

Minutes

DVD No. 130

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, October 3, 2005. Mayor Peggy Dunn presided.

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

Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Joe Johnson, Public Works Director
Diane Binckley, P & D Director
Deb Harper, City Clerk
Jack Reece, IS Specialist

Patty Bennett, City Attorney
Major John Meier, Police Department
Chris Claxton, P & R Director
Jeff Cantrell, Neighborhood Serv. Admin.
Christy Wise, Deputy City Clerk
Scott Smith, Internet/WAN Specialist

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted that an update on the Hurricane Katrina relief effort will be given by Fire Chief Ben Florance under Staff Report. Councilmember Rasmussen moved to approve the agenda, seconded by Councilmember Peppes. The motion carried with a unanimous vote of 8-0.

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.

Debbie Doud, 10311 Howe Drive, requested that Council consider passing a more restrictive smoking ordinance. She reported that Commissioner Furtado has convened elected officials and staff in eight jurisdictions to study this issue. Councilmember Gill and Ms. Doud discussed the intent of the study, which is for cities to adopt individual smoking ordinances on a coordinated County-wide basis.

- 4. PROCLAMATIONS** **Fire Prevention Week, October 9-15, 2005**
Mayor Dunn read and presented the Fire Prevention Week proclamation to Fire Chief Ben Florance. She thanked members of the Fire Department for protecting the safety of Leawood residents.

Double Tenth Day, October 10, 2005

Mayor Dunn read the Double Tenth Day proclamation into the record and stated that the original had been mailed to the Taipei Economic and Cultural Office in Kansas City and forwarded to the Ministry of Foreign Affairs in Taiwan. She urged attendance to the Double Tenth Day Celebration in Kansas City on Wednesday.

- 5. PRESENTATIONS/RECOGNITIONS – None**

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 and September 19, 2005 Governing Body meetings*

Mr. Lambers requested that Council adjourn into Executive Session in order to discuss matters subject to the attorney-client privilege. Councilmember Taylor moved to recess into Executive Session for a period of 15 minutes. Councilmember Peppes provided a second. The motion was approved following a unanimous vote of 8-0.

The Governing Body recessed into Executive Session at 7:48 P.M. The regular meeting reconvened at 8:03 P.M.

Mr. Lambers explained that the ordinance will require installation of a safe room for any new residential slab-on-grade construction in Leawood.

Councilmember Gill moved to continue the item until the November 7th Governing Body meeting and extend the current moratorium placed on new slab-on-grade projects. Councilmember Bussing seconded the motion.

Councilmember Gill requested that a recommended course of action regarding basements and residential construction be included as packet information for the upcoming November 7th meeting. Mr. Lambers confirmed with Councilmember Gill that he would like a draft ordinance with notification of a public hearing in order to obtain citizen comments. In addition, representatives of the Homes Builders Association [HBA] and various developers in the area will be notified.

Councilmember Taylor pointed out that the ordinance was specific for residential structures although other buildings are known to have sleeping areas such as hotels, motels, dormitories, and fire stations. He stated the ordinance should clarify the types of facilities to be included. He also stated that the FEMA drawing of the safe room does not address floor construction should the room be on a second level.

Councilmember Peppes confirmed with Councilmember Taylor that his concern related to how commercial and noncommercial structures with sleeping quarters fell into the equation.

Councilmember Filla asked how the ordinance would address a single-family residence with a handicapped occupant who could not egress to a basement. Mr. Lambers responded that the ordinance could identify units built specifically for wheelchair-bound individuals and require the addition of a safe room even if the structure contains a basement. However, for structures that are not intended to be handicapped accessible, the requirement would be difficult to enforce.

As construction of a basement would hold no value in terms of safety, Councilmember Filla asked if the issue could be addressed so as not to pose a double financial burden on the homeowner. Mr. Lambers stated that unless the construction is identified for handicapped usage, which doesn't usually happen other than federally funded apartment complexes, it is possible that a handicapped occupant will have the double requirement of basement and safe room. The City will not require the addition of a safe room along with a basement, but the individual may desire a safe room for protective purposes and would have to bear the costs.

The motion was approved following a unanimous vote of 8-0.

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. 1034B & 1035A
- B. Accept minutes of the September 19, 2005 Governing Body meeting
- C. Accept minutes of the August 25, 2005 IRONHORSE Advisory Board
- D. Accept minutes of the May 23, 2005 I-Lan Sister City Committee meeting
- E. Approve 2nd and Final Payment in the amount of \$17,701.00 to KLC, Inc., pertaining to drainage for the Lodge and Nature Center located at Ironwoods Park, 14701 Mission Road
- F. Resolution approving and authorizing the Mayor to execute a Service Agreement in the amount of \$20,000 between the City and the Kansas City Symphony, pertaining to performance in 2006 ***This item has been continued to the October 17, 2005 Governing Body meeting***
- G. Resolution approving and authorizing the Mayor to execute a Service Agreement between the City and the United Methodist Church of the Resurrection for the rental of space pertaining to the 2006 performance of the Kansas City Symphony ***This item has been continued to the October 17, 2005 Governing Body meeting***

- H. Resolution approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Board of Johnson County Commissioners for the construction of sewer line improvements pertaining to Phase II of the Dykes Branch Channel Improvement SMAC DB-04-024 Project, between 83rd Street and Wenonga Road south to 86th Street and Overhill Road – *This item has been continued to the October 17, 2005 Governing Body meeting*
- I. Resolution No. 2477 approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Board of Johnson County Commissioners pertaining to the public improvements to Tomahawk Creek Parkway between College Boulevard and Roe Avenue
- J. Resolution No. 2478 approving a Final Plat for EJM Estate; Oxford Hills 3rd Plat, Lot 152 & 153A located at 3712 W. 119th Terrace [from the September 27, 2005 Planning Commission meeting]
- K. Resolution No. 2479 approving a Final Site Plan for Leawood Plaza Shopping Center sign guidelines located north of 123rd Street and west of State Line Road [from the September 27, 2005 Planning Commission meeting]
- L. Declaration of Surplus Property [Street Sweeper]

Councilmember Gulledge moved to approve the Consent Agenda, seconded by Councilmember Peppes. The motion carried following a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Reported on the first official delegation to Leawood's Sister City, the Gezer Region in Israel, which took place last week and was a tremendous success. Councilmembers Rasmussen and Rawlings, City Administrator Scott Lambers, and members of the Gezer Sister City Committee joined Mayor Dunn on the trip. She expressed sincere appreciation to Gezer Regional Council Mayor Peter Weiss, Regional Council Manager Shimon Binoun, Gezer Sister City Committee Chairman Atzmon Yaniv, and the rest of the Regional Councilmembers for hosting, educating, and strengthening the ties of friendship that are sure to only grow stronger in the years to come. Activities during the trip afforded the realization that there are some differences between our two parts of the world along with many similarities. A conceptual draft plan for Leawood's Gezer Park was displayed with suggestions and input provided by the Regional Councilmembers. Further dialogue is expected in the coming months. Met with Gadi Fraiman, the sculptor who is currently working on the Gezer calendar that is to be gifted to Leawood and serve as a focal point in Gezer Park. The sculpture will be a replica of the Gezer tablet, which was discovered 3,000 years ago.
- B. Reminder for reception honoring Planning & Development Director Diane Binckley on Friday, October 7th, from 3:00 to 5:00 p.m. Ms. Binckley is leaving her public service position to enter into an entirely different career. Mayor Dunn stated that working with Ms. Binckley has been a pleasure and wished her well. She led a round of applause and standing ovation for Ms. Binckley.

9. COUNCILMEMBERS' REPORT - None

- 10. STAFF REPORT** – Fire Chief Ben Florance provided an update on the status of Leawood firefighters who are in Biloxi, Mississippi to aid with Hurricane Katrina relief efforts. He has been in communication with Deputy Fire Chief Randy Hill via e-mail and Nextel phone calls. Deputy Chief Hill indicated that things are going well and asked to extend his stay for another week, at the end of which Battalion Chief Louis Dunham will take the command position. Additionally, 14 firefighters will travel to the area this Wednesday with Battalion Chief Dunham in order to rotate with the current personnel.

Water and electricity are still irregular, however Deputy Chief Hill was able to move from the 28th floor of the Imperial Hotel to the 6th floor.

Chief Florance stated that the firefighters are fulfilling their mission by helping the elderly move into FEMA trailers, fighting fires, making ambulance calls, cleaning debris, and providing repairs to the area fire stations. The Kansas Fire Contingent has been staying in a convent with a priest, who actually blessed the van used by the volunteers.

Chief Florance shared a photo sent by Deputy Chief Hill of a town in Mississippi also called Leawood. He offered a report from Deputy Chief Hill at a future meeting.

Mayor Dunn thanked Chief Florance for the update and asked him to relay continued appreciation to the volunteers.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from September 13, 2005 Planning Commission meeting]

- A. Ordinance No. 2134 approving a Preliminary Site Plan and Preliminary Plat for Shops at 119th Street located south of 119th Street and east of Roe Avenue [Roll Call Vote]

Jeff McMahon of RED Development, 4717 Central Avenue, Kansas City, Missouri, introduced the design team to the Governing Body. He stated excitement in bringing Crate & Barrel to Leawood and emphasized an obligation with the company to open the store by Fall 2006. In order to achieve this goal, he requested an at-risk grading permit so as to begin the pad site in January 2006. The remainder of the shopping center is scheduled to open in Spring 2007.

Mr. Lambers advised that Staff has no objection to the at-risk grading permit request.

Jacques Verlinden, architect for Crate & Barrel, explained the concept as well as the background of Crate & Barrel. The company has been searching for the perfect store location in the Kansas City area for ten years and has decided on the Leawood site. Mr. Verlinden displayed elevations of the building exterior and interior floor plans.

Councilmember Rasmussen commented that the building design is totally different from surrounding buildings in the area. He asked Mr. Verlinden to characterize the architectural style. Mr. Verlinden stated that the Crate & Barrel building is “warm modern” with other buildings in Camelot Court and Town Center being “eclectic.”

Phil Crisara of Nelson Architects described building materials and styles to be used on the remainder of the development. The basis of the project will be traditional masonry with similar detailing of neighboring buildings. It will be designed in such a way to blend the architecture of Crate & Barrel with the rest of the site.

Regarding the parking area, Councilmember Rasmussen noted the design to be regressive as there is a mass of asphalt without the softening of landscaping. Mr. Crisara explained that significant landscaped areas were created to provide deliberate breaks in the parking lot rather than having multiple small islands. The western border of the parking lot contains a 30-foot landscaped area with a pedestrian walkway.

Ms. Binckley added that Staff directed the applicant to remove small 8-foot wide islands from the parking lot in order to create larger areas that can be utilized to move pedestrians between buildings. Small islands tend to get trampled and seem insignificant. She stated that the maximum number of parking spaces in a row is only 18 spaces deep. The middle landscaped area is 60-feet wide and will also allow pedestrian flow. The shopping center is designed so that once parked, customers can simply walk from store to store instead of moving their cars.

Ms. Binckley confirmed for Councilmember Rasmussen that the setback from 119th Street to the parking lot is 25-feet and 40-feet up to the buildings.

Councilmember Gill stated that the project was fantastic and was appreciative of Crate & Barrel for choosing this site. He confirmed with Ms. Binckley that Stipulation No. 32 allows Crate & Barrel to begin construction prior to the remainder of the shopping center.

Mr. Crisara continued with the presentation, discussing critical components of the project such as wide pedestrian paths, enhanced landscaping, and external gathering areas. Materials are predominantly brick with sandblasted glass and stucco used for accentuation.

Mr. Crisara demonstrated connection points of the external and internal sidewalks for Councilmember Rasmussen. Via south elevations, Mr. Crisara exhibited how the backside of building A will be shielded by retaining walls and heavy landscaping.

Councilmember Rasmussen confirmed with Mr. Crisara that parking areas along Tomahawk Creek Parkway were for staff. The 24-foot drive will allow for two-way traffic.

Councilmember Peppes noted that Crate & Barrel will have four signs. He inquired if the other two pad sites along 119th Street would be allowed additional signage. Ms. Binckley replied that the remainder of the buildings will maintain the sign ordinance. The buildings along Tomahawk Creek Parkway will display signs on store fronts only, excluding the corner buildings which may have two signs.

Mayor Dunn noted that Stipulation No. 4d allows for a maximum of 5 signs, but not less than 4, on the Crate & Barrel building. Ms. Binckley explained that the Planning Commission was hesitant to support the applicant's request for five signs as there was concern of two signs being visible at the same time. The decision was to support four signs and review a fifth at the time of final approval.

Councilmember Taylor confirmed with Ms. Binckley that removal and clean-up of the site's existing gas station will go through the Building Department and include the Fire Marshal.

Councilmember Taylor asked how the Crate & Barrel building will harmonize with the other structures given the differences in design and materials. Mr. Crisara stated there will be a high percentage of light earth-tone colored brick. The color palate of the various materials will coordinate in such a way to be complimentary.

Mr. Crisara, Mr. McMahon, and Councilmember Taylor discussed the fact that the depicted elevations and site plans are not the final product. Tenants have not been signed for spaces in building A, which range from 4,000 to 15,000 square feet; however, the intent is to coordinate tenants with the architecture. The design will be updated in the final planning stage as requirements of a tenant may make modifications necessary.

Councilmember Taylor confirmed with Mr. Crisara that the south side of the project will have three tiers of retaining walls and landscaping. The trees will be year-round foliage, such as evergreens, to provide screening for the service areas.

Regarding signage, Councilmember Taylor verified with Ms. Binckley that the Dean & DeLuca building was approved for 7-9 signs as some were part of their architecture. Ms. Binckley affirmed that all signage in the shopping center will be backlit in some form depending on the applicant. Councilmember Taylor asked if the lettering style of the Crate & Barrel signage would differ from the rest of the center. Ms. Binckley stated that only height and percentages of façade are reviewed, not lettering styles. Mr. Verlinden informed that Crate & Barrel will use Helvetica lettering.

Ms. Binckley confirmed for Councilmember Taylor that the landscaped islands were removed so as to combine the green space into a more dominant feature. The project exceeds ordinance required percentages of landscaping. Revision to the Leawood Development Ordinance [LDO] has omitted the striped landscaping requirement, making the current design possible.

Councilmember Filla commented that she is very pleased with the pedestrian walkways and larger landscaped areas.

Mayor Dunn relayed that a resident who attended the Planning Commission meeting described the design as “looking at added spice.”

Councilmember Gill moved to approve the project and grant the request for an at-risk grading permit. Councilmember Rawlings seconded the motion.

Councilmember Bussing referred to another upscale retail project by RED Development which had issues associated with building changes compared to the approved plans. He stated that he is supportive of this project but will keep an observant watch to make sure that the final plan matches what is ultimately built. Mr. McMahon assured Councilmember Bussing that he will not be disappointed.

Councilmember Peppes inquired if an additional stipulation is necessary to include the at-risk grading permit. Mr. Lambers advised it appropriate to simply be part of the motion as only the Governing Body has the authority to grant the request.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Gullege, Bussing, Filla, Rawlings, Gill, Peppes, Rasmussen, and Taylor. Nay: None.

Mayor Dunn voiced pleasure that Crate & Barrel chose Leawood after ten years of searching for a location.

12. OLD BUSINESS - None

13. NEW BUSINESS

- A. Discussion and report regarding a proposed trail addition located in the area of 85th Street and State Line Road

Mayor Dunn asked for confirmation that land easements for the trail will be donated. Ms. Binckley responded that the two property owners involved have been put on notice that the City will be requesting the easements. In a recent discussion with Wells Fund regarding an extension to the 20/20 parking lot, they were reminded of the request. DDR, owners of Ward Parkway, have also had recent development interests and are willing to cooperate with the trail extension.

Ms. Binckley informed Mayor Dunn that it is anticipated to arrange funding for trail construction with the applicant/property owners.

Councilmember Rasmussen clarified with Ms. Binckley that the proposed parking lot extension of the 20/20 building will extend to the north. The property still has 60,000 square feet of land possible to build upon.

Ms. Claxton expanded on the funding issue. She stated that grants could be sought if funding is unable to be retained from developers. She affirmed for Mayor Dunn that there was an initial 3-5 year timeline for the extension. However, in light of recent discussions with the land owners, it may be as soon as 1½-2 years.

Public Works Director Joe Johnson verified for Councilmember Filla that the street improvement fund will provide for a small strip of sidewalk needed on State Line Road. The sidewalk will provide access to the trails. Councilmember Filla expressed appreciation to Staff for their collaborative efforts in creating the trail extension.

Councilmember Filla, Ms. Claxton, Mayor Dunn, and Mr. Lambers discussed the possibility of creating a drawing of the trail extension. It was decided that this should be a future endeavor as the project is conceptual in nature with structural changes anticipated to occur on the property owners' land. Ms. Claxton stated that the segment from the Estates of Old Leawood onto Lee Boulevard and into the park could be mapped out as it will not be affected by the northern development.

Councilmember Filla inquired if additional funding options were available in order to create amenities such as playgrounds. Mr. Lambers stated that easements must be in place prior grant applications. Easements cannot be obtained until a project application is submitted.

Councilmember Rasmussen confirmed with Mr. Lambers that the project is on hold until development occurs on the land where easements are needed. Ms. Binckley reminded that both Wells Fund and DDR are in the process of future development, which could take place within 1½-2 years.

14. OTHER BUSINESS - None

ADJOURN

The Governing Body meeting adjourned at 9:35 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk