

**Minutes**

DVD No. 148

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, August 21, 2006. Mayor Peggy Dunn presided.

**Councilmembers present:** Lou Rasmussen, James Azeltine, Jim Rawlings, Gary Bussing, Debra Filla, Gregory Peppes, and Scott Gullede.

**Councilmembers absent:** Mike Gill.

**Staff present:**

Scott Lambers, City Administrator  
Chief Ben Florance, Fire Department  
Chief Sid Mitchell, Police Department  
Captain Dale Finger, Police Department  
Joe Johnson, Public Works Director  
Jeff Cantrell, Neighborhood Serv. Admin.  
Jeff Joseph, Senior Planner  
Christy Wise, Deputy City Clerk

Patty Bennett, City Attorney  
Randy Hill, Deputy Fire Chief  
Major John Meier, Police Department  
Kathy Rogers, Finance Director  
Chris Claxton, P&R Director  
Mark Klein, Senior Planner  
Deb Harper, City Clerk  
Jack Reece, IS Specialist

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn advised the agenda will include a report from Councilmember Rasmussen under Item No. 9, Councilmembers' Report, as well as a Staff Report from Fire Chief Ben Florance and Deputy Fire Chief Randy Hill under Item No. 10. A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Peppes. 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.**

Mary Tearney, 3308 W. 127<sup>th</sup> Street, Chair of the Leawood Arts Council and member of the Leawood Stage Company, expressed appreciation to the Governing Body for supporting the recent production of "Oklahoma" at Ironwoods Park Amphitheater.

The program came in under budget with an estimated cost of \$2-3 per person based upon attendances of 1,800-2,000 per night. She summarized the extensive efforts required by volunteers and City Staff to execute the performances.

Ms. Tearney requested recommendations and comments regarding the production be sent to her via e-mail. There will be a day-long work session held on September 9<sup>th</sup> to evaluate current procedures and plan for next year's season.

Mayor Dunn thanked Ms. Tearney for her tireless efforts and stated the performance was exceptional. She led a round of applause and standing ovation for Ms. Tearney and all the dedicated volunteers who participated in the event.

**4. PROCLAMATIONS – None.**

**5. PRESENTATIONS/RECOGNITIONS      Recognition of Police Officer Randy Wiler, DARE Officer of the Year**

Rick Trapp, State DARE Coordinator for Kansas and representative of the Attorney General's Office, presented Police Officer Randy Wiler with a personal letter from Attorney General Kline and a Certificate of Recognition for the honor of being named National DARE Officer of the Year. Mr. Trapp announced that Mr. Wiler has also been chosen as the State of Kansas' DARE Officer of the Year.

Police Chief Sid Mitchell reported there are 30,000 DARE officers worldwide who educate 36-million children with DARE lessons. The Leawood DARE Program began in 1989 with involvement of Officer Wiler since 1990. Chief Mitchell presented a video-clip from the DARE America Awards Ceremony in Orlando, Florida in which DARE America CEO Charlie Parsons presented Officer Wiler with the award. Mr. Parsons reviewed that Officer Wiler was inspired to create the now internationally implemented Bullying Prevention Program in 1992 as a result of problems faced by his own son and the lack of training and control measures within educators of the school system. Officer Wiler is recognized worldwide as one of the most creative experts, authors, and trainers in this area.

Mayor Dunn stated it was an honor and privilege to be present at the ceremony when Officer Wiler received the award. She noted of 43 participating countries, Officer Wiler is one of only eighteen recipients of the award. Mayor Dunn expressed how extremely proud Leawood is of Officer Wiler's accomplishments.

Mayor Dunn congratulated Officer Wiler and presented him with both the State of Kansas 2006 DARE Officer of the Year Award and the DARE America 2006 Officer of the Year Award.

Officer Wiler stated it is sincerely a great honor to work for the Leawood Police Department and have support from the Governing Body, which facilitated the achievements for which he is being recognized.

**6. SPECIAL BUSINESS**

***[From the July 25, 2006 Planning Commission meeting]***

- A. Accept Recommendation from the Leawood Arts Council/APPI for Addition of Public Art to be located in Gezer Park, 133<sup>rd</sup> and Mission Road

A motion to accept the recommendation was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Chair of the Leawood Arts Council Mary Tearney and Arts in Public Places Initiative [APPI] member Dennis Reynolds presented a model of the art piece and a design for Gezer Park. The granite stone sculpture is to be located on the southeast corner of the park in the middle of a small pond and will appear as if it is emerging out of the water. Artist Ilan Averbuch has stated the dramatic piece is an expression of journey, discovery, and timelessness.

The sculpture will be stabilized with steel reinforcements and will be set on a 6-ft. concrete foundation, 4-ft. of which will be below the bottom of the pond. The water level of the pond is 2-ft.

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

***[From the July 25, 2006 Planning Commission meeting]***

- B. Accept Recommendation from the Leawood Arts Council/APPI for Addition of Public Art to be located in Ironwoods Park, 14701 Mission Road

A motion to accept the recommendation was made by Councilmember Peppes; seconded by Councilmember Rawlings.

Leawood Foundation Chair Alice Hawk, 2841 W. 118<sup>th</sup> Terrace, stated the project has been a cooperative effort between the Leawood Arts Council, Art in Public Places Initiative, Historic Commission, and Leawood Foundation. She introduced members of the Leawood Foundation as Doug Portell, Susie Rawlings, Michael Clarke, and Dr. Ron Wright as well as Mary Tearney of the Leawood Arts Council. She reported that \$62,757 in private donations have been raised to acquire the sculpture with fundraising efforts to continue over the next few months.

Mayor Dunn congratulated members of the committee for their outstanding private fundraising accomplishments and led a round of applause. She noted donations of \$1,000 or more will include the contributor's name on a donor plaque and stated the project is another terrific example of collaboration.

The motion carried following a unanimous of 7-0.

- C. Resolution No. 2645 approving and authorizing the Mayor to execute a Service Agreement between the City and the Clayhill Corporation [Dennis Smith] pertaining to the art sculpture located at Ironwoods Park, 14701 Mission Road

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Bussing. The resolution 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. 1057A, and 1057B
- B. Accept Minutes of the August 7, 2006 Governing Body meeting
- C. Accept Minutes of the June 14, 2006 Joint Governing Body/Budget & Finance Work Session
- D. Approve Change Order No 6 in the amount of \$49,104.48 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, Phase I
- E. Approve Change Order No. 1, in the reduced amount of \$101,139.00 to JM Fahey Construction Company, pertaining to the 2006 Mill & Overland Program
- F. Approve 18<sup>th</sup> and FINAL Pay Request in the amount of \$ 71,739.50, 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
- G. Resolution No. 2639 adopting the Fiscal Year 2007 Budget for the City of Leawood
- H. Resolution No. 2640 amending the City of Leawood's Investment Policy, and repealing Resolution No. 2527
- I. Resolution No. 2641 approving and authorizing the Mayor to execute a Community Service Agreement between the City and Blue Valley Unified School District No., 229, pertaining to the assignment of School Resource Officers [SRO]
- J. Resolution No. 2642 accepting Permanent Sidewalk and Permanent Utility Easements from Leawood Square Limited Partnership, pertaining to the Village of Seville Development, located at 133<sup>rd</sup> and State Line Road
- K. Resolution No. 2643 accepting Temporary Construction Easements, Storm Sewer Easements, and Permanent Utility Easements 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]
- L. Resolution No. 2644 accepting Deeds of Dedication 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]

- M. Declaration of certain vehicles as Surplus Property
- N. Fire Department Monthly Report
- O. Municipal Court Monthly Report
- P. Police Department Monthly Report

Mayor Dunn reported a technical correction was made to Item No. 7B. On motion of Councilmember Rasmussen, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved following a unanimous vote of 7-0.

City Clerk Deb Harper requested the Governing Body provide signatures on a certificate from the County related to Item No. 7G, approval of the 2007 Budget.

## 8. MAYOR'S REPORT

- A. **Annual Report: American Revolution Tercentennial CD Fund** – Mayor Dunn announced as of August 11, 2006, the fund contained \$7,411.19. The CD yields an interest rate of 3.344% and will mature on July 11, 2007. The report is to be given during the Governing Body meeting nearest to July 4<sup>th</sup>; however, this year, the 13-month CD term did not mature until the August 11<sup>th</sup> date. The fund was established by Mayor William Eddy in 1976 and is to be maintained until July 4, 2076.
- B. **National Incident Management Systems [NIMS] Training for Elected and City Officials** – Mayor Dunn informed the Mid-America Regional Council [MARC] in cooperation with Platte County, Missouri and Johnson County, Kansas are sponsoring the training programs to inform elected officials about the key concepts of NIMS and Incident Command System [ICS]. All jurisdictions are required to meet the NIMS requirements as a condition of receiving federal preparedness funding assistance in 2007. At this time, Mayor Dunn and Councilmember Rasmussen have passed both courses with Councilmember Gill in the process of doing the same.
- C. Referring to information distributed upon the dais, Mayor Dunn noted upcoming activities sponsored by the Johnson County Library in conjunction with the fifth anniversary of September 11<sup>th</sup> in honor of the community's first responders. A special invitation is included to attend a Community Remembrance Ceremony at the Central Resource Library at 9875 W. 87<sup>th</sup> Street on Monday, September 11<sup>th</sup> at 7:00 P.M.
- D. Participated in an Israeli Peace Rally at Kehilath Israel Synagogue, which was sponsored by the Jewish Community Relations Bureau/American Jewish Committee, the Jewish Federation of Greater Kansas City, and the Rabbinical Association of Greater Kansas City. Consul General of Israel to the Midwest Baruch Binah gave remarks as did Congressman Dennis Moore and Congressman Ike Skelton. There were over 1,000 people in attendance to pray for peace in the Middle East.
- E. Mayor Dunn relayed receiving word that three soldiers from the Gezer Region/Ramla area were killed this past week. Condolence remarks were sent to the families of Itai Steinberg, Omri Elmakayess, and Adi Salim on behalf of the City of Leawood.

- F. Performed ribbon cutting for Caribou Coffee in Nall Valley Shops at 151<sup>st</sup> Street and Nall Avenue.
- G. Announced the upcoming Studio Art Tour at M&I Bank on Friday, August 25<sup>th</sup>, from 5:30 P.M. to 7:30 P.M. Featured artists will be Alec Arnold, Ginny Curtain, Julie Hudspeth, and Diana Werts.
- H. Announced the upcoming Jazz Concert Series hosted by the Leawood Arts Council and sponsored by Town & Country Bank. The following performances will be given at 6:00 P.M. at Ironwoods Park Amphitheater: September 3<sup>rd</sup>, the Wild Women of Kansas City; September 10<sup>th</sup>, David Basse with the MO City Jumpers; and September 17<sup>th</sup>, The Doug Talley Quartet.
- I. Shared an article from the August 10<sup>th</sup> edition of the *Johnson County Sun* newspaper featuring the newly remodeled City of Leawood website. Mayor Dunn congratulated and thanked Network Administrator Scott Smith and Information Systems Director Mark Andrasik for their hard work. The new website allows easier navigation and better service for visitors. Residents can now pay for Parks & Recreation Department classes online.

**9. COUNCILMEMBERS' REPORT – Councilmember Rasmussen**

Councilmember Rasmussen reported a safety concern from a resident pertaining to the sidewalks along 103<sup>rd</sup> Street, especially the area surrounding Brookwood Elementary School. The sidewalk immediately abuts the back of the curb with no buffer space, causing alarm that a child walking to and from school could easily fall into the roadway.

Councilmember Rasmussen stated right-of-way limitations at the time of construction restricted alternative design options for the sidewalks. He then made a motion to direct the safety issue to the Public Works Committee for future review and subsequent recommendation to the Governing Body; seconded by Councilmember Azeltine.

Councilmember Bussing confirmed with Public Works Director Joe Johnson that the matter could be placed on the upcoming Public Works Committee meeting agenda for discussion. The meeting is scheduled later this week.

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

Mayor Dunn suggested informing the concerned resident of the issue's quick agenda placement.

**10. STAFF REPORT – Fire Chief Ben Florance and Deputy Chief Randy Hill**

Chief Florance informed the National Incident Management System [NIMS] was developed by the Department of Homeland Security and should be familiarized in anticipation of a natural or manmade disaster. Additionally, it is imperative that required individuals undergo training to maintain the City's ability to receive federal grants.

Deputy Chief Hill stressed the importance of coordination between entities during such disasters such as last year's Hurricane Katrina. He reminded the training is a federal mandate and offered his as well as Training Chief Tim Stamm's assistance to those who may have questions while accomplishing the task. The training can be obtained through an online tutorial or during a 3-hour course in Olathe.

## ***COMMITTEE RECOMMENDATIONS***

### **11. PLANNING COMMISSION**

- A. Ordinance No. 2178 approving a Preliminary Site Plan for St. Michael's Catholic Church, located north of 143rd Street and east of Nall Avenue [Roll Call Vote]

Senior Planner Jeff Joseph stated revisions made to the ordinance following packet distribution include an added stipulation regarding the public art impact fee and a number change in the wording of Stipulation No. 21. The public art impact fee excludes the sanctuary portion of the building. He also confirmed it is no longer necessary for the applicant to request a height variance for the 95-ft. structure from the Board of Zoning Appeals [BZA] as the maximum height limitation within the Leawood Development Ordinance [LDO] has changed to 105-ft.

A presentation was given by Dave Livingood with GLPM Architects, Lawrence, Kansas via site plan drawings, elevations, and renderings. He noted the footprint of the current plan has been downsized to 24,500 square feet from the preliminary plan originally approved in 2001 of 30,600 square feet. There are 473 existing parking spaces on the site with approval for up to 573 spaces. The current proposal is for 583 spaces, however 34 of these will be land-banked.

Councilmember Bussing asked how the near 20% square footage reduction was achieved. Mr. Livingood explained the choir loft was moved to a second story level within the worship space. Additionally, occupancy projections were reduced, thus allowing a smaller footprint. Future square footage adjustments are not anticipated.

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

Mayor Dunn noted the recent public art impact fee increase of \$.15 per square foot is not applicable to this project as it was already in the planning process. Dependant upon fundraising, Mr. Livingood advised groundbreaking is anticipated for the Spring of 2007 with an estimated 18-month construction schedule.

Councilmember Gulledge commented on the beauty of the existing building and verified with Mr. Livingood it is most likely that Excel Constructors will also be retained to perform work on the new facility.

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

**12. OLD BUSINESS**

- A. Ordinance No. 2179C amending § 12-606 of the Code of the City of Leawood, 2000, entitled 'Amount of Public Art Impact Fee, increasing the Public Art Impact Fee to \$.15 per square foot of finished floor area for new development only, and repealing existing § 12-606 [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Gullede. The ordinance passed with the following roll call vote of 6-0: Yea: Councilmembers Peppes, Rasmussen, Filla, Rawlings, Gullede, and Bussing. Nay: None. (Councilmember Azeltine not seated for the vote and Councilmember Gill absent).

**13. NEW BUSINESS**

- A. Discussion regarding the use of the Pedestrian/Bicycle Trails by organized groups.

Parks & Recreation Director Chris Claxton requested a continuance for this item as a formal recommendation has not yet been given by the Parks & Recreation Advisory Board.

City Administrator Scott Lambers informed there have been past requests from various organizations to utilize Leawood's trail system. It is Staff's position that the requests would not be conducive to pedestrians or bicyclers along the trails, however a formal policy has not been set in place. The issue will come back before the Governing Body following discussion by the Parks & Recreation Advisory Board.

A motion to continue the item to a date uncertain was made by Councilmember Gullede; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 7-0.

- B. Discussion regarding amending § 16-4-10.1 of the Leawood Development Ordinance regarding home occupations

Mr. Lambers reviewed there have been citizen complaints regarding excessive parking of commercial vehicles in residential areas. The current ordinance does not restrict such parking. A survey of cities indicates that allowing one commercial vehicle is the standard. The item is being brought before the Governing Body for discussion only. As the current ordinance is part of the LDO, the issue must go through the planning process if there is concurrence for amendment.

A motion to direct staff to proceed with amending § 16-4-10.1 of the Leawood Development Ordinance regarding home occupations was made by Councilmember Rasmussen; seconded by Councilmember Gullede.

Mr. Lambers clarified for Councilmember Azeltine that the amendment will go through the Planning Commission, however it is a policy decision of the Governing Body.

Mayor Dunn confirmed with Mr. Lambers that such an amendment is also being done in a number of other Johnson County cities.

Neighborhood Services Administrator Jeff Cantrell reported there are currently three particular properties in Leawood who will be affected by an amendment. The property owners have been put on notice. One business owner is awaiting a decision by the Governing Body before placing signage on a newly purchased vehicle.

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

**14. OTHER BUSINESS – None.**

**ADJOURN**

The Governing Body meeting adjourned at 8:45 P.M.

---

Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk