

Minutes

DVD No. 146

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, July 17, 2006. Mayor Peggy Dunn presided.

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

Councilmembers absent: Gary Bussing.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Captain Dale Finger, Police Department
Joe Johnson, Public Works Director
Eirene Oliphant, Building Official
Mark Klein, Senior Planner
Deb Harper, City Clerk
Mark Andrasik, IS Director

Patty Bennett, City Attorney
Major John Meier, Police Department
Captain Troy Rettig, Police Department
Chris Claxton, P&R Director
Jeff Cantrell, Neighborhood Serv. Admin.
Jeff Joseph, Senior Planner
Christy Wise, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted an amended agenda with a continuation for Item No. 11C. Revised material for Item Nos. 11A and 13E have also been distributed. A motion to approve the agenda was made by Councilmember Peppes; seconded by Councilmember Gullledge. The agenda was approved following 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.**

William Harms, 12712 Pawnee Lane, expressed appreciation for the highly skilled and devoted management team at IRONHORSE Golf Course. He petitioned continued engagement of the current management company upon reopening the course following closure for improvement projects.

Ann Martin-Gonnerman, 4819 W. 63rd Street, Prairie Village, President of the newly formed Johnson County Citizens for Animal Protection, voiced concerns regarding the treatment and condition of animals at Leawood Stables. She distributed photographs of animals located on the premises and urged the Governing Body to take some form of action.

Councilmember Rasmussen confirmed with Ms. Gonnerman that her complaints fall under the jurisdiction of the City.

4. PROCLAMATIONS **National Recreation and Parks Month, July, 2006; July 17-23 National Aquatics Week**

Mayor Dunn read and presented the National Recreation and Parks Month and the National Aquatics Week proclamations to Parks & Recreation Director Chris Claxton.

5. PRESENTATIONS/RECOGNITIONS **Recognition of Beverly Hurley as Historic Commission Member for 13 years [8 years as Chairperson]**

Mayor Dunn presented an Outstanding Service Award to Beverly Hurley in recognition of dedicated service to the community as a member of the Leawood Historic Commission from 1993-2006. Mayor Dunn listed accomplishments achieved by Ms. Hurley while serving the City, most notably successfully saving and moving the Oxford Schoolhouse to Ironwoods Park, which garnered the State of Kansas Historic Preservation Award.

Ms. Hurley stated it is a bittersweet time for her family to be leaving Leawood with heartfelt memories and moving to Raleigh, North Carolina. She introduced her sons, David and Matthew. Ms. Hurley encouraged continued protection of Leawood's history and stated it has been an honor and joy to serve the City.

6. SPECIAL BUSINESS

- A. Consider request for payment in the amount of \$5,351.52 to Blue Valley School District for reimbursement of cost of Sales Tax Election

A motion to approve the request was made by Councilmember Rasmussen; seconded by Councilmember Gullede. The motion was approved following a unanimous vote of 7-0.

As in the approved request for Shawnee Mission School District, Mayor Dunn stated this approval is a one-time event and in no way establishes precedent in the remittance of election costs.

- B. Consider assisting the Cloisters Homes Association in lobbying efforts for the installation of security cameras on 3 existing KCPL light poles

City Administrator Scott Lambers confirmed there is no Staff objection to the request. The desire of the HOA is to utilize the existing light poles rather than install separate structures for the security cameras.

The HOA has previously been turned down by Kansas City Power & Light [KCPL] and would like the City's aid in facilitating the request. Mr. Lambers stated he will contact the new governmental representative for KCPL to submit a verbal request followed by a formal letter.

A motion to approve the request from Cloisters Homes Association regarding assistance with lobbying efforts towards KCPL was made by Councilmember Gill; seconded by Councilmember Peppes.

Mayor Dunn stated a letter to Leawood resident Bill Downing would also be in order.

Councilmember Rasmussen informed the cameras are termed pole attachments and are sensitive to liability issues in terms of wiring. To expedite the request, he suggested contact with KCPL include the City Attorney in order to draft a pole attachment agreement.

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

Mayor Dunn took the opportunity to express appreciation to Cloisters Homes Association President Jack Rowe for the yearly donation the HOA provides to the Fire and Police Departments.

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. 1053B, 1054A, 1054B, 1055A, and 1055B
- B. Accept Minutes of the June 5, 2006 Governing Body Work Session meeting
- C. Accept Minutes of the June 19, 2006 Governing Body meeting
- D. Accept Minutes of the June 19, 2006 Governing Body Work Session meeting
- E. Accept Minutes of the June 12, 2006 Joint Governing Body/Budget & Finance Work Session
- F. Accept Minutes of the May 9, 2006 Historic Commission meeting
- G. Accept Minutes of the June 6, 2006 Stormwater Management Committee meeting
- H. Approve Mayoral Appointment of Councilmembers Lou Rasmussen and James Azeltine [Alternate] as the City of Leawood's Representative to the Johnson County's Transportation Cooperation Council [TCC]
- I. Approve Mayor Appointment of Janine Joslin as Historic Commission Chairperson, to fill unexpired term of Beverly Hurley from 2006-2009
- J. Approve Change Order No. 2 in the amount of \$124,150.00 to Pyramid Contractors pertaining to the College Boulevard Pedestrian Bridge Project [CIP # 112]
- K. Approve Change Order No. 4 in the amount of \$38,917.40, to Wiedenmann & Godfrey Construction, Inc., pertaining to the Dykes Branch Channel Improvement Project, [SMAC Project DB-04-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road

- L. Approve Change Order No. 1 in the amount of \$557,486.00, to Miller Paving & Construction, pertaining to the 2005 Residential Reconstruction Program [CIP # 80202]
- M. Approve 5th and Final Payment in the amount of \$923.12 to George Butler Associates, Inc., pertaining to the Old Mission Road Jogging Trail Bridge over Indian Creek [CIP# 112]
- N. Approve 3rd and Final Payment in the amount of \$9,409.00, to KLC, Inc., for the improvements to the Ironwoods Lodge Driveway
- O. Approve bid in the amount of \$38,203.94 from Turf Professional Equipment Company, pertaining to the purchase of mowing equipment for parks maintenance
- P. Approve quote in the amount of \$32.25/ton from Central Salt, LLC, for the purchase of road salt
- Q. Approve Massage Establishment License for Roxanne A. Gammil, located at 12914 State Line Road
- R. Resolution No. 2616 accepting Permanent Utility Easement from Stuart L. Sharp, Helen Louise Brewer, and Jandy C. Sharp Barentine, trustees for the Perry M. Sharp Trust, a Kansas Trust, pertaining to the Villaggio Development Improvement Project [CIP # 197 & 198]
- S. Resolution No. 2617 accepting Public Infrastructure Improvements through private development located on Kenneth Road between 145th Street and 148th Terrace, within Leabrooke Subdivision, 3rd plat, in accordance with the GASB-34 Guidelines of Reporting Inventory of Assets
- T. Resolution No. 2618 accepting Public Infrastructure Improvements through private development located at 150th Terrace and Nall Avenue, within the Villas of Whitehorse Subdivision, 3rd plat, in accordance with the GASB-34 Guidelines of Reporting Inventory of Assets
- U. Resolution No. 2619 approving a Final Site Plan for State Line Office Building Signage, located at 12730 State Line Road [*from the June 27, 2006 Planning Commission meeting*]
- V. Resolution No. 2620 approving a Final Plat for Park Place, located at the northeast corner of 117th Street and Nall Avenue. [*from the June 27, 2006 Planning Commission meeting*]
- W. Fire Department Monthly Report
- X. Municipal Court Monthly Report
- Y. Police Department Monthly Report

Councilmember Filla requested Item No. 7X, Councilmember Peppes requested Item No. 7U, and Councilmember Gullege requested Item Nos. 7J and 7L be pulled for discussion. On motion of Councilmember Rasmussen, seconded by Councilmember Filla, the remainder of the Consent Agenda was approved following a unanimous vote of 7-0.

- 7J. Approve Change Order No. 2 in the amount of \$124,150.00 to Pyramid Contractors pertaining to the College Boulevard Pedestrian Bridge Project [CIP # 112]

Public Works Director Joe Johnson confirmed the change order is due to necessary storm sewer improvements that have been added to the original agreement with Pyramid Contractors. The work is being added to the contract in lieu of the competitive bid process in an attempt to complete the repairs prior to the new school year. Shawnee Mission School District is pleased with work performed by the contractor and agrees with the decision. The school district will reimburse the City \$55,800 for the work.

A motion to approve the change order was made by Councilmember Gulledge; seconded by Councilmember Rasmussen. The motion was approved following a unanimous vote of 7-0.

- 7L. Approve Change Order No. 1 in the amount of \$557,486.00, to Miller Paving & Construction, pertaining to the 2005 Residential Reconstruction Program [CIP # 80202]

Mr. Johnson explained a number of the streets were previously removed from the project due to increased asphalt prices. There is enough leftover funding in the program this year to add three streets back into the project at the unit cost of the contractor's last bid.

A motion to approve Item No. 7L was made by Councilmember Gulledge; seconded by Councilmember Peppes.

Councilmember Rawlings confirmed with Mr. Johnson the price of asphalt has increased from \$50 per ton to \$72 per ton since last year.

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

- 7U. Resolution No. 2619 approving a Final Site Plan for State Line Office Building Signage, located at 12730 State Line Road [*from the June 27, 2006 Planning Commission meeting*]

Councilmember Peppes confirmed with Mr. Lambers the proposed signage is in compliance with the current ordinance, which allows two signs per building. The signs do not have to be identical.

A motion to approve the resolution was made by Councilmember Peppes; seconded by Councilmember Gill.

Senior Planner Jeff Joseph clarified that multi-tenant monument signs are not allowed, however there will not be a monument sign at this site. The applicant is requesting two separate wall signs facing State Line Road for each tenant of the building.

The resolution was approved following a unanimous vote of 7-0.

7X. Municipal Court Monthly Report

Councilmember Filla inquired why cumulative figures have risen in 2006 following a three year downward trend. Mr. Lambers stated the decrease in receipts from years prior is a direct correlation to a patrol officer shortage, which is also reflected in the traffic reports.

Councilmember Fill moved to accept item No. 7X; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0.

8. MAYOR'S REPORT

- A. Attended the All American Celebration, sponsored by the Heartstrings Community Foundation, along with Fire Chief Ben Florance and representatives of the Leawood Police Department. The annual event honors veterans, firefighters, and police officers as our local heroes. Heartstrings Community Foundation also assists adults with developmental disabilities in leading meaningful and productive lives. Mayor Dunn extended appreciation to Leawood resident Ann Hull for her efforts in heading the celebration.
- B. Attended ribbon cutting for Artisan Francais, a French bakery and restaurant, located in the Paloma Shopping Center at 119th Street and Lamar Avenue.
- C. Attended another fabulous 4th of July Celebration at Leawood City Park. Mayor Dunn thanked members of the Parks & Recreation Department, the Police Department, the Fire Department, and other personnel for their involvement with the event. Congratulatory messages in honor of our Independence Day were received from representatives of both sister cities to Leawood, I-Lan, Taiwan and the Gezer Region of Israel.
- D. Mayor Dunn reported she would send an expression of care and concern on the City's behalf to the Gezer Region of Israel during this time of crisis in the Middle East.
- E. Mayor Dunn extended appreciation to the Leawood Fire Department for assisting in the Children with Special Needs Fun Day. The Fire Chief of Overland Park sent a note of thanks to Chief Florance and members of the Leawood Fire Department for helping those with very difficult health challenges have an enjoyable day.
- F. Reported Leawood employees participated in the Harvester's Food Drive to fight against hunger by donating nine barrels of food to Kansas City's only food bank. In addition to the food drive, City personnel have also contributed to Hurricane Katrina Relief, United Way, and SafeHome. Mayor Dunn thanked employees for their generosity and efforts to help others in need.
- G. Reminder for the Leawood Stage Company's production of "Oklahoma," which begins at 8:00 P.M. on July 20-23 and July 27-29. There is free admission to all performances. A fundraising event will be held on Friday, July 28th, from 6:00 to 7:30 P.M. at Ironwoods Lodge.
- H. Mayor Dunn offered congratulations to Councilmember Bussing and his wife, Kathy, for recently becoming grandparents to new grandson, Sebastian Lloyd Clements.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the June 27, 2006 Planning Commission Meeting]

- A. Ordinance approving a preliminary site plan and preliminary plat for Madden McFarland Interiors, located at the southwest corner of 135th Street and State Line Road [Roll Call Vote]

Staff Comment: The City Administrator does not support this application. The further expansion of a 50 year-old residential unit at the gateway of the premier commercial corridor of the City of Leawood is totally inconsistent with the 135th Street Corridor guidelines.

Mr. Joseph noted the revised ordinance contains the insertion of Stipulation No. 5 per Planning Commission recommendations.

Applicant Ron Stallbaumer of Wendlandt & Stallbaumer, Inc., provided a presentation of the proposed expansion to the Madden McFarland Interiors building as well as a history of the long-established Leawood family business. The business has been at the current location for 31 years. The owners decided against constructing an approved new building at 128th Street and State Line Road due to results of a customer/employee survey, which revealed overwhelming preference to the 135th Street location.

The expansion will enlarge the building from 7,517 to 11,133 square feet. Renovations to update and beautify the exterior of the building will be made including roofing, siding, brick veneer, doors, and windows. Improvements will also include increased occupant safety with added exits and the introduction of sprinklers. Parking has been increased from 25 to 36 spaces, including 4 banked spaces, with a layout that reduces existing encroachment and preserves a very large tree. Other improvements will include lighting, storm water collection, walkways, landscaping, and the burying of remaining utilities.

Mr. Stallbaumer compared diagrams of the existing and proposed buildings. He stated the project is an opportunity to preserve history by improving the landmark property and requested approval from the Governing Body.

The applicant reviewed for Mayor Dunn the approved plan for 128th Street and State Line Road was for a two-story stucco building with brick coins on the corners.

Preliminary drawings were distributed among Council. Displaying a north elevation, Mr. Stallbaumer distinguished the new features as roof design changes, an east addition, new materials, and an enlarged entryway. The new brick will replace all existing masonry on the building.

Referring to the Staff Comment, Councilmember Gill asked Mr. Lambers to elaborate on why the project should not be approved in the current state. Mr. Lambers stated if the site were empty and the proposed project came in as a new application, it would be rejected based upon inconsistency with the 135th Street Corridor guidelines. He suggested the owner construct the approved building on 128th Street and State Line Road if expansion of the business is needed.

Councilmember Rasmussen clarified with Mr. Lambers the basic problem with expanding the residential structure, which is used for commercial purposes, is the significant deviation requests associated with the application. Mr. Lambers added Staff is in disagreement with the Planning Commission's recommendations regarding roofing materials. Staff feels commercial grade materials should be used.

Mr. Lambers verified for Councilmember Peppes the new addition will contain a sprinkler system, however the original portion of the building will not. Councilmember Peppes stated a commercial building should be fully sprinkled and viewed the issue as a safety problem. Mr. Stallbaumer stated the application meets the Fire Marshal's requirement to sprinkle any commercial addition over 1,000 square feet, however agreed the entire building should contain the safety feature.

Councilmember Gill stated Madden McFarland Interiors is a great tenant for the gateway to Leawood and would support remanding the application back to the Planning Commission to further polish the plan with emphasis on all sides of the building rather than just the front. He is not bothered by the deviation requests and likes the distinctiveness of the current property, however effort should be taken to work out issues raised by Staff and some of the Planning Commissioners.

Councilmember Azeltine concurred with Councilmember Gill's remarks.

Councilmember Filla commended the applicant and Staff for saving the existing tree on the property.

Mr. Stallbaumer confirmed for Councilmember Rasmussen the rezoned site previously intended for a new Madden McFarland Interiors location remains vacant as the approved building was never constructed.

Mayor Dunn noted the north elevation included as packet material to be inconsistent with drawings shown this evening with omission of the east porch. Mr. Stallbaumer stated the portico was removed for setback reasons. He affirmed the Planning Commission was given different drawings than what is being presented this evening.

A motion to remand the item back to the Planning Commission was made by Councilmember Gill; seconded by Councilmember Gullledge.

For the record, Mayor Dunn relayed sentiments from absent Councilmember Bussing who is in favor of a remand due to inconsistencies with the 135th Street Corridor guidelines. She advised clear directives should be given with the remand. Mayor Dunn expressed her desire to see the Staff recommendation that roofing materials be “slate, tile, or similar roof material instead of a composition shingle roof” added as a stipulation.

Regarding the parking deviation, Mr. Lambers stated the issue is tertiary to other concerns such as aesthetics and the structure being the only residential building along 135th Street in Leawood.

Mayor Dunn also requested reinsertion of the east porch for aesthetic purposes and the provision of color elevations in the future.

Councilmember Gill commented on the importance of aesthetics and the need to emphasize this area as it is a gateway to Leawood. Although the architecture will be different, he suggested a coordinated look with development across the street as has been done in other key locations of the City. He stated he is not bothered by the residential structure as long as more care is taken to make sure the project fits in with surrounding commercial development.

Councilmember Rasmussen stated in transforming a residential dwelling into a commercial building, all commercial requirements should be met including those pertaining to sprinkler systems. In coordination with other developments along 135th Street, he suggested the addition of entrance structures, fountains, or artwork. Councilmember Rasmussen expressed support for a remand but is disappointed by the fact the business declined to build at the 128th Street and State Line Road location.

Councilmember Rawlings encouraged the applicant to “think out of the box” in terms of incorporating distinguishable elements such as corner features into the design as it is missing a “wow factor.” He voiced favor with a remand.

Mayor Dunn verified with Mr. Lambers there is no pre-established requirement regarding a corner feature at this intersection. Such amenities are stipulated based upon the ability of the tract of land to provide such a feature. Intersection corner features typically follow a similar theme but are not identical. Mayor Dunn requested Staff analyze corner feature placement for this site.

Councilmember Filla suggested consideration be given to illuminating the tree.

Mr. Stallbaumer commented further direction will be needed at the Planning Commission level for this challenging project. Mayor Dunn assured that Mr. Lambers will be present at the Planning Commission meeting and minutes from this evening will be available for commissioners’ review.

Mr. Lambers reviewed his general objection to the project is directly related to having a noncommercial building as a gateway to Leawood and the premiere commercial corridor of Johnson County. He reminded it has been Council’s intent to ensure distinct uniqueness for this area.

Mayor Dunn expressed the value of having Madden McFarland Interiors in the City of Leawood.

Owner Bernie Madden, 7301 Falmouth, Prairie Village, welcomed any suggestions offered to make his long-time business as aesthetically beautiful as possible given his intent to remain at this location. He stated it is not possible to make the structure look exactly like others along 135th Street nor does he want the building to become commercial-looking. The livelihood of his business is partly due to the uniqueness of the building.

The motion to remand item No. 11A back to the Planning Commission for reasons stated was approved with a unanimous vote of 7-0.

- B. Resolution No. 2621 approving a Final Site Plan for Winstead's Signage, located on the southeast corner of 135th Street and Briar Street

A motion to approve the resolution was made by Councilmember Gulledge; seconded by Councilmember Peppes.

Owner Nabil Haddad, thanked the Governing Body for considering his request. He also shared his philosophy of bestowing his good fortunes upon the community and others in need.

The resolution was approved following a unanimous vote of 7-0.

[From the July 11, 2006 Planning Commission Meeting]

- *C. Resolution approving a Final Site Plan for Park Place California Pizza Kitchen, located north of 117th Street and east of Nall Avenue –***CONTINUED TO THE AUGUST 7, 2006 GOVERNING BODY MEETING, AT THE APPLICANT'S REQUEST***

- D. Resolution No. 2622 approving a Final Site Plan for Park Place Parking Garage 'A,' located n the northeast corner of 117th Street and Nall Avenue

Staff Comment: Commissioner Len Williams expressed a strong concern over [and voted against] the design change of the parking structure from what was approved as part of the Final Plan. His concerns may be shared by members of the Governing Body.

Councilmember Rasmussen confirmed with Mr. Lambers the original rezoning agreement for the parking garage was for seven stories, however decreased to five stories during final approval. The current application is for a six-story structure with significant design modifications. The height of the second garage, which is to mirror the first, will be addressed at the time of construction.

Mayor Dunn clarified the Governing Body approved construction for the first five levels even though seven levels were originally approved. There was understanding the applicant would come back for final approval if it was decided to build above five levels.

Jeff Alpert with Park Place Developers, LLC, 2912 W. 113th Street, stated since the time of final development approval, there has been a strong response from restaurants regarding sufficient parking. Following discussion with contractors, the feasibility of adding additional levels at a later date was deemed impossible due to the attachment of a retail building as well as the close proximity of Nall Avenue. The decision was made to redesign the parking garage at six levels. He stated confidence in that another level will never be added. The second parking structure on 117th Street is also zoned for seven stories, however a final height decision will occur at the time of phase II construction.

A motion to approve the final site plan was made by Councilmember Rasmussen; seconded by Councilmember Gullledge.

Robert Setterburg with Gould Evans Architects, 4041 Mill Street, Kansas City, Missouri, compared elevations of the originally approved and redesigned parking structure. The changes in facade were facilitated by the structural need to move the internal sloped ramps from the east to the west side of the building, which faces Nall Avenue. He also explained how the garage is designed in association with the office and retail buildings.

Mayor Dunn noted Stipulation Nos. 13 and 15 to be identical, which would change the wording of Stipulation No. 22 to "they agree to stipulations one through twenty-two."

Councilmember Gill verified with Mr. Lambers that construction of the parking structure will be privately funded. Once retail sales have been established, the City will determine to what extent TDD [Transportation Development District] bonds will be issued. The applicant will be responsible for financing any uncovered costs.

The resolution was approved following a unanimous vote of 7-0.

Mr. Alpert reported the project is in the final stages of financing with construction anticipated to begin within the next 3-4 weeks.

12. OLD BUSINESS

- A. Ordinance No. 2171 amending Code § 4-121, of the Code of the City of Leawood, Kansas, 2000, entitled 'Building and Construction Permits' and repealing existing section [Roll Call Vote]

Councilmember Rawlings, Chair of the Building Permit Task Force, reviewed the intent of the ordinance, which is to slow the permit process in order to allow interested homeowner associations [HOAs] the opportunity to review applications for exterior changes to residential structures. If no action is taken by the HOA, the permit will be issued within the time frames written in the ordinance. The purpose of the ordinance is not to create conflict between neighbors but is to avoid remodels that are not in keeping with surrounding architecture, especially in the northern portion of the City. There is no liability to the City as it will be the HOAs responsibility to address any issues they may have with an application.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Filla.

Councilmember Rawlings added the task force was very well balanced with councilmembers, Planning Commission members, Staff, HOA members, and builders. All parties were comfortable with the language of the ordinance. If passed, the committee intends to discuss the effectiveness of the ordinance in six months.

Councilmember Gill confirmed the City will maintain all current control in terms of building approvals, inspections, and adherence to codes. The ordinance serves only as a notice provision to interested HOAs. If there is objection from the HOA and an agreement cannot be reached with the applicant, the HOA must take action through the court with a Stop Work Order on the basis of deed restrictions in order to prevent or recall issuance of the permit by the City.

Councilmember Gill asked if exterior remodeling applied to general maintenance such as window or gutter replacements. City Attorney Patty Bennett stated the ordinance applies to any repairs requiring a building permit. Building Official Eirene Oliphant informed gutter replacements do not require a building permit, however window and roof replacements do require permits and would fall under the ordinance. Ms. Oliphant clarified the City is the only authority allowed to issue a Stop Work Order through a court order facilitated by action of an HOA. Councilmember Gill expressed concern over the required 25-day wait period the ordinance will create for time sensitive repairs.

Mr. Lambers suggested adding a percentage threshold to trigger the ordinance as a caveat to prevent a delay for general repairs.

Councilmember Azeltine thanked members of the task force for their hard work and stated he feels the ordinance will solve more than create problems. As the charge of drafting the ordinance has been completed, he stated specific direction should be given to the committee by the Governing Body if it is to remain in place. Mayor Dunn agreed and stated it is customary for committees to remain in place to provide reviews of the completed task. There will be a follow-up meeting between the committee and Staff on August 15th. The main concern is that the City remains non-labile regarding the ordinance.

Councilmember Rawlings voiced it was not the intent of the task force to delay general repairs. Mr. Lambers further advised that a 10% threshold incorporated into the ordinance would allow such repairs without the review process. The provision can be assessed by the committee in six months.

Councilmember Gullede stated he is against the ordinance as there is already an approval process set in place by the HOAs and qualified Staff to review applications. The additional bureaucracy is unnecessary and will most likely create conflict given the reviews will be evaluated based upon personal preference.

Mayor Dunn reminded the ordinance is voluntary and must be requested by the HOAs.

CITIZEN COMMENTS:

1. Paul Bell, 12837 Cambridge Road, spoke in opposition to the ordinance, stating it deals with a communications problem that is not the City's responsibility. Mr. Bell asked the Governing Body to reject the ordinance.
2. Meg Gilmore, 9010 High Drive, member of the Building Permit Task Force, spoke in favor of the ordinance on behalf of the Leawood Estates Homes Association. The original interest in the review of plans was generated by negligent individuals who do not abide by the deed restriction requiring members to request approval for any exterior changes. There have been a number of issues created due to noncompliance, hence assistance from the City was requested. The ordinance will allow review of the plans before mistakes occur. She stated the 10% threshold would be acceptable. Ms. Gilmore provided examples of objectionable buildings for Councilmember Gill.
3. Julie Knutson, 2824 W. 91st Street, spoke in favor of the ordinance and continuation of the task force.
4. Martha Weber Conradt, 8625 Overhill Road, spoke in favor of the ordinance. She stated stricter enforcement for existing guidelines as well as new guidelines regarding scale of homes are needed in old Leawood to maintain the integrity of the neighborhoods.
5. Jim Andrews, 2519 W. 84th Street, owner of New Haven Homes Remodeling Company, spoke in opposition to the ordinance. He expressed concern the HOAs will increase membership dues to compensate for legal fees. As an alternative to the ordinance, he suggested the City require the developer to submit proof of approval from the HOA as part of the permit application process. Mayor Dunn noted the ordinance will allow the HOA and developer to resolve any issues.
6. Celia Huneycutt, 9242 Manor Road, spoke in favor of the ordinance.
7. Wes Welch, 8400 Ensley Lane, spoke in favor of the ordinance.

Councilmember Rawlings amended the motion to include language triggering notification for exterior alterations of 10% or more to the existing square footage; seconded by Councilmember Filla.

Councilmember Filla stated the intent of the ordinance is to begin dialogue between neighbors, which is a good first step. She would also like to see consistent design requirements for residential developments occur in the future and expressed interest in continuing the task force to deal with other issues.

Councilmember Azeltine clarified that additional authority is not being given to the HOAs. The ordinance will act only as a conduit in bringing the HOA and homeowner together to discuss existing deed restrictions. He voiced intent to vote in favor of the motion.

Councilmember Gill also stated support for the ordinance and predicted many HOAs will not express interest given the duty of the 10-day response time.

Councilmember Gullede stated correction of the existing dysfunctional process should occur rather than creation of a new ordinance. The ordinance will ultimately create legal ramifications for neighbors, HOAs, and potentially the City. He further expressed objection to the subjective review of plans.

Mayor Dunn noted there will be a review of the process in six months with possibility of another review six months thereafter.

The ordinance passed with the following roll call vote of 6-1: Yea: Councilmembers Rawlings, Peppes, Rasmussen, Filla, Gill, and Azeltine. Nay: Councilmember Gullede. (Councilmember Bussing absent).

Councilmember Peppes commented other issues raised by citizens could perhaps be handled on the task force level. Mr. Lambers stated he will present a list of possible directives for Council consideration at the next Governing Body meeting on August 7th.

Councilmember Rasmussen suggested separate development ordinances for north Leawood as current regulations do not accommodate this area of the City.

Mayor Dunn clarified the list provided by Mr. Lambers at the August 7th meeting will be options rather than recommendations and will include the opinion of Ms. Bennett regarding legal ramifications.

Councilmember Azeltine remarked the current issue may be a symptom of a larger problem and expressed hope the entire Leawood Development Ordinance [LDO] will undergo review at some point in the future.

13. NEW BUSINESS

- A. Ordinance No. 2172 amending Chapter 5 of the Code of the City of Leawood, 2000, by adding new § 5-214, entitled "Penalties" pertaining to penalties for unlawful solicitation [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Rawlings.

Ms. Bennett reported there are several groups of solicitors who come through the City and are not deterred by the current fine schedule. Councilmember Gill confirmed with Ms. Bennett a permit is required for door-to-door solicitation.

The motion was approved with the following roll call vote of 7-0: Yea: Councilmembers Azeltine, Gill, Filla, Rasmussen, Peppes, Rawlings, and Gullede. Nay: None. (Councilmember Bussing absent).

- B. Ordinance No. 2173 amending Chapter 15, of the Code of the City of Leawood, 2000, by adding new Article 6, entitled 'Illicit Discharge,' establishing requirements relating to stormwater pollution, illicit discharge into storm sewers, and drainage ways for the City of Leawood, Kansas [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Peppes.

Councilmember Rawlings, Chair of the Stormwater Management Committee, informed the ordinance will bring the City up to standards needed for the future and maintain lawful compliance.

The ordinance passed with the following roll call vote of 7-0: Yea: Councilmembers Gulledge, Rawlings, Peppes, Rasmussen, Azeltine, Gill, and Filla. Nay: None. (Councilmember Bussing absent).

- C. Ordinance No. 2174 amending Code § 4-164 of the Code of the City of Leawood, 2000, entitled 'Temporary Occupancy' and repealing existing Section 4-164 [Roll Call Vote]

Mr. Lambers stated the ordinance will serve as a vehicle to minimize the use of Temporary Certificate of Occupancies. The 60-day timeframe can be extended twice for a total of six months.

A motion to approve Item No. 13C was made by Councilmember Rawlings; seconded by Councilmember Peppes.

The motion carried with the following roll call vote of 7-0: Yea: Councilmembers Azeltine, Rasmussen, Gill, Rawlings, Filla, Gulledge, and Peppes. Nay: None. (Councilmember Bussing absent).

- D. Ordinance No. 2175 amending Chapter 14 of the Code of the City of Leawood, 2000, [Standard Traffic Ordinance (STO)] by adding a new Section 14-111, entitled 'Compression Release Engine Braking System' [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Filla.

Councilmember Azeltine relayed complaints received from citizens regarding engine break usage by semi-trucks along Roe Avenue. He thanked Mr. Lambers and Neighborhood Services Administrator Jeff Cantrell for their rapid attention to this matter.

Councilmember Rasmussen stated favor with the ordinance due to the noise situation along I-435. He asked how the ordinance would be enforced. Mr. Lambers stated a police officer must witness the unlawful use of the breaking system without an emergency situation prior to issuing a citation to the driver. Signs reflecting the ordinance will be posted throughout the City.

Mike Reecht, 12756 Granada Lane, spoke in favor of the ordinance. He relayed many trucks use compression brakes at the traffic signal on 127th Street and Roe Avenue. He expressed appreciation to Councilmember Azeltine for his efforts regarding the issue.

The ordinance passed with the following roll call vote of 7-0: Yea: Councilmembers Gulledge, Peppes, Rasmussen, Azeltine, Gill, Filla, and Rawlings. Nay: None. (Councilmember Bussing absent).

- E. Ordinance No. 2176 calling for an election to be held on November 7, 2006, for the purpose of voting on a proposition to authorize the City of Leawood, Kansas to levy a four-tenths of one percent [.4%] City Retailers' Sales Tax, in addition to the one and one-eighth percent [1.125%] currently levied, within the City of Leawood, Johnson County, Kansas, for a period of 5 years to begin April 1, 2007 and ending on March 31, 2012, and to use the revenue from the additional tax to provide funding for construction of public safety improvements, including a Justice Center, and all other necessary and related improvements, including infrastructure related thereto; such additional tax to take effect on April 1, 2007 and end March 31, 2012, or at the end of such calendar quarter prior thereto as the City shall have collected tax revenues from such additional tax in the amount of Ten Million Dollars [Roll Call Vote]

The revised proposed ordinance includes language stating the sales tax will end upon collection of \$10-million or after a five-year period, whichever comes first. The sales tax will take effect on April 7, 2007, and end March 31, 2012, or at the end of such calendar quarter prior thereto as the City shall have collected tax revenues from such additional tax in the amount of \$10-million. The Finance Department has estimated the timeframe for revenue collection.

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Gulledge.

Mayor Dunn noted the matter was discussed extensively at a prior Work Session.

Mr. Lambers reported the Attorney General confirmed the \$10-million revenue cap could be included in the ordinance.

The ordinance passed with the following roll call vote of 7-0: Yea: Councilmembers Rasmussen, Rawlings, Gill, Filla, Azeltine, Peppes, and Gulledge. Nay: None. (Councilmember Bussing absent).

14. OTHER BUSINESS

Mr. Lambers announced a Special Call Planning Commission meeting is scheduled for tomorrow evening, July 18th, regarding the One Nineteen development at 119th Street and Roe Avenue. The proposed project includes a 90-ft. condominium building. In order to facilitate perception, the aerial fire truck will provide a 5-ft. wide swath of plastic at this height level from 5:00 to 5:30 P.M. on the development site. The display will also be made available the evening prior to Council consideration. He encouraged the Governing Body to view the visual impact of the structure as there is considerable neighborhood opposition to the project. A Special Call Governing Body meeting will be scheduled in the future in order to deal solely with the issue.

ADJOURN

The Governing Body meeting adjourned at 10:50 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk