

Minutes

DVD No. 129

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, September 19, 2005. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Gary Bussing, Lou Rasmussen, Mike Gill, Scott Gullledge, Gregory Peppes, and Debra Filla.

Councilmembers absent: James E. Taylor, Sr.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Joe Johnson, Public Works Director
Chris Claxton, P & R Director
Mark Andrasik, IS Director
Deb Harper, City Clerk
Karl Weinfurter, IS Specialist

Patty Bennett, City Attorney
Chief Sid Mitchell, Police Department
Kathy Rogers, Finance Director
Jeff Cantrell, Neighborhood Serv. Admin.
Eirene Oliphant, Building Official
Christy Wise, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted additions to the agenda as a Councilmembers' Report from Councilmember Rasmussen and a Staff Report from Fire Chief Ben Florance. She also reported that item 11A will be continued to the October 17th Governing Body meeting.

Councilmember Rawlings moved to approve the agenda with a second by Councilmember Gill. The motion carried with a unanimous vote of 7-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

4. PROCLAMATIONS

Constitution Week, September 17-23, 2005

5. PRESENTATIONS/RECOGNITIONS New Building Official, Eirene Oliphant, MCP

Public Works Director Joe Johnson introduced Eirene Oliphant, new Building Official, to the Governing Body.

6. SPECIAL BUSINESS

- A. Ordinance amending the Leawood Building Code, Chapter 4, Article 2, of the Code of the City of Leawood 2000, by adding a new Section 4-217, entitled Storm Protection Area Required [Roll Call Vote] – *Continued from the August 15, 2005 Governing Body meeting*

Mr. Johnson informed that since primary presentation of this item, meetings have occurred with Larry Winn, representative of the Cottages of Lakeshyre development, and the Home Builders Association [HBA]. All parties were satisfied with the model diagram, which is included as packet information. The material cost for the proposed safe room is \$1,000 with one day of labor. The model is specifically for residential construction and does not address commercial buildings.

Councilmember Gill stated that he is in favor of the ordinance, however reminded that he does not approve of slab-on-grade construction under usual circumstances. Mayor Dunn concurred with Councilmember Gill's comments and emphasized that the ordinance is not an encouragement for structures to be built without basements.

Councilmember Bussing expressed gratitude to Mr. Lambers for his efforts related to this issue, however voiced nonsupport for the ordinance. He agreed with comments made by Councilmember Gill and Mayor Dunn, stating that passage of the ordinance would prevent the ability to deny future slab residential projects if the requirement was met. Due to safety concerns, he preferred a code requiring basements for new residential structures.

City Administrator Scott Lambers advised that Council has the authority to enact such an ordinance but should consider including exceptions in the extraordinary event that a basement is not feasible, which would be confirmed by the City Engineer.

Mayor Dunn inquired if language could be added to require the ordinance when necessary but restrict usage. She also asked if passage of the ordinance was time sensitive to pending projects. Mr. Lambers stated that grandfathering the one project with preliminary approval could be considered out of fairness. Regarding a basement requirement, a moratorium could be placed on new slab-on-grade residential applications until a decision is reached.

Mayor Dunn reviewed that Mr. Winn had agreed to abide by any decision made regarding the ordinance. Mr. Lambers stated they are required to adhere to the building code at the time of building permit, however the concession was an acknowledgment that the safe room consideration would not preclude the project from going forward. It is up to Council's discretion whether to grandfather the project from a basement requirement.

Councilmember Rasmussen moved to place a moratorium on the construction of any slab-on-grade residential housing until a policy is developed regarding such matter. Councilmember Gullede seconded the motion.

Mayor Dunn voiced concern with the preliminary approved project as it is now in the final planning stages. Mr. Lambers estimated 60 days before the final plan comes before the Governing Body. He stated that a policy could be ready by the first or second meeting in November.

Councilmember Rasmussen clarified that he did not intend to appeal the pending project with this motion as he also wished to amend and vote separately for the ordinance with inclusion of a moratorium for future projects. Councilmember Gullede withdrew his second as he did not fully understand the motion.

Councilmember Rasmussen confirmed with Mayor Dunn that his motion did not include approval of the ordinance. He clearly restated that the motion is to establish a moratorium that any new slab-on-grade residential projects proposed cannot move forward until the City has a definitive policy concerning these structures. He affirmed for Mayor Dunn that the motion does not reference projects that have already received preliminary plan approval. Councilmember Gill provided a second for the motion.

Councilmember Peppes confirmed with Mayor Dunn that if the ordinance is passed, the project in question will abide by the safe room requirement. Councilmember Rasmussen stated that the purpose of the motion is to address concerns expressed by fellow councilmembers of permitting slab-on-grade construction in the City of Leawood. Staff will have a chance to provide input regarding strict implementation of the ordinance or total prohibition of this type of housing. He stated that there should be a separate motion to pass the ordinance.

Councilmember Gill moved to recess into Executive Session for a period of ten minutes for the purpose of consulting with the City Attorney regarding matters subject to the attorney-client privilege. He also stated that he wished to withdraw his second until regular session reconvened. Councilmember Gill seconded the motion. The motion carried with a unanimous vote of 7-0.

The Governing Body recessed into Executive Session at 7:55 P.M. The regular meeting reconvened at 8:05 P.M.

Councilmember Rasmussen withdrew his previous motion.

Councilmember Gill moved to continue the matter until the October 3rd meeting to allow the City Attorney and City Administrator the opportunity to research facts in order to make a fully considered decision and place a moratorium on further actions with respect to any applications involving slab residential construction. Councilmember Rasmussen seconded the motion. The motion was approved following a unanimous vote of 7-0.

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 1033C & 1034A
- B. Accept minutes of the August 1, 2005 Governing Body meeting
- C. Accept minutes of the August 9, 2005 Historic Commission meeting
- D. Accept minutes of the August 10, 2005 Park Board Advisory Board meeting
- E. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the Fundraiser for DeLaSalle Education Center, to be held at 11701 Nall [AMC Movie Theatre] on November 3, 2005
- F. Approve Massage Establishment License for Eden Day Spa located at 2317 W. 143rd Street
- G. Resolution No. 2475 approving and authorizing the Mayor to execute a Software License Agreement in the amount of \$18,750.00, between the City and Crescent Systems, Inc., pertaining to the acquisition, installation and training of a golf course management software system
- H. Resolution No. 2476 approving and authorizing the Mayor to execute a Maintenance Agreement in the amount of \$46,269.00 between the City and C&C Group, pertaining to the Leawood City Hall HVAC DDC Controls upgrade
- I. Police Department Monthly Report
- J. Fire Department Monthly Report
- K. Municipal Court Monthly Report

Councilmember Filla requested to pull item No. 7G. Councilmember Gill moved to approve the remainder of the Consent Agenda, seconded by Councilmember Gullede. The motion was approved with a unanimous vote of 7-0.

- 7G. Resolution No. 2475 approving and authorizing the Mayor to execute a Software License Agreement in the amount of \$18,750.00, between the City and Crescent Systems, Inc., pertaining to the acquisition, installation and training of a golf course management software system

Councilmember Filla confirmed with IS Director Mark Andrasik that the new software will make it possible to track who patronizes the golf course. She then moved for approval, seconded by Councilmember Rasmussen. The resolution was approved following a unanimous vote of 7-0.

8. MAYOR'S REPORT

- A. Attended memorial service for Tom Leathers, longtime Leawood resident, activist, historian, and publisher of *The Squire* newspaper. Mayor Dunn extended sympathy to his wife and family members on behalf of the City. She read a quote from an article in the *Kansas City Star*, written by Hearn Christopher, "Tom said he wanted people to remember him for the goal he set out to do when he started '... to inform, to educate, and to stimulate the community to action'." Mayor Dunn concurred that his goal was reached. Mr. Leathers served as the ex-officio head of the Leawood Chamber of Commerce volunteer leader for several years. There will be a final issue of *The Squire* as a tribute to Mr. Leathers and will be published by his son, Dave Leathers.
- B. Congratulated Deputy Police Chief Major Craig Hill on his retirement after 34 years of dedicated service. Major Hill is going on to a new career with the National Center for Missing and Exploited Children. He will be honored at an upcoming Governing Body meeting.
- C. Attended the Jewish Family and Children Services Dinner. Leawood residents Bob and Ann Regnier were honored with the Friend of the Family Award in recognition of their outstanding services to the community.
- D. Remarkd on donation efforts for Hurricane Katrina by City of Leawood employees. As of September 15th, donations of \$655 to the Salvation Army and \$1,210 to the Red Cross were matched by the City, making a total contribution of \$3,730. Mayor Dunn thanked employees Carol Dyer and Colleen Browne for organizing the display of generosity.
- E. Served on a panel with other Johnson County mayors at Prairie Village City Hall for the annual Senior Leadership Class, sponsored by the Volunteer Center of Johnson County. Volunteer opportunities within communities were discussed.
- F. Attended the Kansas City Ballet performance at Ironwoods Park. There were approximately 1,300 people in attendance. Mayor Dunn expressed appreciation to Parks & Recreation Director Chris Claxton and other department employees for their efforts in organizing the performance.
- G. Attended ribbon-cutting for Apricot Lane at Town Center Plaza. The new business is a gift shop franchise of 70 stores with this site being the only location in Kansas or Missouri.
- H. Attended ribbon-cutting for Bukaty Companies, an insurance agency which has relocated from Overland Park. Mike and Maureen Bukaty are also Leawood residents.
- I. Attended the Johnson County Community Sesquicentennial Celebration at Shawnee Mission Park. There was a simultaneous cake cutting ceremony of cakes decorated with the logo of every Johnson County city. Mayor Dunn thanked April Bishop and other docents of the Oxford Schoolhouse for performing a demonstration at the event as well as Councilmember Rasmussen for representing Leawood on the celebration committee.
- J. Reminder to vote on September 27, 2005, or in advance by absentee ballot. The issue is the ¼-cent sales tax renewal for education.
- K. Presented Councilmembers with new framed Leawood City Maps.

- L. Shared a miniature replica of Katy the Cow with the Council, which was a gift from Bukaty Companies. The large version adorns the business' lobby and is from the Cow Parade, a fund raising event for area children's charities.

9. COUNCILMEMBERS' REPORT

A. Councilmember Rasmussen's report

Councilmember Rasmussen expressed his personal appreciation to the Leawood Historic Commission and the Parks and Recreation Department for participating in the Johnson County Community Sesquicentennial Celebration.

- 10. STAFF REPORT** – Fire Chief Ben Florance reported on a group of Leawood firefighters who volunteered as part of FEMA for Hurricane Katrina relief efforts in the Gulf Coast. The firemen traveled with another volunteer group from Ft. Court, Kansas. Deputy Fire Chief Randy Hill left with five other personnel last Friday for Biloxi, Mississippi. They are staying at the Imperial Hotel, which is part of a now defunct casino. Two more firefighters, Scott Rutherford and Mike Knisely, will be leaving tomorrow. Two members of the Leawood Police Department, Shawn Farris and Dave Jennings, are leaving tonight, per Police Chief Sid Mitchell. The effort is expected to last approximately 90 days with volunteers rotating every two weeks.

Mayor Dunn asked Chief Florance to relay deep appreciation to the volunteers for their courageous efforts.

Councilmember Rasmussen inquired if there was an evacuation plan in place for area hospitals and nursing homes in the event of tragedy now that the Kansas City Area Hospital Association has disbanded.

Chief Florance responded that during a past ice storm, the Jewish Community Center served as one of many destination areas. He informed that it is a function of the American Red Cross to organize the disbursement of evacuees in the occurrence of disaster if individual institutions do not have such a plan in place.

Chief Mitchell added that the area is fortunate to have bi-state interlocal agreements in place. He stated that a model policy evolved after the Hyatt Hotel disaster. Major John Meier is to attend a multi-agency training for disaster reacting. Chief Mitchell stated that even though numerous plans are set in place in the event of catastrophe, he was not aware of specific evacuation locations for each institution.

Councilmember Rasmussen expressed further concern for local planning efforts.

Councilmember Gulledge informed that hospitals usually have specific transfer agreements with each other while assisted living and nursing facilities are required to have transfer agreements with certain hospitals, usually having multiple agreements established in the geographical area. The Department of Public Health of each state that the facility operates in serves as the agency to ensure that transfer agreements are sufficient and meet licensing regulations.

Chief Florance and Chief Mitchell assured Councilmember Rawlings that the volunteers were well stocked with supplies.

Mayor Dunn requested an additional update at the October 3rd Governing Body meeting.

COMMITTEE RECOMMENDATIONS

11. IRONHORSE ADVISORY BOARD

[from the June 23, 2005 Ironhorse Advisory Board meeting]

- A. Accept recommendation for that certain Professional Service Agreement dated September 2, 2003, between the City and Orion Management Solutions, to provide for the management of the IRONHORSE Golf Facility be extended for a two-year period, ending December 31, 2008 – **Continued to the October 17th Governing Body meeting**

Staff Comment: It is the position of the City Administrator that the course closure for construction in the fall of 2006 and spring of 2007 provides an opportunity to solicit bids for a long-term [4-5 year] management contract because if there is a change in management companies, then a 'seamless' transition could occur prior to the resumption of golfing activities in May, 2007.

12. PLANNING COMMISSION – None

13. OLD BUSINESS - None

14. NEW BUSINESS

- A. Resolution No. 2474 providing for the issuance by the City of Leawood, Kansas, of General Obligation Bonds, Series 2005-B in the approximate amount of \$6,465,000, to provide funds to refund certain outstanding General Obligation Bonds of the City; authorizing the underwriter to offer the Bonds for sale; and authorizing certain related matters and actions

Councilmember Bussing moved for approval, seconded by Councilmember Rasmussen. Roger Edgar, financial advisor with George K. Baum & Company, confirmed for Councilmember Bussing that calls concerning the action could be referred to their company. Councilmember Gill remarked that taxpayers will appreciate the savings of tax dollars provided by the resolution.

The motion carried following a unanimous vote of 7-0.

Councilmember Gill confirmed with Mr. Lambers that the \$215,000 generated from the refinancing would provide one-third to one-half of a mill.

- B. Schedule Governing Body Work Session at 6:30 P.M., on October 3, 2005, to discuss a request for the establishment of Transportation Development District [TDD] along the south side of 135th Street from Roe Avenue to State Line Road for the construction of a 3rd lane on 135th Street and the relocation and undergrounding of KCPL power lines. [The TDD would require 100% property owner participation and would be financed through special assessment property taxes. The estimated cost for these improvements is expected not to exceed \$6-7 million dollars]

Councilmember Rawlings moved to approve the Work Session, seconded by Councilmember Rasmussen.

Councilmember Bussing stated that he objected to the Work Session as it has been established that projects financed through TDDs should be extraordinary and unique for the City of Leawood. As the area along 135th Street is merely a series of pad sites, he did not feel that it qualified for this type of financing. Secondly, Councilmember Bussing stated that the area includes a project that is the topic of an upcoming Work Session and was not interested in discussing TDD financing until this plan had been viewed.

Mayor Dunn clarified that the above referenced project, Mission Corners, is included in the TDD request; however, it is only a section of the entire area to be considered which consists of the entire third lane of 135th Street, from Roe to State Line.

Councilmember Peppes inquired if information will be provided prior to the Work Session. Mr. Lambers explained that the purpose of the Work Session is to allow area property owners to come forward and request that the third lane extension and undergrounding of utilities be financed through a TDD. The specific projects will not be part of the discussion. Financing through this mechanism is requested as the underground line placements are not eligible through a Special Benefit District [SBD] due to private ownership of the easements. It is desired to coordinate financing for the entire road length prior to development. Mr. Lambers informed that the Work Session will allow for presentation of the general project. If Council is willing to consider the TDD, a formal petition will be submitted following the meeting.

Councilmember Rasmussen and Mr. Lambers discussed the differences between TDDs and SBDs. TDDs do not fall under the same classification as SBDs. Although TDDs need to be reported, they do not represent a credit obligation in terms of investors who look at the City's bond rating. TDDs are perceived as overlapping debt. The benchmark for issuing debt with an SBD does not apply to TDDs as currently written. The City is the conduit for financing a TDD but has no obligation to ensure payment of debt service with the property acting as security. Mr. Lambers stated that TDDs are similar to Industrial Revenue Bonds [IRBs].

Councilmember Gill confirmed with Mr. Lambers that Mission Corners and the Villagio have gone through preliminary plan approval, however are not prompting the request. All property owners in the area will benefit economically if improvements are made as a whole rather than individually. Mayor Dunn verified the location of the Villagio as Mission Road to Roe Avenue.

Councilmember Rawlings asked who would be making the presentation at the Work Session. Mr. Lambers responded that Larry Winn would represent the property owners. Mr. Winn has indicated receiving 100% participation from property owners on the south side of 135th Street. The owners understand that there will be a special assessment with property tax on the debt service payment and no sales tax component.

Councilmember Bussing thanked Mr. Lambers for clarifying the intent of the Work Session and agreed that it would be helpful. He stated that he would be interested in hearing cost alternatives from Mr. Winn. Mr. Lambers voiced that the TDD would be advantageous to the City as the risk is carried by bond holders. Reducing implications of the TDD by allowing underground line placement only is a possibility. If a TDD is used for both improvements, however, there will be only one bond issue and no general obligation commitment.

Mayor Dunn requested that Mr. Edgar explain the disadvantages of financing the undergrounding through a TDD and the lane extension separately through an SBD. Mr. Edgar corroborated Mr. Lambers' comments, in that the City is not obligated to secure deficiencies in payment with a TDD bond. Utilization of the SBD would increase the direct debt burden and affect capital planning ratios.

Councilmember Gill remarked that project quality underwrites the TDD bond, leaving a security fraud risk if the project is unsuccessful. Mr. Edgar agreed that there is some burden with the credit quality of the bonds.

The motion to approve the Work Session was approved with a unanimous vote of 7-0.

15. OTHER BUSINESS - None

ADJOURN

The Governing Body meeting was adjourned at 9:00 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk