numbers and the proposition that the City has some legal authority to force them to store someone elses water on their property. Mr. Duggan stated what the City can do is follow their ordinance 17-04070 and require the developer to store their own water on their own property. Mr. Duggan stated the developer of the Mentum project has not complied with the City's ordinances. Mr. Duggan does not believe a judge will read the contract and say the City of Olathe has some legal authority by fiat to force Legato to store Mentums water on their project when 95 acres of that never paid for a dime of these improvements. Mr. Duggan stated the contract the City entered into with his client only permits 10 acres of the 105 acre site to discharge onto his clients property, which is all his client ever agreed to. Mr.

Duggan said his client and the others in the 240 acres paid for it. Mr. Duggan stated that it is on private property and there is no public dedication of a drainage way to the City. Mr. Duggan stated the City does not control it and is controlled by a private agreement between his client and the other property owners of the 240 acres. Mr. Duggan stated Mentum does not have a contract right to store their water and discharge on his clients property.

Mayor Copeland asked Mr. Duggan what does his client want out of this.

Mr. Duggan stated his client wants the stormwater discharge plan to be metaphysical servitude that they are not going to have to store water that inhibits their ability to develop their project going forward. Mr. Duggan stated his client is prepared to work with City staff to enter into agreements and maybe become part of a development agreement. Mr. Duggan stated they want to get your agreement to read that you will discharge and store water on your property and have assurances from the City that when his clients get ready to develop their project that they are going to get it approved. Mr. Duggan stated they do not want to later hear they don't have anywhere to put their water and now they have to build more detention facilities and limit their development area. Mr. Duggan stated another issue is those ponds are already overflowing and there is no Mentum on the other side of the street. Mr. Duggan stated that they have not been maintained and the banks are caving in and all kinds of problems need to be addressed as well as a substantial amount of money that needs to be spent to get them into condition.

Mayor Copeland asked staff to address the health of the wetlands and if the project will improve the health or not, and sufficiency of the stormwater retention plan.

Mr. Belcher stated the development agreement does have a provision that talks about servicing offsite property that is not within the benefit district. This does reference the 242 acres and we agree that 10 acres of the Mentum project is within the 242 acres,

however there is a provision where the original developers were paid an extra \$150,000 in recognizing there was offsite water being served by this.

Mayor Copeland asked if this improved the health of the wetlands or not.

Mr. Belcher stated Mentum will fall under our new criteria that will have stormwater treatment, but the Great Mall did not, so the water being treated with the new development will be cleaner than it was when it was the Great Mall.

Councilmembers discussed with legal staff legalities of the stormwater issue.

Mr. Duggan stated they are in agreement if the Council wants to approve the zoning subject to reaching appropriate agreements with Legato on the stormwater discharge, whether part of the development agreement or different agreement.

Mayor Copeland asked Mr. Duggan repeat what he said after "subject to".

Mr. Duggan stated subject to the City and Mentum reaching or working in developing a final agreement acceptable to all parties on the stormwater discharge.

Mayor Copeland stated he was not sure we could accept that.

Mayor Copeland asked City Manager Wilkes if he had any comments before this goes to a vote.

City Manager Wilkes stated what he is hearing from the Council is they do not see fit to do a stipulation, but he does hear a strong indication the Council wants us to work with the adjacent property owner on this issue to try and reach some agreement, understanding that the Council is not necessarily interested in a stipulation which says that we are all going to agree; maybe we can and maybe we

can't. Mr. Wilkes said it is the direction of the Council to the staff to work on this issue post haste.

Tim McKee, Olathe Chamber CEO, stated he has been working on this in the 20 years he has been here. Mr. McKee stated without this public partnership we would not see this type of development at this location. Mr. McKee said we have had requests in the past for industrial and we have said that is not the vision we have for this property. Mr. McKee said this will help the surrounding properties as well.

Councilmember Bacon asked if the protest petitions primarily were concerned about stormwater.

Mr. Pendley stated most were.

Councilmember Bacon asked if the project could move forward as CP-3 zoning.

Mr. Pendley stated not as it is proposed.

Councilmember Campbell thinks the project meets the test. The issue is should they provide their own detention. Mr. Campbell said he would support this tonight and hopes we can work out the detention.

Motion by Randall, seconded by Bacon, to approve ordinance 19-05, RZ18-0021 approving a rezoning from CP-3 to PD and preliminary site development plan for Mentum, mixed-use development, on 105 acres located in the vicinity of 151st Street and Harrison Street. The motion carried by the following vote:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

- D.** Consideration of Resolution No. 19-1017 authorizing a survey and description of land or interest to be condemned for the Woodland Road, K-10 to College Boulevard Improvements Project, PN 3-C-041-18.

Motion by Randall, seconded by Bacon, to approve resolution no. 19-1017. The motion carried by the following vote:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, and Vogt

Abstain: Copeland

- E. Consideration of Resolution No. 19-1018 authorizing the Santa Fe, Ridgeview to Mur-Len, Improvements Project, PN 3-C-025-18.

Beth Wright, Deputy Public Works Director completed a presentation of the project.

Motion by Randall, seconded by Bacon, to approve resolution no. 19-1018. The motion carried by the following vote:

Yes: Bacon, Brownlee, Campbell, Randall, McCoy, Vogt, and Copeland

7. NEW CITY COUNCIL BUSINESS

Mayor Copeland requested Deputy Public Works Director Beth Wright give the Council an update on the upcoming Santa Fe Street Project.

Ms. Wright provided Council with the plans for the upcoming tunnel project from the new County Courthouse extending across Santa Fe Street to the County Jail and Sheriff's building. The project will begin February 11 and Santa Fe Street between Chestnut Street and Kansas Avenue will close for approximately eight weeks.

Councilmember Brownlee asked staff to give an update on when they think the tree debris will be picked up from the recent storm. Ms. Brownlee stated she really appreciates that Olathe is willing to pick it up when other area cities were not willing to do this.

Deputy Public Works Director Alan Shorthouse gave an update stating we are fifty percent completed and continue to do multiple sweeps.

Councilmember Brownlee asked if it were only for tree debris.

Mr. Shorthouse stated at this point we are only doing tree debris collections. Mr. Shorthouse stated residents can call in and schedule their non-tree debris bulk collections.

Mayor Copeland asked Mr. Shorthouse to tell about how we re-use the ground up tree debris.

Mr. Shorthouse stated the tree debris is turned into mulch and available for free to the public.

Councilmember Vogt asked staff to place another notice in Nextdoor letting people know we are out there and realize they have tree debris to be removed.

Councilmember Campbell congratulated Mr. Wilkes on his 20 years.

Councilmember Randall congratulated Mr. Wilkes as well on his 20 years.

Councilmember Vogt stated it has been a pleasure working with Mr. Wilkes for the past 20 years and congratulated him.

Councilmember McCoy congratulated Mr. Wilkes on his 20 years with the City.

Mayor Copeland congratulated Mr. Wilkes on his 20 years with the City and thanked his family for sharing him with us.

8. END OF TELEVISED SESSION

9. GENERAL ISSUES AND CONCERNS OF CITIZENS

Robynn Andracsek, 11526 S. Roundtree Street, Olathe, asked Council to make Project 1020 concerning a homeless shelter and LGBTQ priorities on their agenda.

Wendy Budetti, 17446 W. 161st Street, Olathe spoke in support of the LGBTQ non-discrimination ordinance.

Brett Hoedl, 17446 W. 161st Street, Olathe spoke in support of the LGBTQ comprehensive non-discrimination ordinance.

Matthew Calcara, 14362 W. 118th Street, Olathe spoke in support of the LGBTQ non-discrimination ordinance.

Evan Lovelace, 12475 S. Ortega Drive, Olathe spoke in support of the LGBTQ non-discrimination ordinance.

Cassandra Peters and Johnny Robinson, 1105 N. Walker Lane, Olathe spoke in

support of the LGBTQ non-discrimination ordinance.

Angelica Wilcox, 12145 S. Black Bob Road, Apartment 102, Olathe spoke in support of the LGBTQ non-discrimination ordinance.

Angela Powers, 1721 W. Spruce Street, Olathe spoke in support of the inclusive non-discrimination ordinance.

Mayor Copeland asked City Manager Wilkes for an update on this item.

City Manager Wilkes stated we are doing work on this item and the City Attorneys in the big five cities in Johnson County, met recently and have an upcoming meeting with the City Managers in the next couple of weeks.

10. CONVENE FOR PLANNING SESSION

A. DISCUSSION ITEMS

Councilmember Campbell left the meeting at 9:33 p.m.

1. Presentation regarding the 2019-2023 Emergency Operations Plan.
Kevin Weyand, Fire Department Division Chief completed a presentation regarding the 2019-2023 Emergency Operations Plan.
2. Presentation of City Manager's Office activities and initiatives.
Elizabeth Blythe, Management Fellow completed the City Manager's Office Activities and Initiatives.

11. ADDITIONAL ITEMS

Assistant City Manager, Susan Sherman, gave 20 years of accomplishments in Olathe lead by City Manager Wilkes.

12. ADJOURNMENT

The meeting adjourned at 10:18 p.m.

David F. Bryant III, MMC
Deputy City Clerk