

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:30 P.M., on Monday, June 17, 2002. Mayor Peggy J. Dunn presided.

Councilmembers present: Shelby Story, James E. Taylor, Sr., Pat Dunn, Mike Gill, Louis Rasmussen, Gary Bussing, Scott Gullledge and Jim Rawlings.

Staff present: Scott Lambers, City Administrator
Patty Bennett, City Attorney
Diane Binckley, Planning & Development Director
Deb Harper, Deputy City Clerk

1. 'Draft' Ordinance amending Code § 4-4 of the Leawood Development Ordinance, pertaining to Off-Street Parking, Storage, Loading Regulations and Parking Lot Design Standards [Recreational Vehicles]; and
2. 'Draft' Ordinance amending Code § 14-301, 14-302, and 14-304, of the Code of the City of Leawood, 2000, pertaining to parking [Recreational Vehicles]

Mayor Dunn thanked Councilmembers James Taylor and Councilmember Shelby Story, both Co-Chairs of the Recreational Vehicle Sub-Committee. Councilmember Story recognized Sub-Committee members who were present: John Hoover and Doug Moore. Councilmember Story stated the current recreational vehicle [R.V.] and companion parking ordinance required review because there were some enforcement issues and also the existing ordinance did not address the needs of the City or the R.V. owners. A committee was formed and a sub-committee was subsequently created to focus on some key issues that needed to be addressed. The 'Draft' ordinance submitted to this work session encompasses most of the changes that were approved by the sub-committee.

Councilmember Story went on to state one of the issues the R.V. owners had concerns with was the appeal process through the Board of Zoning Appeals [BZA]. The Committee discussed ways in which the R.V. owners would have a method that their problems could be addressed without triggering an appearance before the BZA and paying the \$150.00 BZA fee. The Committee thought these problems could be addressed on a staff level. However, Patty Bennett, City Attorney, advised the equitable solution would be for the R.V. owner to appear before the BZA without staff becoming involved in the approval process. The current process allows for the defendant to appeal to Johnson County District Court. If the exception language were placed

into the ordinance, this would allow the defendant to appear before the BZA. The defendant could then appeal the BZA's decision to District Court. Councilmember Bussing stated the \$150.00 BZA filing fee was one of the concerns of the R.V. owners. Mr. Story recommended the fee not be changed, and that a mechanism be put into place that would permit the R.V. owner to submit their plans to Staff that would allow the parking of their R.V. without going before the BZA. The R.V. owner would only have to appear before the BZA if staff could not recommend approval of the plan.

Councilmember Gill asked about a permitting process of requiring the R.V. owner to obtain a permit and the R.V. owner could appeal that process if a permit was denied. Councilmember Taylor and Story both stated they would recommend this type of permitting process, however the R.V. owners did not want to pay a permit fee.

Councilmember Rasmussen asked what would be entailed in the permitting process. Ms. Binckley stated, normally, staff would review a site plan identifying the permanent structures, and the permanent concrete or asphalt surfaces, with setback dimensions. Current permit fees are based upon valuation.

Councilmember Taylor stated he didn't feel the permit fee should be based upon the valuation of the R.V. Recreational vehicles can cost anywhere from \$50,000 to over \$150,000. Most of the current R.V. owners, [including boats and trailers] would be in compliance with the submitted draft ordinance in relation to the screening process and the streetscape of the neighborhood, and doesn't feel the permit process would be necessary. Mr. Taylor further added that the Committee has devoted many long hours in an attempt to address all of the concerns and endorses this draft ordinance, with some minor tweaking.

Councilmember Dunn stated he feels he needs more time to digest this draft ordinance and would not be in favor of passing this ordinance at the regular Governing Body meeting tonight. He also asked if someone could give a quick overview of the particulars of the ordinance as it pertains to the allowed length of time an R.V. can be parked and stored at a residence. Councilmember Story advised an R.V. could be parked for no more than 7 days; and no more than 14 days in a 30-day period. Councilmember Dunn understood if it is more than 7 consecutive days or 15 days in a 30 day period, it would be considered 'stored' and the owner would have to comply with the storage section of the ordinance pertaining to setback and screening requirements. The length of time for storage is unlimited.

Ms. Bennett advised currently, the three [3] methods to appear before the BZA would be for a [1] variance request from current zoning; [2] an exception request [i.e., fence]; or [3] an appeal of an administrative decision. She suggested an exception process be placed into the ordinance to allow the R.V. owner to go directly to the BZA to make the decision without having to go through an appeal process or variance.

Councilmember Taylor stated the Committee suggested having a permitting process to regulate the times when R.V. owners would be visiting residents or alternatively, visiting R.V. owners would have to notify the Police Department of the temporary parking of visiting R.V.'s. Councilmember Story stated it was the intent of the Committee to allow visiting R.V.'s, provided it didn't create a nuisance for the neighboring property owners.

Councilmember Gill asked what rights an adjacent property owner would have relating to prosecution of a violator or a right to challenge compliance of the ordinance.

Councilmember Story stated the goal of the Committee's recommendation was to enable R.V. owners to park them and store them in a way that does not interfere with the property interests of the neighbors. The goal is not to eliminate the parking or storing of R.V. or to make the process so cumbersome as to discourage the ownership, parking or storage of R.V. for Leawood residents.

Ms. Bennett advised an adjacent property owner could not force prosecution, however, they could file a complaint and could speak in opposition at a BZA hearing.

Councilmember Rasmussen asked if any existing screening of an adjacent property owner could be considered when ascertaining if the R.V. owner was meeting the screening requirements to be in compliance with the ordinance. Mr. Rasmussen feels existing plantings; trees and other screenings should be considered. Ms. Binckley stated it could be included within the ordinance, provided it had some guidelines. Mr. Lambers questioned if the screening on adjacent property were destroyed or removed, that would trigger an ordinance violation, would the neighbor be required to replace the screening or would the R.V. owner be required to maintain sufficient screening in order to comply with the ordinance.

Mr. Rasmussen stated if a property owner had a fence located on their side yard and then covered the area from the roof of the building to the fence and parked their vehicle underneath that area; would this also be a permissible type of parking for an R.V. Ms. Binckley advised it would not be permissible to park an R.V. in this fashion.

Mr. Story stated the Committee supports the idea of some type of mechanism that would afford R.V. owners some type of hearing or appeal process when the setback requirements cannot be met.

Councilmember Dunn stated he would like to ascertain how many of the current R.V. owners would be in violation if this ordinance, as submitted, were to be passed. He had heard that between 60-70 % of the R.V. owners would be in violation.

Councilmember Story stated the screening requirements still needs further review. The Committee's recommendation was to get a 'reasonable' standard into the ordinance. Mr. Story stated he understood it would be difficult for staff to enforce 'reasonable,' but feels it gives the City more flexibility in the appeal process for those who cannot meet the letter of the ordinance.

Councilmember Gullede stated the City is attempting to make a difficult and volatile situation tolerable for both sides and feels more time should be given to review this ordinance with proponents and opponents to this issue be allowed to be heard.

Councilmember Taylor estimated there are only approximately 200 owners that include R.V., trailer and boat owners, which is a very small percentage of the City's current population of almost 30,000. This ordinance cannot address every minute issue regarding the parking and storing of R.V.'s, boats and trailers and not everyone will be pleased with this ordinance. The Committee had spent an enormous amount of time on this issue, and feels these issues should be addressed; however the dog should wag the tail instead of the tail wagging the dog.

Mayor Dunn stated the Committee was made up of 3 members that were in favor of the R.V. ordinance and 3 members that were opposed; and ample time has been given to both sides to address all of their issues and for public input.

Councilmember Story stated the concerns of the R.V. owners that were not addressed in the ordinance would be the 'specific' screening vs. 'reasonable' screening; and the review process, and suggested another work session be scheduled before the ordinance is submitted in final form to the Governing Body.

Councilmember Rasmussen stated he would like to see a clear and concise permit process in the ordinance and the opportunity for existing screening of adjacent property owners be considered to comply with the ordinance's screening requirements.

Mr. Lambers suggested another work session be scheduled on August 5, 2002, at 6:30 P.M., and then the ordinance could be submitted in final form for action to the Governing Body on September 3, 2002.

There being no further business, the meeting was adjourned at 7:30 P.M.

Deb A. Harper, Deputy City Clerk