

Minutes

DVD No. 193

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 7, 2008. Mayor Peggy Dunn presided.

Councilmembers present: Gregory Peppes, Gary Bussing, Jim Rawlings, Julie Cain, James Azeltine, and Mike Gill

Mayor/Councilmembers absent: Debra Filla and Lou Rasmussen

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Scott Smith, Internet/WAN Specialist
Deb Harper, City Clerk
Pam Gregory, Deputy City Clerk

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Chris Claxton, P&R Director
Mark Klein, Asst. to the Planning Director
Jeff Joseph, Senior Planner
Kathy Rogers, Finance Director

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted to add a second matter on Item No. 15D regarding the Executive Session related to the attorney/client privilege.

A motion to approve the agenda was made by Councilmember Peppes; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

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.**

4. PROCLAMATIONS – None

5. PRESENTATIONS/RECOGNITIONS – Firefighter Sgt. First Class Joe Ostermann on his return from military duty in Iraq

Firefighter Sergeant First Class of the United States Army Joe Ostermann presented Fire Chief Ben Florance and the Leawood Fire Department a United States Flag that was flown over his camp site with a Certificate of Authenticity while stationed in Iraq. Sergeant Ostermann also returned with and presented the City of Leawood Fire Department Flag given to him by Chief Florance upon leaving for Iraq. This flag was also displayed at the site. Chief Florance noted Sergeant Ostermann had been with the Fire Department for approximately four years and was honored to have him. Sergeant Ostermann thanked the City of Leawood for their support. Mayor Dunn thanked him for his service to the Country.

**Recognition of Executive Fire Officer,
Battalion Chief Steve Duncan**

Fire Chief Ben Florance presented Executive Fire Officer, Battalion Chief Steve Duncan with a certificate from the National Fire Academy and the Department of Homeland Security in recognition of his successful completion of the requisite courses of study earning the title of Executive Fire Officer. Chief Duncan thanked everyone for their support while he was away.

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. 1105B, 1106A, 1106B and 1107A
- B. Accept Minutes of the June 2, 2008 Governing Body Work Session meeting
- C. Accept Minutes of the June 9, 2008 Special Call Governing Body meeting
- D. Accept Minutes of the June 16, 2008 Governing Body meeting
- E. Accept Minutes of the March 11, 2008 Parks and Recreation Advisory Board meeting
- F. Accept Minutes of the May 22, 2008 Ironhorse Advisory Board meeting
- G. Accept Minutes of the May 22, 2008 Green Initiative Citizen Task Force Committee Meeting
- H. Accept Minutes of the June 5, 2008 Green Initiative Citizen Task Force Committee Meeting
- I. Accept Minutes of the June 12, 2008 Green Initiative Citizen Task Force Committee Meeting
- J. Accept Minutes of the May 9, 2008 Stormwater Management Committee Meeting
- K. Re-certification of General Obligation at-large Project Cost in the amount of \$1,570,000, for 2007 Residential Streets Improvement Project [CIP # 80206]
- L. Re-certification of General Obligation at-large Project Cost in the amount of \$1,505,000, for Creek Bank Stabilization Improvement Project [CIP # 80171]
- M. Re-certification of Special Assessment Project Cost in the amount of \$5,525,000, for Parkway Plaza Improvement Project [CIP # 83195]

- N. **Resolution No. 3063** ordering a public hearing to be held on proposed revised assessments for construction of 133rd Street between Roe Avenue and the western city limit, Briar from 133rd Street south to 135th Street, 135th Street from the western city limit east to Roe Avenue and Roe Avenue between 133rd Street and 135th Street and other amenity features, located within the City of Leawood, Kansas, and ratifying action by the City Clerk in publishing notice thereof and providing written notice to owners of property of such assessments [Parkway Plaza] [CIP # 83195]
- O. Approve Change Order No. 5 in the amount of \$174,071.45 to Wiedenmann & Godfrey Construction pertaining to Phase II of the Dykes Branch Channel Improvement Project, [SMAC Project DB-04-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road [# 76009]
- P. **Resolution No. 3064** supporting the Community Building Code Administration Grant Act of 2007
- Q. **Resolution No. 3065** accepting a Permanent Utility Easement from Leawood Country Club Partners, L.L.C., for an area located within Leawood Estates, at 89th & High Drive
- R. **Resolution No. 3066** waiving the bidding process in accordance with Charter Ordinance No. 32, pertaining to the 123rd Street Mill & Overlay Project [including traffic signals at 123rd Street & Mission Road] with J.M. Fahey Construction Company]
- S. **Resolution No. 3067** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$847,331.90, between the City and J.M. Fahey Construction Company pertaining to the 123rd Street Mill & Overlay Project [including traffic signals at 123rd Street & Mission Road]
- T. **Resolution No. 3068** approving a Final Site Plan for One Nineteen - Habitat Shoe Store, located on the southeast corner of 119th Street and Roe Avenue [*from the June 10, 2008 Planning Commission meeting*]
- U. **Resolution No. 3069** approving a Final Site Plan for Bi-State Centennial Park - Kiddie Academy, located south of 141st Terrace and east of Overbrook [*from the June 10, 2008 Planning Commission meeting*]
- V. **Resolution No. 3070** approving a Final Plat for Bi-State Centennial Park - PARS Engineering Building, located north of 141st Terrace and east of Cambridge [*from the June 10, 2008 Planning Commission meeting*]
- W. **Resolution No. 3071** approving a Final Plat for Leawood Oaks, located South of 93rd Street and east of Lee Boulevard [*from the June 10, 2008 Planning Commission meeting*]
- X. **Resolution No. 3072** approving a Final Site Pan for One Nineteen - Salon One19 & Spa, located on the southeast corner of 119th Street and Roe Avenue [*from the June 24, 2008 Planning Commission meeting*]
- Y. **Resolution No. 3073** approving a Final Site Plan for One Nineteen - Mitzy London's, located on the southeast corner of 119th Street and Roe Avenue [*from the June 24, 2008 Planning Commission meeting*]
- Z. **Resolution No. 3074** approving a Final Plat for Parkway 134 Office Condominiums - 2nd Plat, located at 134th Street and Roe Avenue [*from the June 24, 2008 Planning Commission meeting*]

- AA. **Resolution No. 3075** approving a Final Site Plan for a Tenant Finish for Mission Farms - Zest Restaurant, located at the southeast corner of 105th Street and Mission Road *[from the June 24, 2008 Planning Commission meeting]*
- BB. **Resolution No. 3076** approving a Final Site Plan for Park Place Revised Sign Criteria, located on the northeast corner of 117th Street and Nall Avenue *[from the June 10, 2008 Planning Commission meeting]*

Councilmember Bussing requested to pull Item No. 7U. Councilmember Peppes requested to pull Item No. 7W.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Gill; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

- U. Resolution approving a Final Site Plan for Bi-State Centennial Park - Kiddie Academy, located south of 141st Terrace and east of Overbrook *[from the June 10, 2008 Planning Commission meeting]*

Councilmember Bussing noted previous concern that a Kiddie Academy was not permitted to be located within a certain number of feet of alcohol distributorships. City Administrator Scott Lambers stated the Attorney General's office had opined that a day care did not meet the qualifications of a school pursuant to the State Statute or Kansas Administrative Regulations; therefore, has no impact on the Coors Beer Distributorship in terms of their ability to change ownership or expand.

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

- W. Resolution approving a Final Plat for Leawood Oaks, located South of 93rd Street and east of Lee Boulevard *[from the June 10, 2008 Planning Commission meeting]*

Councilmember Peppes confirmed with Assistant Director of Planning Mark Klein the layout of the lots for Leawood Oaks. Dr. Peppes confirmed there would not be any problems with easements pertaining to this.

A motion to approve the resolution was made by Councilmember Peppes; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

8. MAYOR'S REPORT

- A. The Leawood American Revolution Bicentennial Committee presented the City with a CD in the amount of \$1,000.00 on July 6, 1976.

Last year it earned \$368.10 in interest, which brings the current balance as of July 11, 2008, to \$8,010.96. This CD yields an interest rate of 5.117% and will mature on May 13, 2009.

- B. The Leawood Chamber of Commerce held a successful “Taste of Leawood” fundraising event. There were nearly 600 people in attendance, including nearly all Councilmembers. Mayor Dunn thanked President and CEO Kevin Jeffries, the Chamber Board of Directors and staff, and the following departments: Parks and Recreation, Public Works, Police, and Fire for their assistance.
- C. Mayor Dunn thanked the Budget and Finance Committee, which is comprised of the Governing Body, citizen volunteers, along with department heads, for two nights of meetings regarding the 2009 budget. She noted appreciation to Finance Director Kathy Rogers, Budget Manager Kathy Byard, and the Finance Department for their outstanding work in compiling this information. The City will have less than a 2% increase over the 2008 budget and a flat mill levy will be recommended.
- D. Attended a volunteer appreciation Bar-B-Q held in the Oak Room at City Hall on July 4, 2008, in conjunction with the City’s 60th Anniversary. Mayor Dunn thanked Parks Director Chris Claxton, the Parks and Recreation Department, and Alice and Mel Hawk for their help in organizing the event. There were over 200 people in attendance.
- E. Attended the City of Leawood’s fireworks display on July 4, 2008. Mayor Dunn thanked everyone involved with the event and noted appreciation to the following departments for their participation: Parks and Recreation, Fire, Police, and Public Works. Attendance was estimated at 12,000 – 15,000. This was the largest and best display to date; a great celebration to honor the City of Leawood’s 60 sensational years.
- F. Attended a pre-opening business luncheon as a guest of the Mandarinism Contemporary Chinese Restaurant in the City of Leawood, located at 135th and Roe in Parkway Plaza. Mayor Dunn wished them much success.
- G. Mayor Dunn noted appreciation to the Sun Newspaper and their “Living in Leawood” publication for compiling useful information regarding the City of Leawood’s 60th Anniversary year.
- H. Reminder for the presentation of “Annie Get Your Gun”; a gala event on Saturday evening, July 19, 2008. This production will be held over several nights if unable to attend that evening.
- I. Reminder of the July 21, 2008, Council meeting and noted Councilmembers Filla, Rasmussen, and Dr. Peppes would be out of town.

9. COUNCILMEMBERS REPORT - None

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. STORMWATER MANAGEMENT COMMITTEE

[From the May 9, 2008 Stormwater Management Committee Meeting]

A. Residential Water Runoff due to remodel permits

Councilmember Rawlings noted this had been a unanimous recommendation from the Stormwater Management Committee for drainage studies on remodels for three different levels.

Councilmember Peppes asked what will happen with the properties currently in process. Public Works Director Joe Johnson stated once approved, it would return to Council in an ordinance format. Once the ordinance becomes effective, it would be applied to any new building permits. Currently, there is no process for existing permits that have been approved.

Councilmember Cain asked what the approximate cost would be to have a grading plan prepared and a stormwater study done. Mr. Johnson stated it would be \$300.00 - \$600.00 for the grading plan. Generally, the survey is already complete due to the need of showing the property lines for either the addition or remodel. The stormwater study cost could be from approximately \$2,000 to several thousand dollars, depending upon what was being done to the property and the location.

Councilmember Cain noted the Stormwater Committee's recommendation No. 3, and asked what reasons the applicant may or may not be required by the City to submit a stormwater study. Mr. Johnson stated any improvement between 400 square feet and 50% would require a grading plan. Mr. Lambers stated the question was in regard to the stormwater plan and noted staff would review whether or not the terrain and the proposed change would warrant it, based upon the extent of the remodel.

Councilmember Cain asked if the City had a list of vendors in good standing that could be recommended to residents, if needed. Mr. Johnson stated most already had survey companies who did the initial survey and would have the ability of providing the grading plan; however, the City has used consulting firms and could provide the residents this information, if needed.

Councilmember Bussing was concerned that the terminology, as applied to residential stormwater, would not be clear to a resident if the City told them they needed to have a stormwater study done. Mr. Johnson stated if they were unsure, the Stormwater Committee could indicate what they were looking for based off the original grading plan. Mr. Bussing noted if the study was going to cost a Leewood resident \$2,000 or more, he preferred the City define what was needed upfront in writing. Mr. Johnson noted that would be difficult, unless the City knew every circumstance that may arise. This is targeted to homes being remodeled where the area is 50% or greater. Most of these homes generally range from \$600,000 - \$800,000. The committee felt this was a reasonable request. These homes increase from 1,800 to approximately 4,500 - 5,200 square feet. The City would have the residents look at other close properties to identify if there were drainage issues and how they could improve the house and the lot. Mr. Bussing noted it was still a significant amount of money for any resident and wanted the City to be clear of their expectations upfront. Mr. Johnson stated the residents would generally meet with him, City Engineer David Ley, or Special Projects Engineer David Roberts and they would meet with the builder and/or engineers to discuss the situation and address the issues.

Mayor Dunn confirmed with Mr. Johnson that the stormwater study would be conducted by a licensed engineer and would be stamped upon delivery.

Councilmember Bussing asked if the City created an ordinance dictating the requirements and there were legitimate differences of opinion, if there would be an appeal process. Mr. Lambers noted if there was a dispute involved, he would make the final decisions.

Councilmember Cain asked if the neighbors would be able to voice their opinion on this. Mr. Lambers noted they would be contacted as part of the study from the engineering firm in case there would be problems; however, would not be part of the solution. This would be an engineering issue between the applicant and the City. This should not be a problem when dealing with an individual lot. The City requires the study go 25 feet beyond the property line. The swales between the lots need to have the capacity to handle the water.

Lois Thomson, 8416 Meadow Lane, stated she has lived at this address for 15 years. Her home was built in 1948. The original house next to hers (to the north) was torn down and replaced by a home more than twice its size. This reduced the amount of ground surface available to absorb the rain. The grade of the new property has caused stormwater to run directly toward her property. The downspouts are directed to her lot, and she had asked for them to be placed underground. Ms. Thomson noted she had spent \$5,000 in 2003 to mitigate the water flow of the original property. Her dry creek bed and French drain currently have mud in them and they are not sufficient to handle the stormwater from the new grading. In addition, the builder removed the silt fence prior to laying the sod. She paid \$3000 for 32 cubic yards of mulch in 2006 and approximately 15 cubic yards of this had been washed away. There is, currently, accumulated silt on the west property line. She had spoken with the builder regarding the damage, and he stated the water wasn't his problem. Ms. Thomson noted the City was promoting the development of larger houses within the City limits. The City benefits from the increase in property tax; however, she felt by the City promoting this, it wasn't responsible government. She asked the City to help her address the stormwater issue along her property line and the downspouts that are placed directly toward her property. She was also asking for help in restoring the damage to her landscaping to a depth of three inches and to remove the accumulated silt. She noted the City had made an attempt with the proposal; however, it doesn't address anything retroactively. Mr. Lambers noted the proposed ordinance is for the future and does not provide any relief for the City to address existing or current permits.

Mayor Dunn asked if there were City requirements when directing water from a residence. Mr. Lambers stated there is a setback of 10 feet from right-of-ways or neighbors; however, it makes no distinction regarding drain spouts or sump pumps, which staff had been reviewing due to the wet season.

Councilmember Gill noted this extreme nuisance was created where one didn't exist before, and seemed to have the potential to impact the City's stormwater program. Mr. Gill asked if staff could research the possibility if the City could have a cause of action in relation to the stormwater system and whether or not an environmental impact study might be appropriate for the builder in reference. He asked if staff could bring a response to the next Council meeting. Mr. Gill asked that the builder's existing building permits be scrutinized due to this bad situation occurring in the City.

Mr. Lambers stated the one recourse the City has against builders is silt fencing, and if the fencing fails to work correctly or is not in place, they are given notice to rectify it quickly. If they fail to do so, stop work orders are issued and they are given a fine. He could not respond at the present time to Mr. Gill's comments; however, would look into it. Ms. Thomson noted the silt fence was up; however, silt was still all over her property. She left pictures of the damage with City Clerk Deb Mansfield. Mayor Dunn noted this would be further reviewed by staff.

Jay Dunfield, 8417 Belinder, noted Ms. Thomson was his neighbor, and concurred with her comments. He has been dealing with most of the same issues and lives slightly down hill and behind the development. He has gotten water in his basement along with silt accumulated on his property. Mr. Dunfield noted they had both tried to work in a friendly manner with the builder to resolve this; however, to no avail. He did seek legal council; however, producing no results at this time. The potential damage will continue on their properties and has created a significant financial burden. There could be others affected downstream, which they may assume has been attributed to the wet spring. Mr. Dunfield also left pictures before/after the damage of his property with the City Clerk. He had spoken with the City as well, and an employee visited the site and recognized it as an ongoing problem. He has worked with Building Official Eirene Oliphant and noted she had requested on several occasions a final grade plan from the builder; this had still not been received. The original grade plan was submitted today for review. If needed, he will hire a civil engineer to fix the problem; however, hoped the City could help in rectifying the situation. The family is currently living in the development on a temporary occupancy permit; his understanding was that the builder still had not paid for this permit and asked if it would be recourse for the City to hold the permit until this was rectified.

A motion to approve the Stormwater Committee's recommendation was made by Councilmember Gill; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

[From the June 13, 2008 Stormwater Management Committee Meeting]

- B. Recommendation to approve funding for Drainage concerns at 14601 Delmar
[Estimated costs: \$66,000]

Councilmember Rawlings noted significant flooding issues in a Leawood resident's backyard due to stormwater pipes being installed incorrectly at the time of the development.

Mayor Dunn noted this would be an extension of an existing City-owned storm sewer line located on the north side of the property to connect to the line approximately 200 feet away.

Councilmember Bussing noted he had seen the extensive list of stormwater issues that are not [SMAC] qualified and asked the criteria of selecting this particular project. Mr. Johnson stated as far as projects under the 1/8 cent sales tax, this would be the first new project to be added to that list. This will either be constructed in 2009 or 2010, depending upon funding availability. The projects in the past have generally had to do with the extension of the City's existing storm sewer system.

One of the recommendations from the Stormwater Committee was: any new project to be considered funding by the 1/8 cent sales tax would come before the committee for their review and recommendation, then forwarded on to the City Council for their approval to be included with that funding. Mr. Bussing confirmed with Mr. Johnson there was not a City-owned storm sewer system located at Ms. Thomson or Mr. Dunfields properties. Mr. Johnson noted their project would cost several hundred thousand dollars and would be considered a Capital Improvement Project [CIP] rather than a 1/8 cent sales tax improvement project. Mr. Bussing stated he was still unclear how this particular project was chosen. Mr. Johnson stated most of the projects on the list were drainage complaints on private property, which were not in a location to be extended to City-owned storm sewer systems. When the storm sewer was built for this particular development, it was laid at grade and doesn't drain at the rear of the property. It will require several hundred feet to extend the pipe before reaching a natural channel that allows the pipe to be buried. It will then be conveyed into a lake further down stream.

Councilmember Cain confirmed with Mr. Johnson the name of the subdivision is "The Pavillions" and the property is owned by Dr. Reed. Mr. Johnson stated once approved, they would work with the property owner to obtain the required easements without charge. Mayor Dunn confirmed with Mr. Johnson that the easement would need to be dedicated without cost to the City in order for the City to proceed with the project.

Derrick Alexander, 14601 Delmar, stated the flooding in their backyard had been occurring since they moved into this location in 2001. The stormwater drain is approximately 20 feet from the edge of their yard; when it rains, it floods the entire area. There are KCP&L and cable boxes in this location and are continually under water after a rain. When the water dissipates, their yard is completely full of debris. Mr. Alexander noted he had pictures that show the damage. A few years ago, the City tried to fix a better channel for the water to move through; however, it seemed to make it worse. Councilmember Gill noted concern that the power box under water was unsafe. Councilmember Azeltine confirmed with Mr. Alexander that the grading leveled out where the pipe ends; therefore, the water has nowhere to go. Mr Azeltine noted this is a City-owned structure on private property and with the boxes under water; the City could prevent a future liability by taking care of this problem now.

Councilmember Azeltine made a motion to approve the funding for the drainage concerns located at 14601 Delmar with clarification of the dedicated easement be included as discussed and recommended by the Stormwater Committee; seconded by Councilmember Gill. The motion was approved following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

Councilmember Bussing commented regarding the vast number of stormwater concerns (most don't qualify for [SMAC] funding) and wanted to develop a clear set of criteria for future assessment of these projects. Mr. Bussing noted there were other families in Leawood who felt just as wronged as Mr. Dunfield, Ms. Thomson, and Mr. Alexander, and wanted it clarified as to the order of which to proceed and the type of funding to be used. Councilmember Azeltine concurred with Councilmember Bussing and noted it was important to realize that in this particular situation, this was a City-owned structure and this was part of the reason it needed to be corrected; however, this didn't mean work shouldn't be done in other situations.

12. PLANNING COMMISSION

[From the June 10, 2008 Planning Commission Meeting]

- A. **Ordinance No. 2326** approving a Preliminary Site Plan and Final Site Plan for the Leawood Public Works Facility, located south of 143rd Street and east of Kenneth Road [Roll Call Vote]

Mr. Johnson gave a presentation of the proposed Public Works Facility. The original facility was built in 2001. One of the provisions to expand is along the south property line, where the proposed storage facility would be located. An expansion in the future would be to extend the maintenance bays. Currently, most of the City vehicles have to be parked outside. Current zoning requirements and ordinances require stored vehicles be parked inside or under a covered location, which is the reason this additional facility is needed. The height and material will be consistent with the present facility with the same manufacturer. There is a berm that runs along the west side of the property with existing landscaping for screening. The plans include planting 19 additional trees along the southwest side. Mr. Johnson noted they had a meeting with the developer of Bi-State due to his curiosity of what they were doing. He also had conversations with two property owners; one of which was fine with the plan, the other had indicated they had been good, quiet neighbors. Mayor Dunn confirmed with Mr. Johnson that the cost of the design/build contract would be \$486,000.

Mayor Dunn confirmed with Mr. Johnson that the new facility would eliminate surplus police vehicles sitting outdoors. Mr. Johnson also noted they were considering fencing some of the area so that any vehicles that may be out, would be somewhat protected from vandals.

A motion to approve the Leawood Public Works Facility was made by Councilmember Peppes; seconded by Councilmember Rawlings. The motion was approved following a unanimous roll call vote of 6-0. Yea: Councilmembers Bussing, Rawlings, Peppes, Azeltine, Gill, and Cain. Nay: None. (Councilmembers Filla and Rasmussen absent).

13. OLD BUSINESS – None.

14. OTHER BUSINESS

- A. Appointment of Richard Coleman as Community Development Director

Mr. Lambers noted Mr. Coleman was selected as a result of an extensive nationwide search and is from the metro-area. If approved, he will begin employment the first week of August.

A motion to approve a new Community Development Director was made by Councilmember Rawlings; seconded by Councilmember Azeltine.

Mayor Dunn noted she had the opportunity to meet with Mr. Coleman and he will make a great addition to the City.

The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

15. NEW BUSINESS

- A. **Ordinance No. 2327** granting to AboveNet Communications, Inc. a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, KS and prescribing the terms of said contract franchise, and repealing Ordinance No. 2088 [Roll Call Vote]

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

Mayor Dunn confirmed with City Attorney Patty Bennett there were no changes from the prior agreement.

The motion carried following a unanimous roll call vote of 6-0. Yea: Councilmembers Bussing, Peppes, Rawlings, Gill, Azeltine, and Cain. Nay: None. (Councilmembers Filla and Rasmussen absent).

- B. **Resolution No. 3077** approving and authorizing the Mayor to execute a Public Lands Use Agreement between the City and AboveNet Communications, Inc., pertaining to the installation and maintenance of communications facilities within existing conduit

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

- C. **Resolution No. 3078** approving and authorizing the Mayor to execute an Engineering Service Agreement between the City and Ochsner, Hare & Hare for an amount not to exceed \$44,300.00, pertaining to the preparation of plans and materials for the proposed rezoning of the tract of property located on the southeast corner of 137th and Mission Road

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

- D. Schedule a Governing Body Executive Session on Monday, July 7, 2008, immediately following the regular Governing Body meeting to discuss matters related to the acquisition of real property and attorney/client privilege

A motion to approve the executive session for a period of 20 minutes was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

The Governing Body recessed into Executive Session at 8:50 P.M. A motion was made by Councilmember Gill; seconded by Councilmember Peppes to extend the meeting for an additional 20 minutes. The motion was approved following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent). A motion was made by Councilmember Bussing; seconded by Councilmember Gill to extend the meeting for an additional 20 minutes. The motion was approved following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

The Mayor and Council reconvened into regular session at 9:50 P.M. A motion was made by Councilmember Bussing; seconded by Councilmember Rawlings authorizing the City Administrator to pursue condemnation of a tract of land at 117th and Roe for Parks and Recreation/Public use. The motion carried following a vote of 5-1. Yea: Councilmembers Peppes, Cain, Bussing, Rawlings, and Gill. Nay: Councilmember Azeltine. (Councilmembers Filla and Rasmussen absent).

Upon the successful acquisition of the tract of land to be condemned, the City Administrator will be authorized to dispose of the City owned property located at 114th and Tomahawk Creek Parkway.

A motion to approve the City Administrator's authority was made by Councilmember Peppes; seconded by Councilmember Bussing. The motion carried following a vote of 5-1. Yea: Councilmembers Peppes, Cain, Bussing, Rawlings, and Gill. Nay: Councilmember Azeltine. (Councilmembers Filla and Rasmussen absent).

A motion to adjourn the meeting was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0. (Councilmembers Filla and Rasmussen absent).

ADJOURN

Mayor Dunn adjourned the meeting at 9:55 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk