

Minutes

DVD No. 183

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, March 3, 2008. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Lovina Freeman, HR Director
Joe Johnson, Public Works Director
Mark Klein, Asst. to the Planning Director
Deb Harper, City Clerk

Patty Bennett, City Attorney
Jeff Joseph, Senior Planner
Kathy Rogers, Finance Director
Chris Claxton, P&R Director
Scott Smith, Internet/WAN Specialist
Pam Gregory, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted that Item No. 6C has been continued to a future agenda stating that no date has yet been set. Additional information for Item No. 7S has been distributed. Also noted, replacement pages for Item No. 7F and 11A have been placed upon the dais.

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

3. CITIZEN COMMENTS

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

Bruce North, 8025 Lee Boulevard, stated that he is the Leawood Homes Association Board Member responsible for deed restrictions and architectural review. He noted that at the May 21, 2007 meeting, Council determined there was a need for establishing requirements for height and massing on residential property. He expressed that on November 19th there were supposed to be some revisions to the ordinances that did not take place. Mr. North asked the Council to come up with a schedule to have the ordinances resurrected, along with some action.

Mr. Lambers stated that the Planning Commission has dedicated the second Tuesday in May for public hearings on these items. Once the hearings are concluded, the next step will be to send the height ordinance to the City Council in June, then to work on the massing ordinance.

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

- A. Resolution providing for the issuance by the City of Leawood, Kansas of General Obligation Refunding Bonds, Series 2008 in the approximate amount of \$6,560,000 to provide funds to refund certain outstanding General Obligation Bonds of the City; authorizing the underwriter to offer the Bonds for sale; and authorizing certain related matters and actions.

Mr. Roger Edgar, Executive Vice President of George K. Baum and Company, stated that the City has the opportunity to refinance three old bond issues. These are 1996A & B and 1998A. These are bonds that the City can pay and cancel without penalty and re-issue. Mr. Edgar stated that the savings would exceed 3 percent, which surpassed the minimum established benchmark of 2 percent before any refunding is initiated. He also noted that there are almost \$2 million dollars of principal payments in outstanding bonds over the next two years. The average life of the loan is approximately two and one half years.

Councilmember Rasmussen questioned as to why the bond issue was in the amount of only \$280,000.00 and why it was made as part of the package.

Mr. Edgar responded by stating that when you call a bond or pay and cancel, that sometimes it's cleaner if there is a piece outstanding to go ahead and do the entire series of bonds rather than to do separate mailings to investors.

A motion was made by Councilmember Rasmussen; and seconded by Councilmember Gill to approve the resolution, provided the savings exceeds the minimum 2 percent level. The motion carried following a unanimous vote of 8-0.

- B. Approve request for bond term extension to 15 years for Special Benefit District Parkway Plaza Improvement Project [CIP # 80195] [R.H. Sailors & Company

Mr. Lambers noted that the City's policy for SBD's are issued for a ten year period unless otherwise requested by the applicant and approved by the Governing Body.

Councilmember Rasmussen noted that there are financial policies in place that have been maintained over the years to try to keep the average maturity of our bonds down. He stated that he realizes there is a difference between the Special Benefit District [SBD] and the General Obligation [GO] Bond. He noted that an item of importance is that of the average maturity of the existing bonds, therefore, he would not be in favor of approving the extension.

Councilmember Gulledge questioned the goal of meeting the total cost of \$6,525,000. Mr. Lambers stated that the cost is currently under this amount. He also wanted to confirm that the \$807,469 was for the additional five years. Mr. Lambers noted that more interest would be paid, but the annual debt service payments would be reduced over the life of the bond.

Councilmember Rasmussen stated that by extending this maturity, we would be increasing the risk to the City. Mr. Lambers noted that if you go with 10 years, you have a higher annual debt service payment, which could increase the chance of a default. If payments are lower, you ensure a better opportunity that the payments would be made.

Mayor Dunn questioned the percentage of SBD approved projects that have 15 years versus 10. Kathy Rogers, Finance Director, stated that more than half of the projects have been extended to 15 years.

Councilmember Azeltine inquired as to recommendation from the staff. Ms. Rogers noted that this is the first time they have entered into the condominium arena. She also stated that some of the cost is going to be passed on to the homeowners; therefore, the intent has been for this to go for the 15 years. Ms. Rogers stated that this is one of the largest single issue projects.

Councilmember Gulledge questioned the amount of the percentage that has fallen to the condominiums versus some of the businesses. Joe Johnson, Public Works Director, confirmed that the amount would be approximately 12 or 13 percent.

A motion to approve Item No. 6B was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a 5-3 vote. [Yea: Councilmembers Gill, Bussing, Azeltine, Rawlings, and Peppes. Nay: Councilmembers Rasmussen, Filla, and Gulledge. Councilmember Gulledge stated he voted in the negative due to the additional debt].

C. Discussion regarding Transportation Cooperation Council [TCC] Inter-local Agreement – **TABLED**

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. 1097B, 1097B1, and 1098A

- B. Accept Minutes of the February 18, 2008 Governing Body meeting
- C. Accept minutes of the January 7, 2008 Governing Body Work Session
- D. Approve Change Order No. 1 in the amount of \$110,215.03, to Miller Paving Company, pertaining to the 2007 Residential Street Reconstruction Program [Project No. 80206]
- E. Resolution approving and authorizing the Mayor to execute a Master Lease-Purchase Agreement between the City and Oshkosh Capital Corporation pertaining to the lease of a 2008 Pierce Velocity Pumper Truck and a 2008 Pierce Saber Heavy-Duty Rescue Truck in the amount of \$490,045 and \$403,251, respectively
- F. Resolution approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$341,470.00 between the City and Musselman & Hall Contractors, LLC, pertaining to the 2008 Slurry Seal and Micro-Surfacing Street Program
- G. Resolution approving and authorizing the Mayor to execute a Professional Services Agreement in the amount of \$19,000.00, between the City and George Butler Associates, Inc., pertaining to the Structural Inventory and Appraisals for 21 Vehicular bridges and 1 levee
- H. Resolution approving and authorizing the Mayor to execute a Professional Engineering Services Agreement in the amount of \$27,720.00, between the City and Phelps Engineering, pertaining to the 2009 Street Reconstruction Survey Project
- I. Resolution approving and authorizing the Mayor to execute a Design/Build Contract in the amount of \$486,458.00 between the City and Bruner Contracting for a Public Works Vehicle Storage Facility Pay-As-You-Go Capital Program [Project No. 76011]
- J. Resolution requesting Johnson County, Kansas' participation in the City of Leawood's 5-year Capital Improvement Program through the 2009-2013 County Assistance Road System [C.A.R.S.]
- K. Resolution waiving the bidding process for the construction of a large-vehicle storage building to be located at 14303 Overbrook Road
- L. Resolution approving revisions to the Vehicle and Equipment Replacement Policy
- M. Resolution granting a Permanent Sanitary Sewer Easement to Johnson County Unified Wastewater District [JCUWD] for property located in Gezer Park, 133rd Street and Mission Road
- N. Resolution approving and authorizing the Mayor to execute Amendment No. 2 to that certain Right-of-Way Maintenance Agreement, dated April 3, 2006, in the original amount of \$54,604.20 between the City and Kansas Land Management, LLC, [f/n/a S&F Mowing and R&R Mowing], pertaining to extending the term of the agreement to April 3, 2009
- O. Resolution accepting the Finance Director's Annual Statement regarding the Leawood, Kansas Public Art Impact Fee, pursuant to § 12-601 et seq., of the Code of the City of Leawood, 2000
- P. Resolution accepting the Finance Director's Annual Statement regarding the K-150 Highway Corridor [A/k/a/ 135th Street Corridor] Transportation Impact Fee, pursuant to § 13-506 and 13-509 of the Code of the City of Leawood, 2000

- Q. Resolution accepting the Finance Director's Annual Statement regarding the Leawood South Transportation Impact Fee, pursuant to § 13-601 et seq., of the Code of the City of Leawood, 2000
- R. Resolution accepting the Finance Director's Annual Statement regarding the Leawood Kansas Park Impact Fee, pursuant to § 12-401 et seq., of the Code of the City of Leawood, 2000
- S. Resolution approving a Final Plan for One Nineteen - Apple Store, located on the southeast corner of 119th Street and Roe Avenue [*From the February 26, 2008 Planning Commission meeting*]
- T. Resolution approving a Final Plan for Park Place - Gobug, located on the northeast corner of 117th Street and Nall Avenue [*From the February 26, 2008 Planning Commission meeting*]

Mayor Dunn pulled Item No. 7K for a brief discussion. Councilmember Filla requested to pull Item Nos. 7J and 7T.

On motion of Councilmember Rasmussen, seconded by Councilmember Azeltine, the remainder of the Consent Agenda was approved following a unanimous vote of 8-0.

- 7J. Resolution requesting Johnson County, Kansas' participation in the City of Leawood's 5-year Capital Improvement Program through the 2009-2013 County Assistance Road System [C.A.R.S.]

Councilmember Filla wanted to confirm the location of the project on Lee Boulevard – Somerset to Mission Road. Joe Johnson confirmed that the location was renamed to Lee Boulevard a few years ago.

A motion to approve Item No. 7J was made by Councilmember Filla; seconded by Councilmember Gill. The motion carried following a unanimous vote of 8-0.

- 7K. Resolution waiving the bidding process for the construction of a large-vehicle storage building to be located at 14303 Overbrook Road.

Mayor Dunn noted that she realized the reason Mr. Johnson wanted to use the same contractor that built the current facility is to allow consistency in the construction of the structure, but she wanted to confirm that the price would still be competitive.

Mr. Johnson confirmed that they will be working with the contractor and architect on unit pricing. He also stated that there is a unit breakdown for the components of the construction.

Councilmember Rawlings questioned if the building was a part of the original plan. Mr. Johnson stated that the additional storage building and the expansion of the maintenance bay to add two more bays to the east was identified as growth progress.

Councilmember Azeltine questioned the order of the agenda items and asked why the contract was approved before the resolution waiving the bidding process. Mr. Johnson stated theoretically, yes, but since there is not a true design to bid out, he felt this would be the appropriate process to bring to Council's attention. He also questioned if Mr. Johnson knew an approximate total figure for the project. Mr. Johnson confirmed that the price will be \$486,458.00, a guaranteed price from Bruner Contracting.

A motion for approval on Item 7K was made by Councilmember Bussing; seconded by Councilmember Filla.

Councilmember Gill gave his support, but he noted that the public bidding process is a very important step and asked that Mr. Johnson advise the Council if a bid is received that is at a variance with the historical unit costs on this project.

Councilmember Azeltine noted that he is uncomfortable approving the project due to the cost and waiving the bidding process. However, since the price of steel has gone up since the bid was given and that there is a guaranteed price maximum, he would support the project.

The motion carried following a vote of 7-1. Nay: Councilmember Rasmussen.

- 7T. Resolution approving a Final Plan for Park Place - Gobug, located on the northeast corner of 117th Street and Nall Avenue [*From the February 26, 2008 Planning Commission meeting*]

Councilmember Filla questioned what "Gobug" is. Mr. Lambers confirmed that Gobug is a children's clothing store for outdoor wear.

A motion to approve was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0

8. MAYOR'S REPORT

- A. Mayor Dunn expressed appreciation to Dr. Gregory Peppes for filling in for her as Presiding Officer at the February 18th Council Meeting.
- B. Attended the Council of Mayor's Meeting, hosted by the cities of Westwood, Westwood Hills, and Mission Woods. Mayor Allen Roth and Otavio Silva, the business program coordinator from Bridging the Gap, both gave a presentation on the Green Initiative. Mayor Dunn announced that Johnson County Chairwoman Annabeth Surbaugh spoke about the anticipated sales tax increase in the upcoming election, including a request for the triangle tax to be in November, 2008 and the Jail tax (1/4 cent) in August, 2008. She stated that the cities portion of one third will be incorporated into the jail tax. Each city is being requested to designate what they will be doing with their portion of the sales tax. Mayor Mark Funkhouser was a guest speaker and presented the Light Rail Summit Plan.

- C. Attended a reception sponsored by the International Visitor Leadership Program. Members of the United Kingdom Parliament were visiting the United States to observe the 2008 primary elections. Mayor Dunn noted that the Consul for the United Kingdom, Mr. Scott Smith, is a Leawood resident residing in Ward 3
- D. Attended the Kansas City Regional Mayor's Summit on Light Rail held at Union Station. Phelps Murdoch, President and CEO of Bridging the Gap, Clyde McQueen, President and CEO of the Full Employment Council, and Clarence "Cal" Marsella, Denver Regional Transportation District Director, were all presenters for Mayor Mark Funkhouser.
- E. Mayor Dunn served on a panel for the greater Kansas City Chamber of Commerce Centurion Leadership Program, along with Overland Park Mayor Carl Gerlach, Kansas City Mayor Mark Funkhouser, and Lee's Summit Mayor Karen Messerli. The topic was Municipal Government. Steve Penn from The Kansas City Star served as the moderator.
- F. Mayor Dunn attended a forum for the Arts Council of Johnson County, held in the Oak Room of the City Hall in Leawood on the possibility of starting a Johnson County Arts Congress. Mary Tearney of the Leawood Arts Council was in attendance along with a number of other people.
- G. Mayor Dunn noted that the Leawood Chamber of Commerce adopted a resolution in support of merit selection of judges at their last board meeting.
- H. Mayor Dunn participated in the read across America celebration of Dr. Seuss birthday by reading to some of the youth at Children's Mercy South Hospital.
- I. Mayor Dunn congratulated Sam Turner, a Leawood resident, who was recently honored by President George Bush, with the President's Volunteer Service Award for his work with the American Heart Association.
- J. Mayor Dunn congratulated Fred Logan, a Leawood resident, who will be honored as the Johnson County Community College Foundation's Johnson Countian of the Year at a dinner this fall. She also noted that many Leawood residents have received this honor in past years.
- K. Mayor Dunn expressed appreciation to Police Chief John Meier and noted that the Leawood Police 2007 annual report was very well done and she enjoyed reading about the members numerous volunteer activities.
- L. Mayor Dunn noted that on Saturday, March 29, 2008 from 1:00 – 3:00 p.m. along the trail of Tomahawk Creek Greenway, there will be a city park clean up day for volunteers. Volunteers are to meet at the parking lot at 119th and Mission Road on the south side.

9. COUNCILMEMBER'S REPORT – None.

10. STAFF REPORT

Mr. Lambers noted that regarding the Justice Center, he would like to have a work session to get confirmation as to which way to proceed; with either a traditional bidding process or a design build to determine the time line of events in order to proceed in September.

Councilmember Azeltine noted that he was in agreement with Mr. Lambers that there should be a work session in order to explore the differences between the two options.

He also commended the Mayor as to her attendance at the Light Rail Summit stating that there were several absences from other Mayors in the county. Mayor Dunn noted that in fairness, the notification process of the Summit was very short. She also stated that it was well worth attending.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the February 12, 2008 Planning Commission meeting]

- A. Ordinance to approve a Special Use Permit, Preliminary Site Plan and Final Site Plan for One Nineteen - Building D, located at the southwest corner of 119th Street and Tomahawk Creek Parkway, within the One Nineteen development [Roll Call Vote]

Mayor Dunn noted that a revised 11A had been placed upon the dais with changes to stipulation 21.

Jose Rangel, Red Development, introduced Dean and Deluca to their One Nineteen project.

Chris Sogus, DLR Group, noted that the architecture of the building style is similar to Crate and Barrel located to the west and the 119th street building to the south. The style is of a warm contemporary building. On the west elevation, the proposal is to make it an all operable glazed wall. The windows could all be raised electronically. Mr. Sogus noted that the drive-thru window would be located on the south side of the building. The materials of the building will be primarily brick. He noted that the stucco and the brick colors are in connection with building A. On the east side, the upper area is proposed to be stucco and the lower area brick. The 119th Street view is nestled up against the 119th street corridor, minimizing the pavement up against the street, making all of the parking to the south side of the building.

Mayor Dunn questioned how the building material compared to building B (Crate and Barrel). Mr. Sogus stated that both are very similar.

Councilmember Rasmussen questioned if there would be outdoor dining available. Mr. Sogus stated that it is not currently planned for this other than the operable glazed windows on the west side.

Councilmember Rasmussen also was interested to know if there would be space in the building for a wine area. Josh Hodap, General Manager, Dean and Deluca, noted their store is classified as a market grocery store and the state of Kansas does not allow the pouring or selling of wine or liquor in any of their retail stores.

Councilmember Azeltine confirmed to Mr. Sogus that there is no outdoor dining area. Mr. Sogus stated that there is not outdoor seating available 365 days a year. Mr. Lambers stated that if Dean and Deluca wanted to have outdoor seating available year around, they would need to have a revised plan.

Mr. Sogus confirmed for Mayor Dunn that the operable doors are that of a large glass type door that rolls up.

Andy Noll, BHC Rhodes, stated that there were concerns with the drive-thru window during the Planning Commission meeting. He noted that they have addressed this issue by rearranging the drive-thru to allow for stacking of multiple cars.

Councilmember Rasmussen questioned how the drive-thru would function on a busy holiday. Mr. Hodap stated that the drive-thru would only serve a small portion of their menu selection and if catering or call ahead orders are placed, they would need to pick up their order inside. The drive-thru would serve as a grab-n-go type service.

Councilmember Bussing questioned the type of landscape that is being used. Mr. Bussing was concerned as to the type of grass being planted and to its overall appearance. Steve Winslow, Landscape Architect, Oschner Hare & Hare, stated that they would be amending the soil in the planting beds so that the plants would have an excellent opportunity to grow. Mr. Bussing was also concerned as to the type of shrub being used. Mr. Winslow noted that the reason they chose this particular variety is because of its thick branches so it still has a lot of substance, even in the winter with no leaves. Mr. Winslow also confirmed to Mr. Bussing that the street trees selected are 4-inch caliper.

Councilmember Peppes had concerns about the number of parking spaces for the facility. Mr. Hodap stated that parking spaces would increase from 75 to approximately 132 stalls on the west side. He also noted that the square footage of the building will increase from 10,000 to 15,500.

Mayor Dunn questioned the ability to have valet parking as it was provided at their present location for the holidays, if need be. Mr. Hodap stated that he doesn't anticipate that becoming an issue, but if there is a need, they will instate that again.

A motion for approval on Item 11A was made by Councilmember Gulledge; seconded by Councilmember Peppes.

Councilmember Filla questioned the clarification of the increase in the square feet of the building. Mr. Hodap confirmed that the square footage of the building is 15,500. The patio area is an additional enclosed 1,200 square feet.

Councilmember Azeltine questioned if there was any discussion with the Planning Commission on the outdoor seating. Mr. Lambers stated that the Planning Commission felt that with the doors being able to open and close that it would provide adequate seating year around. Mr. Hodap stated that there is no intent to request additional outdoor seating due to the high maintenance of the patio furniture.

The ordinance passed following a unanimous roll call vote of 8-0.

12. OLD BUSINESS – None.

13. NEW BUSINESS – None.

14. OTHER BUSINESS

- A. Schedule a Special Call Governing Body meeting on Monday, March 10, 2008, at 7:30 P.M., for Resolution approving Final Site Plan located approximately at the southeast corner of 137th Street and Mission Road for multi-family housing [Applicant: Oddo Development]

A motion to approve the Special Call Governing Body meeting was made by Councilmember Gulledge; seconded by Councilmember Peppes. The motion was approved following a unanimous vote of 8-0.

- B. Schedule a Governing Body Executive Session on Monday, March 3, 2008, immediately following the regular Governing Body meeting to discuss matters subject to the attorney -client privilege

A motion to approve the Executive Session meeting for a period of 20 minutes was made by Councilmember Bussing; seconded by Councilmember Gulledge. The motion was approved following a unanimous vote of 8-0. The meeting was recessed into Executive Session at 9:10 P.M. A motion was made by Councilmember Gulledge; seconded by Councilmember Azeltine to extend the meeting for an additional 15 minutes. The motion was approved following a unanimous vote of 8-0. A second motion was made by Councilmember Gill; seconded by Councilmember Gulledge to extend the meeting again for an additional 15 minutes. The Governing Body reconvened into regular session at 10:00 P.M. A motion was made by Councilmember Azeltine; seconded by Councilmember Peppes to amend the budget to reallocate funds from the food and beverage to marketing to pay Orion personnel. The motion was approved following a unanimous vote of 8-0.

A motion was made by Councilmember Filla; seconded by Councilmember Rawlings to adjourn the meeting. The motion was approved following a unanimous vote of 8-0.

ADJOURN

Mayor Dunn adjourned the meeting at 10:02 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk