



City of MISSION

City Hall - 6090 Woodson Road - Mission, Kansas 66202

Administrative Offices (913) 676-8350

www.missionks.org

NOTICE OF SPECIAL GOVERNING BODY MEETING

OFFICE OF THE CITY CLERK MISSION, KANSAS

TO: Steve Schowengerdt, Mayor

You are hereby notified that there will be a special meeting of the Governing Body at 6:00 p.m., Wednesday, October 29, 2014 at Mission City Hall, 6090 Woodson for the purpose of considering the following items:

1. Cornerstone Commons Project - Stormwater Pipe Easement Dedication
2. Executive Session

Witness my hand and the seal of said city this 24th day of October 2014.

State of Kansas)

Johnson County ss.)

City of Mission)

Martha M. Sumrall, City Clerk



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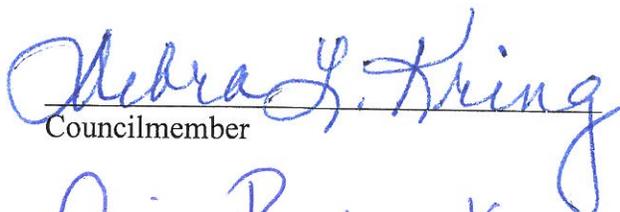
NOTICE FOR SPECIAL GOVERNING BODY MEETING

TO: Steve Schowengerdt, Mayor

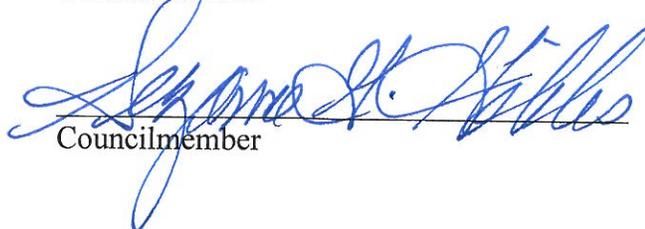
You are hereby requested, in accordance with K.S.A. 14-111, to call a special meeting of the Governing Body of Mission, Kansas, to be held at Mission City Hall, 6090 Woodson at 6:00 p.m., Wednesday, October 29, 2014, for the purpose of discussing the item listed below:

1. Cornerstone Commons Project - Stormwater Pipe Easement Dedication
2. Executive Session

Dated this 24th day of October 2014.


Councilmember


Councilmember


Councilmember

**City of Mission
Special City Council Meeting
Wednesday, October 29, 2014
6:00 p.m.**

AGENDA

1. Cornerstone Commons Project – Stormwater Pipe Easement Dedication
2. Executive Session
3. Adjournment

City of Mission	Item Number:	1.
ACTION ITEM SUMMARY	Date:	10/24/2014
Community Development Department	From:	Martin Rivarola

Action items require a vote to recommend the item to full City Council for further action.

RE: Cornerstone Commons Project - Stormwater Pipe Easement Dedication

RECOMMENDATION: Accept stormwater pipe easement dedication for Cornerstone Commons development.

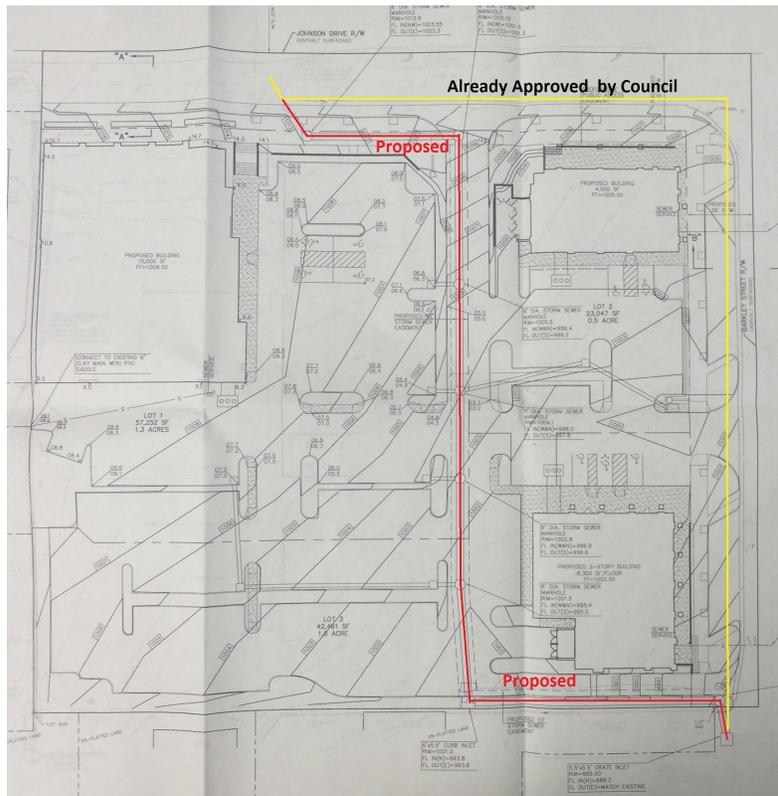
DETAILS: The Cornerstone Commons project at the former Keystone dealership has begun demolition and construction is imminent.

In project plans approved by the City Council, a 48" Reinforced Concrete Pipe (RCP) was slated for reconstruction and relocation in the Johnson Drive and Barkley ROW (yellow in picture below). Once the developer advanced plans for construction, they determined they would prefer to construct this pipe within the interior of the site. This alternative is less expensive to construct, more efficient, and avoids further disruption to Johnson Drive. Staff does not have any concerns with this change as proposed. Per City Code, relocation of this pipe within the project site requires a dedication of an easement to the City, which the City Council is required to formally accept.

The developer and the City's legal team have prepared the necessary easement dedication documents (attached). Until the easement is accepted, the City is unable to issue additional permits for the project. Dedication of the easement to the City, with Council approval, is therefore necessary for the project to continue to move forward..

Terms of the proposed easement documents are as follow:

- Developer is grantor.
- City is grantee.
- The developer/owner retains maintenance responsibility for storm pipe.
- If developer/owner fails to maintain pipe in future, city has right to access site and conduct repairs and to assess those maintenance costs back to developer.
- If/when the second phase of the Johnson Drive interceptor is extended to area north of this project, easement would be vacated at that time.



Related Statute/City Ordinance:	N/A
Line Item Code/Description:	N/A
Available Budget:	N/A

Stormwater Facility Maintenance Agreement and Temporary Easement

This Stormwater Facility Maintenance Agreement and Temporary Easement ("Agreement") is made and entered into this ____ day of _____, 2014, by **Cornerstone Commons, LLC**, a limited liability company ("Owner"), and **The City of Mission, Kansas**, a Kansas municipality ("City").

RECITALS:

WHEREAS, Owner is the owner of the following described real property located in the City of Mission, Johnson County, Kansas, legally described in **Exhibit 1** (hereinafter the "Property"); and

WHEREAS, Owner desires to develop the Property; and

WHEREAS, the Mission Municipal Code requires that on-site stormwater facilities be constructed and adequately maintained by the Owner; and

WHEREAS, City has granted permission to Owner to construct an on-site stormwater system to connect to the City's stormwater system through the Property in lieu of constructing new stormwater facilities along Johnson Drive, resulting in cost savings to Owner; and

WHEREAS, in consideration of the foregoing, Owner is willing to allow City to utilize the Facilities (hereafter defined) for passage of stormwater emanating off-site of the Property; and

WHEREAS, the Mission Municipal Code requires the Owner to place certain restrictions and responsibilities on the use and maintenance of stormwater facilities; and

WHEREAS, the stormwater facilities are located on the Property in the locations as shown on **Exhibit 2** (hereinafter the "Facilities").

1.0 **Owner Responsibilities.**

- 1.1 The Owner shall provide and is responsible for all maintenance of the Facilities on the Property, including, but not limited to, sediment removal and disposal, maintenance of pipes, inlet and outlet works, trash and debris removal, vector control, and management of vegetation in accordance with the plan requirements in order to insure that all such Facilities remain in proper working condition in accordance with approved design standards and all applicable legal requirements. In accordance with Article XVIII, Section 500.710 of the Mission Municipal Code, the Owner shall make records of the installation and of all

maintenance and repairs. These records shall be made available to the City during inspection of the Facilities and at other reasonable times upon request.

- 1.2 Owner shall allow the Facilities to be used for the passage of stormwater from off-site locations at no cost to City. City may in the future construct stormwater interceptor facilities along Johnson Drive as it adjoins the Property, and in such event, City shall in good faith attempt to capture and treat such off-site stormwater with such interceptor system. Nothing herein contained, however, shall obligate the City to construct such interceptor or capture and treat such off-site stormwater.

2.0 Maintenance Access Easements.

The City of Mission may utilize a temporary access easement, herein granted, over and through the Property for purposes of enforcing maintenance requirements as set forth in Section 3.0 of this Agreement, upon the following conditions:

- 2.1 It is understood by the Owner that the City shall have the right at all times to use the herein described Access Easement for the purpose of inspecting, maintaining, and repairing the Facilities as provided for under Section 3.0 of this Agreement.
- 2.2 That the Owner shall be fully responsible for providing and maintaining the Access Easement and the Facilities and shall not construct fences, walls, landscaping, structures, or other items which would prevent reasonably convenient access to the Facilities for maintenance and repair thereof.
- 2.3 The rights granted herein shall not be construed to interfere with or restrict the Owner, his/her/its heirs, executors, administrators, successors and assigns from the use of the Property with respect to the construction and maintenance of property improvements along and over the Property so long as the same are so constructed as not to impair the rights of access to a Facilities granted herein.

This easement shall run with the land and apply to all interests now owned or hereinafter acquired to the above-described Property.

3.0 Maintenance Enforcement by City.

- 3.1 If, after reasonable notice to the Owner, the Owner shall fail to maintain the Facilities as set forth herein and other applicable legal requirements, the City may perform all necessary repair or maintenance work, and the City may assess the Owner and the Property, for the cost of the work and any applicable penalties. For the purposes of this document, "reasonable notice" shall consist of thirty (30) days prior written notice sent to the Owner, unless there are exigent circumstances requiring either immediate or shorter response than said thirty (30) days would provide, in which case the notice provided shall be whatever is reasonable under those circumstances. The Owner does herein grant the City, its agents and contractors, a right of entry on said Property for the purpose of inspecting, installing, maintaining or repairing the Facilities, and shall execute any documents deemed necessary by the City, if any, relating thereto.
- 3.2 The City may record an Affidavit of Nonpayment of Maintenance Charges in the Office of the Johnson County Records and Tax Administration, of Johnson County, Kansas, stating (a) the legal description of the property upon which the lien is claimed, (b) the name(s) of the Owner(s) of said property as last known to the City, and (c) the amount of the Maintenance Charge which is unpaid. The Lien shall be created at the time of the filing and recording of the Affidavit.
- 3.3 It is understood by Owner that the City is under no past, present, or future obligation to expend public funds or take any other action whatsoever to maintain or improve the Facilities.

The City shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Agreement. The City shall have the right to include in its claim for relief a reasonable sum to reimburse it for their attorneys' fees and any other expenses reasonably incurred in enforcing their rights hereunder. Failure by the City to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

- 4.0 Indemnification and Release.** To the extent permitted by Kansas law, Owner shall release, indemnify and hold the City harmless from any and all damage, loss, claims or liability of any kind whatsoever arising from the installation, maintenance, repair, operation or use of the Facilities by the Owner including, but not limited to, any loss occasioned by reason of damage or injury to persons or property which may occur and which arise out the Owner's negligence or misconduct. In addition, to the extent permitted by Kansas law, the Owner shall pay all costs and expenses involved in defending all actions arising therefrom.
- 5.0 Community Improvement District.** The City hereby acknowledges that the cost of construction and installation of the Facilities shall be a Reimbursable Expense under the Community Improvement District (the "CID") effecting the Property, and shall be reimbursed to Owner under the terms of the CID.

These covenants and agreements as set forth herein, fully executed, shall be filed with the Johnson County Records and Tax Administration Office, Johnson County, Kansas, and the filing of the same shall constitute constructive notice to all heirs, successors, transferees, and assigns of the Property Owner of these covenants and agreements running with the land and notice of all stipulations made thereto. This document may not be amended or modified in any way without the prior written approval of the authorized officials of the City of Mission, Kansas, and that approval must be indicated on the face of any subsequently recorded document amending or modifying this document. This Agreement shall be binding on the heirs, representatives, successors, grantees and assigns of Owner.

The City, at Owner's cost, shall cause this Agreement to be filed with the Johnson County Records and Tax Administration Office, Johnson County, Kansas.

[Signature Page Follows Directly]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed the day and year first written above.

CORNERSTONE COMMONS, LLC

By: _____
Printed Name: David J. Christie
Title: Manager

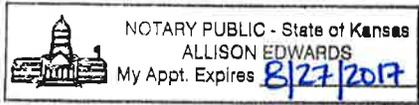
STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 23rd day of October, 2014, before me, a Notary Public in and for said state, personally appeared David J. Christie, Manager of **CORNERSTONE COMMONS, LLC**, a Kansas limited liability company, and that the within instrument was signed in behalf of said limited liability company by authority of its members, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Allison Edwards
Notary Public

My Commission Expires:
August 27, 2017



CITY OF MISSION, KANSAS

By: _____
Steve Schowengerdt, Mayor

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this ___ day of _____, 2014, before me, a Notary Public in and for said state, personally appeared Steve Schowengerdt, Mayor of the **CITY OF MISSION, KANSAS**, a Kansas municipal corporation, and that the within instrument was signed in behalf of said entity by authority of its governing body, and acknowledged said instrument to be the free act and deed of said entity for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public

My Commission Expires:

Exhibit 1

(Legal Description of the Property)

Lot 1 and Lot 3, CORNERSTONE COMMONS, a subdivision in the City of Mission, Johnson County, Kansas according to the recorded plat thereof.

Exhibit 2
(Depiction of the Facilities)

