

Minutes

DVD No. 158
Audio Tape No. 672

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 Tuesday, January 16, 2007. Mayor Peggy Dunn presided.

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

Councilmembers absent: Mike Gill.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Chris Claxton, P&R Director
Jeff Joseph, Senior Planner
Deputy City Clerk, Christy Wise

Patty Bennett, City Attorney
Captain Dale Finger, Police Department
Joe Johnson, Public Works Director
Mark Klein, Asst. to the Planning Director
Deb Harper, City Clerk
Mark Andrasik, IS Director

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn added three items to the agenda: a report from Councilmember Azeltine as Item No. 9A, a report from Councilmember Filla as Item No. 9B, and a presentation by Ken Block regarding a road construction project as Item No. 13A under Special Business. A motion to approve the agenda was made by Councilmember Bussing; 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.

1. Elaine Florack, 14248 Granada Court, stated she lives within the Worthington subdivision. It has come to her attention that an extension to Roe Avenue between 140th and 143rd Streets is planned for 2009 with project approval to take place in February of this year. Her concern relates to the fact that she was originally told the project, which will affect her residence, would not take place for 10-15 years.

Mr. Lambers stated the improvement has been planned for a long time. The right-of-way and escrow from the Worthington subdivision has been obtained. It is not known at this time if the property to the west of Worthington will have development plans or provide the additional needed right-of-way and escrow by the time of the scheduled street improvement. The 2009 timeframe is correct.

Mayor Dunn advised Ms. Florack to contact Mr. Lambers if she would like further information.

2. Jim Perilstein, 11365 Buena Vista, passed on the opportunity to comment.
3. Patty Logan, 3910 W. 143rd Street, also stated concern regarding extending Roe Avenue south to 143rd Street as the current condition and width of 143rd Street will not be able to absorb the increased traffic. Widening and improvements to 143rd Street should take place before the Roe Avenue project.

Mr. Lambers reviewed a past decision by the City Council to proceed with improvements to 151st Street before 143rd Street. Staff's recommendation was to perform the 143rd Street project first; however, as the priority was changed by the City Council, the southward extension of Roe Avenue will occur prior to the widening of 143rd Street. He informed Ms. Logan that a traffic study is not anticipated at this time as a significant impact to 143rd Street is not expected.

(Upon review following the January 16, 2007, City Council Meeting, City Administrator Scott Lambers confirmed that action taken by the City Council was to perform the 143rd Street project prior to the 151st Street project.)

Mayor Dunn suggested a review of the issue at the Public Works Committee level. She informed that citizens are welcome at the committee meetings.

A motion to forward the issue to the Public Works Committee and to revisit the decision to widen 151st Street before 143rd Street against Staff recommendations was made by Councilmember Azeltine; seconded by Councilmember Filla.

In terms of funding sources, Mayor Dunn verified with Mr. Lambers that the order of the street improvement projects could still be changed if so desired by the Governing Body.

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

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS Recognition of Mona Carmack, Johnson County Library

Mayor Dunn stated Mona Carmack came to lead the Johnson County Library 18 years ago and has overseen 9 major construction projects of new library branches under her tenure. The Leawood Pioneer Library was constructed in 1994, of which an expansion is now being considered.

Ms. Carmack started the Johnson County Library Foundation and has had many goals in line with the ever changing community. She implemented a patron-centered library system and was involved with the development of extensive technology and outreach strategies. All of these undertakings were achieved while under significant financial challenges. Mayor Dunn noted at the time of Ms. Carmack's arrival in 1988, there were 198,953 library patrons; however, upon her retirement date of the end of 2006, the amount of patrons increased to 371,364. The operating budget in 1988 was \$5-million and increased to \$21.6-million by 2006. The endowment fund is currently \$900,000.

Mayor Dunn congratulated Ms. Carmack on her impressive accomplishments. She then presented her with an Outstanding Service Award in recognition of dedicated service to the community in the capacity of the Johnson County Library System from 1988 to 2007.

Chair of the Leawood Arts Council Mary Tearney reported that last fall Ms. Carmack and her staff received a special award from First Lady Laura Bush at the White House. She also commended Ms. Carmack for her volunteerism and participation within the community.

Ms. Carmack stated she is greatly appreciative of the support from Ms. Tearney, the City, and the hundreds of people who aided in accomplishing the achievements of the library. She assured Mayor Dunn that she will continue to be a friend and advocate of the City.

Recognition of Country Club Bank for Sponsorship of Arts Programs

Ms. Tearney introduced Mike Werning of Country Club Bank. Through the direction of the Byron Thompson Family, the bank sponsored a concert by the Kansas City Symphony at the Church of the Resurrection last spring. The event was attended by 3,000 people. Ms. Tearney thanked Senior Pastor Adam Hamilton of the church for allowing use of the facility.

On behalf of the Byron Thompson Family and Country Club Bank, Mr. Werning stated appreciation for the recognition. He stated they are pleased to have the opportunity to play a part in the community by sponsoring such important events.

Mayor Dunn asked Mr. Werning to relay gratitude to the bank for the generosity and stated she looks forward to partnering with them again in the future.

6. SPECIAL BUSINESS – None.

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. 1066B, 1067A, and 1070A
- B. Accept Minutes of the January 3, 2007 Governing Body meeting
- C. Accept Minutes of the December 18, 2006 Governing Body Work Session
- D. Accept Minutes of the December 20, 2006 Public Works Committee meeting
- E. Accept Minutes of the December 13, 2006 Parks & Recreation Advisory Board meeting
- F. Accept Minutes of the November 14, 2006 Historic Commission meeting
- G. Adoption of the 2008 Budget/Financial Calendar
- H. Approve Co-Op Bid in the amount of \$35,213.00 to Roberts Auto Plaza for the purchase of [1] Fire Dept. SUV
- I. Approve Co-Op Bid in the amount of \$ 389,049.00 to Shawnee Mission Ford for the purchase of [2] Neighborhood Services vehicles; [1] P & R SUV; [1] P & R PU; [9] Police Vehicles; [1] PW PU; and [3] PW SUV's
- J. Resolution No. 2729 approving and authorizing the Mayor to execute a Design Build Construction Agreement in the amount of \$705,000 between the City and SM Wilson, LLC, pertaining to the construction of new buildings at Ironwoods Park, located at 14701 Mission Road – *Continued from the January 3, 2007 Governing Body meeting*
- K. Resolution No. 2730 approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the City of Prairie Village, pertaining to the Mission Road [between 83rd and 95th Street] Public Improvement Project
- L. Resolution No. 2731 accepting Temporary Construction Easements from Gayle & Cheryl Brace, 5448 W. 152 Terrace, for Lot 23, Villas of Ironhorse 2nd Plat, pertaining to the Nall Avenue Improvement Project, 143rd Street to 159th Street [CIP # 80143]
- M. Fire Department Monthly Report
- N. Municipal Court Monthly Report
- O. Police Department December, 2006 Monthly Report
- P. Police Department 2006 Year End Report

Councilmember Filla requested to pull Item No. 7J.

On motion of Councilmember Rasmussen, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved following a unanimous vote of 7-0.

- 7J. Resolution No. 2729 approving and authorizing the Mayor to execute a Design Build Construction Agreement in the amount of \$705,000 between the City and SM Wilson, LLC, pertaining to the construction of new buildings at Ironwoods Park, located at 14701 Mission Road – *Continued from the January 3, 2007 Governing Body meeting*

Councilmember Filla confirmed with Parks & Recreation Director Chris Claxton that this is the first true design build the City has been involved with. She then asked why cities in general are using this format and what positive outcomes are expected.

Mr. Lambers stated the positive aspect of this method is that the architect and contractor act as a team, therefore problems are avoided during the construction process as issues are resolved at the team level without involvement of the City. The downfall of this method is that it is not a pure competitive bid process. He stated it has been his experience that this process works extremely well.

Councilmember Filla complimented Staff for coordinating the design build format and moved to approve Item No. 7J. The motion was seconded by Councilmember Peppes. The motion carried following a unanimous vote of 7-0.

Ms. Claxton recognized and thanked Councilmember Rasmussen for his diligent efforts in working with Staff on the necessary documents.

8. MAYOR'S REPORT

- A. Attended the Convener's Reception along with Councilmembers Rasmussen and Peppes, which is traditionally held for the Johnson County legislative delegation before their departure to Topeka. The City of Leawood and the Leawood Chamber of Commerce were two of a number of sponsors for this event.
- B. Attended an Inaugural Festivity at the Overland Park Sheraton Hotel for Kansas Governor Kathleen Sebelius. There were similar events held in Wichita, Garden City, and Topeka.
- C. Attended the Council of Mayors meeting at Cabela's, hosted by Mayor Joe Reardon of the Unified Government of Kansas City, Kansas. A presentation was given by Mark Huffer, General Manager of the Kansas City Area Transportation Authority [KCATA], regarding local, regional, and light rail transportation issues. The ballot language and educational piece concerning the voter-approved light rail initiative has been provided to Councilmembers. The meeting also revealed that Prairie Village Mayor Ron Shaffer is turning over the gavel as Chairman of the Mid-America Regional Council to the Presiding Commissioner of Cass County, Gary Mallory. Mayor Shaffer is joining the Board of the National Association of Regional Councils.

- D. Attended a dinner and awards presentation along with Councilmember Peppes in recognition of Martin Luther King, Jr. Day, sponsored by the Olathe Branch of the NAACP. Bob Regnier, Leawood resident and President of Bank of Blue Valley, was honored with the Legacy Award for living Dr. King's dream of a life of equality and justice for all. The dinner included a number of other awards and the reading of student essays.
- E. Presented the 6th Annual State of the City Address at Ironwoods Park. Mayor Dunn expressed appreciation to the Leawood Chamber of Commerce for hosting the event, to the sponsors, and to Councilmembers and members of the Professional Staff who attended.
- F. Mayor Dunn congratulated the Leawood Police Department and the Information Services Department for the implementation of an interactive map on the City's website, which allows users to search recent crimes. She shared with Councilmembers an article regarding the new feature from the January 10th edition of the Neighborhood News section in *The Kansas City Star*.

9. COUNCILMEMBERS' REPORT

A. Report from Councilmember Azeltine on Historic Commission
Councilmember Azeltine reported that the long-awaited brochure for the Leawood Historic Commission was presented at the committee's meeting last week. The brochure has been placed upon the dais for Councilmembers' review. There were 5,000 copies of the publication printed, which will be made available for visitors in the literature racks of City Hall and will also be posted on the City's website. The creation of the brochure has been a three-year process entailing a great deal of hard work and was sponsored by a grant from the Johnson County Heritage Trust Fund, established by the Board of County Commissioners. Councilmember Azeltine recognized the diligent efforts of Marica Putman, Administrative Graphics Technician, and Janine Joslin, Chair of the Leawood Historic Commission.

Another recently completed project following eight years of research is *A History of Leawood, Vol. I*, which is kept in the Office of the City Clerk.

Councilmember Azeltine also announced that the Leawood Historic Commission will host the 6th Annual Kansas Day Lecture on January 31st from 7:00 to 8:00 P.M. in the Oak Room of the Community Center at City Hall. Dr. David Hudgins will present "Kansas Astronomer Clyde Tombaugh – Back in the News," which is a review of the Kansas farm boy who discovered Pluto and the role that Kansas played in the history of astronomy. Admission to the event is free and refreshments will be served.

Mayor Dunn thanked Councilmember Azeltine as well as Councilmember Filla for serving as Council-liaisons to the Leawood Historic Commission.

- B. Report from Councilmember Filla on Information Services Department's annual report

Councilmember Filla congratulated Director of Information Services Mark Andrasik and other members of the department on the annual report. She bestowed compliments for their work in terms of bringing the department budget in on time and 20% below estimations, which allowed for the installation of additional modules; for adding online features to the website promoting greater productivity such as allowing citizens to register for classes online using the credit card process; for redesigning the City website; and for the addition of the Intranet for City employees. She thanked Public Works Director Joe Johnson, Parks & Recreation Director Chris Claxton, and Finance Director Kathy Rogers for collaborating with the IS Department on integrating the new modules into the system. Councilmember Filla stated the IS Department has provided new and additional tools for their peers and for the citizens, which hopefully will continue to be used in the future for communication strategies.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the August 8, 2006 Planning Commission meeting]

- A. Ordinance amending § 16-2-5.7 of the Leawood Development Ordinance entitled RP-4 [Planned Apartment Residential District - 4,000 sq.ft. Per Dwelling] [Roll Call Vote] – *Continued from the September 5, 2006 and October 2, 2006 Governing Body meetings*
- B. Ordinance amending § 16-2-5.2 of the Leawood Development Ordinance entitled RP-A5 [Planned Rural Residential District - 5 Acres Per Dwelling] [Roll Call Vote] – *Continued from the September 5, 2006 and October 2, 2006 Governing Body meetings*
- C. Ordinance amending § 16-2-5.3 of the Leawood Development Ordinance entitled R-1 [Planned Single Family Low Density Residential District - 15,000 sq.ft. Per Dwelling] [Roll Call Vote] – *Continued from the September 5, 2006 and October 2, 2006 Governing Body meetings*
- D. Ordinance amending § 16-2-5.4 of the Leawood Development Ordinance entitled RP-1 [Planned Single Family Residential District - 12,000 sq.ft. Per Dwelling] [Roll Call Vote] – *Continued from the September 5, 2006 and October 2, 2006 Governing Body meetings*

- E. Ordinance amending § 16-2-5.5 of the Leawood Development Ordinance entitled RP-2 [Planned Cluster Detached Residential District - 6,000 sq.ft. Per Dwelling] [Roll Call Vote] – *Continued from the September 5, 2006 and October 2, 2006 Governing Body meetings*

Mayor Dunn noted letters from Phil Perry of the Homes Builders Association [HBA] and John Moffitt of Moffitt Development Company regarding Item Nos. 11A through 11E have been placed upon the dais. She reviewed that the Governing Body directed Staff to draft the ordinance amendments following a previous Work Session; however, following a review of the material, she has concerns related to the imposed restrictions. She stated the proposed ordinance would prevent the construction of several existing homes that sit atop hills in Leawood, including her own, due to the method of taking the height measurement from the curb line. Mayor Dunn requested remanding Item Nos. 11A through 11E back to the Planning Commission for further review and with consideration of input from the Governing Body. The City Administrator needs direction on the issue tonight as there are homes awaiting a decision on the height requirement prior to construction.

Councilmember Bussing recalled the general course of conversation during the Work Session on the issues was centered towards implementing an ordinance to prevent specific things from happening. The proposed ordinances do not meet the intentions of the Governing Body and have been made more difficult than necessary. If remanded back to the Planning Commission, he suggested a simpler, more common sense approach to writing the ordinance by describing the desired requirements rather than trying to define isolated instances that are not wanted.

Councilmember Filla stated she believed Staff was looking for consistency in the ability to enforce the restrictions and stated appreciation for the specificity. In terms of direction during the review process, she requested that the language enforce integration of remodels with existing homes.

Mr. Lambers stated options regarding pending applications would be to either enact a moratorium, utilize the currently adopted practice of imposing a 35-ft. height restriction with the measurement taken from the lowest point of the structure, or a compromise of allowing the 35-ft. restriction to be taken as an average from the heights of the front and rear of the house. Staff originally proposed a 35-ft. restriction with the measurement taken from grade of the front elevation, which is similar to requests from the HBA. Mr. Lambers opined the integrity of the streetscape is what needs protection and could be achieved by this method. He reviewed there was concern that using this method would allow some homes with severe slopes on the backside to possibly build up to 60-ft. If this were to occur, logically the property across the back of the home would be similar.

If a remand occurs, Mr. Lambers requested that currently pending applications be allowed to measure from the highest point of the front elevation with a 35-ft. height restriction.

A motion to remand Item Nos. 11A through 11E to the Planning Commission in order for a review to take place in conjunction with Staff and to direct Staff to apply the 35-ft. height standard from the front of structures until the proposed ordinances are returned by the Planning Commission was made by Councilmember Bussing. The motion was seconded by Councilmember Rawlings.

Phil Perry of the Greater Kansas City Home Builders Association, 600 E. 103rd Street, Kansas City, Missouri, commended the motion to remand the items to the Planning Commission for further review. He stated the comments in his letter stemmed from review of development ordinances and design guidelines from other cities and counties. The average height restriction is 35-ft. to 45-ft. with measurements taken from either the top of the foundation or an average finished grade from the front of the house. He also asked that reconsideration be given to the roof pitch restriction within the proposed ordinances.

Mayor Dunn informed that issues regarding roof pitches were omitted from the ordinances.

Rick Oddo, President of Oddo Development, 2801 W. 112th Street, stated as developer of the Sienna subdivision, he would greatly appreciate a remand. Currently, he is in negotiations to sell four lots within the subdivision for custom built homes provided the 35-ft. restriction is only for the front elevation. The current ordinance enforcement of taking the measurement from the lowest point has left him unable to sell any of the 14 lots still available. He requested the Governing Body resolve the issue in a timely manner and allow the measurement to be taken from the average height of the front foundation. Mr. Oddo noted that most of the homes in the Hallbrook subdivision could not have been built with the proposed ordinances. Regarding the remodeling issue, he suggested applying restrictions for an average height within the neighborhoods.

Mayor Dunn requested that the Planning Commission review the identical limitations placed upon RP-A5 (5-acre tract) and RP-4 (4,000 sq. ft. per dwelling unit) with possibly greater height leniency given to an RP-A5. Mayor Dunn also confirmed with City Attorney Patty Bennett that once the ordinances are passed, there will be no relief given through the Board of Zoning Appeals [BZA] unless a certain five factors are met. Mr. Lambers stated the height of a home would not meet the five factors set in place by State Statute. Mayor Dunn stated consideration should be given to the restrictions applied to larger tracts for aesthetic purposes.

Councilmember Azeltine stated he is interested in the concept of averaging the heights from the front and back and would like to hear the opinions of the architects and engineers who are on the Planning Commission. He also commented it would not make any sense to pass an ordinance in which a large percentage of preexisting homes in the City would violate.

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

[from the December 19, 2006 Planning Commission meeting]

- F. Ordinance No. 2208 approving a Revised Preliminary Site Plan for Park Place, located on the northeast corner of 117th Street and Nall Ave [Roll Call Vote]

Jeff Alpert, 2912 W. 113th Street, principal with Park Place Developers, LLC, provided an update on the status of the project. Phase I is slated to open in October or November of this year. He reviewed that the original plan included one hotel at the northern end of the project. Due to an increase in the lodging industry and the desirable environment of Park Place, the revised preliminary site plan contains another hotel at the southwest corner of the site. The amount of retail has been reduced from 57,000 sq. ft. to 25,000 sq. ft. with the hotel sitting on top.

Mr. Alpert provided background information of the hotel developer, Presidian, which is a national hotel development company in San Antonio, Texas. Presidian has developed Hilton, Marriott, and Starwood hotels under the direction of Drake Leddy. A slide show of existing hotel projects was presented.

The Aloft Hotel will be placed on the southwest corner of the development site along with three retail buildings. Site plan and floor plan drawings were reviewed. The concept of this establishment is that of a limited service hotel, meaning there will not be convention/meeting facilities or a full restaurant. The hotel will be marketed to the business traveler between the ages of 25-49. The 7-story building will house 32-33 rooms per floor. The exterior building materials are masonry and stucco.

Mr. Alpert confirmed for Mayor Dunn that the stucco material will stay within the maximum allowed 25%.

The Element Hotel in the northern corner will feature the extended stay concept. There will be a small kitchenette in each room. There will be 208 rooms within the 8-story building. This hotel is more contemporary in design than the Aloft and will also use masonry and stucco.

If approved, Mr. Alpert stated the developer will present final plan approval within the next 60-90 days. A groundbreaking is planned for this summer with an opening estimated for the fall of 2008.

The original hotel zoned for this site triggered the Governing Body to consider the concept of a bed tax, which currently is in effect in Kansas City and Overland Park. Mr. Alpert relayed there has been discussion with Mr. Lambers and Ms. Bennett regarding this tax, of which the revenue will be important in completing the economics for this project.

Councilmember Rasmussen noted that the Special Benefit District for this project originally included an extension of the pedestrian trail from the east side of Roe Avenue via a bridge. During discussions of zoning for this tract, the plan was changed to permit the trail to snake under Roe Avenue. He asked Mr. Alpert if there were any objection to going back to the initial plan of including the bridge as part of the Special Benefit District. Mr. Alpert stated there is no opposition to the bridge concept as long as the overall cost does not significantly change so as to not burden the retail/office tenants and homeowners with taxes beyond originally anticipated. Councilmember Rasmussen stated a solution to the problem is expected upon final plan presentation. Mr. Alpert pledged open-mindedness to the issue and stated they will work with Staff to find a comfortable resolution.

A motion to approve the revised preliminary site plan for Park Place, located on the northeast corner of 117th Street and Nall Avenue, was made by Councilmember Gullede; seconded by Councilmember Peppes.

Councilmember Bussing stated the additional hotel is an enhancement to an already beautiful project. He asked if the Briarcliff or Zona Rosa developments contained hotels. Mr. Alpert stated he is not aware of any hotels in Zona Rosa although Kansas City, Missouri just approved a TIF [Tax Increment Financing] for a potential hotel at Briarcliff.

Mr. Alpert verified there is no parking within the Aloft hotel structure. Garage A will serve as parking for guests with a bridge linking the top floor of the garage into the hotel.

Councilmember Azeltine confirmed with Mr. Alpert that the location description of the northeast corner of 117th Street and Nall Avenue for Item Nos. 11G and 11H refers to the entire development site of Park Place.

Mr. Alpert informed Councilmember Bussing that full project build-out will occur within 5-8 years. The office building at the northwest corner of the site and the residential condominiums are considered wildcards. He also advised Councilmember Rasmussen that changing the height of the 7-story office building is not being considered.

Calling attention to the statement on page 9, "the F.A.R. [Floor Area Ratio] is in excess of 0.45, which requires an approval by a minimum of a $\frac{3}{4}$ supermajority of the City of Leawood Governing Body," Mayor Dunn confirmed with Ms. Bennett that approval will require seven votes.

Councilmember Filla stated she is glad to see the balance of economic drivers in the mixed-use project and commented it will be nice to have hotels in a nearby location.

Mr. Alpert confirmed for Mayor Dunn that the Aloft will have small meeting rooms but nothing as large as a major ballroom that could hold 400 people.

Mr. Lambers verified for Councilmember Peppes that the additional hotel will warrant an amended traffic study during the final planning process. Mr. Alpert stated an unofficial report from TransSystems revealed no significant increase in traffic or impact to any intersection.

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

- G. Ordinance No. 2209 approving a Special Use Permit for a hotel (The Element at Park Place), located on the northeast corner of 117th Street and Nall Ave [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The ordinance passed with the following roll call vote of 7-0: Aye: Councilmembers Gulledge, Bussing, Filla, Azeltine, Rasmussen, Peppes, and Rawlings. Nay: None. (Councilmember Gill absent).

- H. Ordinance No. 2210 approving a Special Use Permit for a hotel (Aloft at Park Place), located on the northeast corner of 117th Street and Nall Ave [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Peppes. The ordinance passed with the following roll call vote of 7-0: Aye: Councilmembers Peppes, Filla, Rawlings, Bussing, Rasmussen, Azeltine, and Gulledge. Nay: None. (Councilmember Gill absent).

12. OLD BUSINESS – None.

13. NEW BUSINESS

- A. Discussion regarding changes to completion of 114th Street as it relates to Pinnacle Point

Ken Block with Block & Company, representing the Pinnacle Corporate Center buildings including CBIZ and the adjoining site, requested input regarding changes as it relates to the completion of the roadway. Currently, the roadway ends at the CBIZ building and is to be extended out to 115th Street. The original plan required a tree preservation area, however this created problems while designing a swale for the drainage system during the first phase of constructing the roadway. In order to include a swale for the remainder of the roadway to prevent water back-up from flooding the backyards and basements of four adjacent homes, it will be necessary to remove some of the trees.

The City suggested changing the plans to a 100-year system, which was done and met with the approval of Public Works Director Joe Johnson, City Engineer David Ley, and Civil Engineer David Roberts. In order to maintain the tree preservation area with the 100-year plan, the weir must be moved further up the roadway and closer to the homes to the north. If there is overflow in this area, the water will flow over the barrier and into the houses. Mr. Block stated they have devised an alternate 100-year plan which moves the weir further downstream and will allow overflow from the road to go into a drop inlet. Modifying the grade to 2% in the swale area and placing a pipe under the driveway of the Pinnacle IV building on 115th Street will be necessary to complete the system and provide protection to the houses.

Following meetings with the four affected homeowners, three have signed letters agreeing to the removal of trees in the preservation area with the condition that the developer will replace them with foliage of a better quality. Each homeowner has mapped out designated areas where they would like the replacements installed. Mr. Block stated there will be 62 trees affected by the roadway completion.

In order to move forward with the project, Mr. Block requested the Governing Body remove the tree preservation area stipulation with the condition that the plan modifications are submitted in the required manner and that agreements are reached with the property owners regarding the landscaping. A landscaper will meet with the last resident tomorrow morning in order to design a replacement plan and obtain agreement.

Mr. Block confirmed for Councilmember Gulledge that of the four residents affected, three are currently in agreement with approval anticipated from the fourth as well.

Councilmember Rasmussen confirmed with Mr. Lambers there was a problem in the past with a subcontractor of the developer cutting down more trees than was necessary to provide for the swale, which led to the current tree preservation area stipulation. Mr. Lambers stated he informed the developer that City Council approval would be required to accomplish the plan of encroaching into the no-cut zone and replacing the removed vegetation.

If approval is given and an agreement is reached with the fourth property owner, a plan of record must be submitted to the City to ensure that it is maintained. The applicant is not asking for removal of the stipulation in perpetuity but rather a modification of the stipulation. There will be commitment to replace the removed trees with bigger and better landscaping.

Mr. Lambers recommended the motion include giving the applicant authorization to proceed with encroachment into the no-cut zone with a landscape plan to be filed with the City. The question is whether or not the request must go through the planning process, which will be determined legally and retroactively to reflect a matter of public record.

Councilmember Azeltine inquired as to the process of removing a stipulation following completion of the planning process. Ms. Bennett informed a review of the plan and plat for the area will take place and the necessity for a tree easement will be determined.

Mr. Lambers stated the integrity of the stipulation will be maintained; however, as there is a conflict with the designed drainage system, the applicant's proposal is fair.

Mr. Johnson verified agreement in that the proposed drainage design will provide more protection to property owners.

Mr. Block provided a plat diagram and photographs for Councilmember Bussing illustrating the no-cut zone and the affected homes.

A motion to authorize the applicant to proceed with encroachment into the no-cut zone following agreement from the affected property owners with a landscape plan to be filed with the City and a retroactive adjustment for the record if necessary was made by Councilmember Peppes; seconded by Councilmember Gullede.

Mr. Lambers clarified for Councilmember Rasmussen that the boundaries of the no-cut zone will remain unchanged and the incursion into the area of discussion is only temporary.

Councilmember Azeltine asked how the action will affect the approved final plan. Mr. Lambers stated a revised final plan will be presented with a modification of the stipulation to provide the temporary incursion. The anticipated timeline for the revised final plan is 60 days and will be retroactive. The applicant may move forward with the project following agreement with the affected property owners and filing of the landscape plan. The occupancy permits of the new buildings will be conditioned upon meeting the requirements.

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

14. OTHER BUSINESS – None.

ADJOURN

The Governing Body meeting adjourned at 9:30 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk