

Minutes

DVD No. 197

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:00 P.M., on Monday, September 8, 2008. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Richard Coleman, Comm. Dev. Director
Lovina Freeman, HR Director
Mark Andrasik, Info. Systems Director
Joe Johnson, Public Works Director
Kathy Rogers, Finance Director
Deb Mansfield, City Clerk

Patty Bennett, City Attorney
Mark Klein, Asst. to the Planning Dir.
Jeff Joseph, Senior Planner
Chris Claxton, P&R Director
Randy Hill, Deputy Fire Chief
Pam Gregory, Deputy City Clerk
Maureen Nussbeck, Acct. Specialist

1. PLEDGE OF ALLEGIANCE**2. APPROVAL OF AGENDA**

Mayor Dunn noted the Amended Agenda placed upon the dais. The following were modifications:

*Item Nos. 9A and 9B – Councilmembers Report would be given by Councilmembers Filla and Rasmussen.

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

4. PROCLAMATIONS Nat'l Payroll Week, September 1-5, 2008

Mayor Dunn read and presented the proclamation to Accounting Payroll Specialist Maureen Nussbeck.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

- A. **Resolution No. 3095** authorizing the issuance and delivery of \$20,760,000 principal amount of General Obligation Temporary Notes of the City of Leawood, Kansas, for the purpose of financing a portion of the costs of certain public improvements in the City; and prescribing the terms and details of said notes and certain covenants and agreements with respect thereto

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

Finance Director Kathy Rogers stated Roger Edgar, George K. Baum & Company, received the lowest bid and the award for \$9,675,000 in G.O. tax exempt bonds. Taxable bonds of \$2,700,000 were awarded to Morgan Keegan & Company. The notes were sold in two sets due to some being taxable and some tax exempt; \$15,800,000 to Wachovia Bank; \$4,960,000 taxable bonds to Raymond James & Associates, Inc. Ms. Rogers noted they had several bidders this year.

Mayor Dunn felt much of the added interest in bidding may have been associated with the City's recent AAA bond rating.

Councilmember Azeltine recused himself due to a conflict of interest.

Mr. Edgar noted they were pleased with the results.

The motion carried following a vote of 7-0. (Councilmember Azeltine recused).

- B. **Ordinance No. 2338** authorizing and providing for the issuance and delivery of \$20,760,000 principal amount of General Obligation Temporary Notes of the City of Leawood, Kansas, to provide funds to finance the cost of certain public improvement projects within the City; and making certain covenants with respect thereto [Roll Call Vote]

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

Mr. Edgar clarified that this ordinance also related to the issuance of the notes and that there was both an ordinance and a resolution.

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

Councilmember Azeltine rejoined the meeting at 7:15 P.M.

- C. **Resolution No. 3096** prescribing the form and details of and authorizing the delivery of \$9,675,000 principal amount of General Obligation Improvement Bonds, Series 2008-B, and \$2,700,000 Taxable General Obligation Improvement Bonds, Series 2008-C of the City of Leawood, Kansas, authorized by Ordinance No. 2338 of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith

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

Mayor Dunn clarified with Mr. Edgar that there was a typing error and the above resolution should refer to ordinance number 2339, not 2338.

Councilmember Filla amended the motion to reflect approval of Resolution No. 3096 referring to Ordinance No. 2339; seconded by Councilmember Gill. The motion carried following a unanimous vote of 8-0.

Councilmember Bussing referred to the cover memo on the dais regarding Craig Financing and the water feature at Cornerstone. He confirmed with Ms. Rogers that this referred to the 135th and Nall Street Improvement Project (more commonly known as the main water feature).

Mr. Lambers noted the original petition was for the water feature, which was the major expense for this project. Once it was started, the City had to maintain the name throughout completion. The water feature was not included and has not been built. Mr. Bussing confirmed with Mr. Lambers that the issues involving the development group as it related to the lack of the water feature had been resolved.

- *F. **Ordinance No. 2339** authorizing the issuance and delivery of 9,675,000 principal amount of General Obligation Improvement Bonds, Series 2008-B, and \$2,700,000 Principal Amount of Taxable General Obligation Improvement Bonds, Series 2008-C of the City of Leawood, Kansas providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the Bonds as they become due; and making certain covenants with respect thereto [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion carried following a roll call vote of 8-0. Yea: Councilmembers Gill, Rawlings, Bussing, Filla, Azeltine, Rasmussen, Peppes, and Cain. Nay: None.

- *D. PUBLIC HEARING** Public Hearing on the advisability of the creation of a Transportation Development District for the One Nineteen Development located on the southeast corner of 119th Street and Roe [CIP # 80456]-***CONTINUED TO THE SEPTEMBER 15, 2008 GOVERNING BODY MEETING***

Mayor Dunn noted the hearing would be open this evening, after which, would be continued to September 15, 2008. Council debate and discussion would take place on the 15th.

As no one was present to speak, a motion to continue the hearing to September 15, 2008, was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- E. Resolution approving Final Site Plan located approximately at the southeast corner of 137th Street and Mission Road for multi-family housing [Applicant: Oddo Development]—***THIS ITEM NEEDS TO BE TABLED***

Mayor Dunn noted this item had not been before the Planning Commission; therefore, has been requested to be tabled.

A motion to table the resolution to a date uncertain was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 8-0.

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance No. 1109B, 1110A, and 1110B
- B. Accept Minutes of the August 18, 2008 Governing Body meeting
- C. Accept Minutes of the June 24, 2008 Joint Governing Body/Budget & Finance Committee Work Session meeting
- D. Accept Minutes of the May 28, 2008 Leawood Foundation meeting
- E. Approve renewal of Retail Liquor License for Ranchmart Wine and Spirit Shoppe located at 3748 W. 95th Street
- F. **Resolution No. 2339** approving and authorizing the Mayor to execute an Amended Inter-local Agreement between the City and the Board of Johnson County Commissioners [BOCC] pertaining to the creation and establishment of the Transportation Cooperation Council [TCC] as a collaborative organization to serve as an advisory board to maintain and improve the community's mobility through a unified vision of transportation [previously approved through Resolution No. 3027; 05-05-08]
- G. Approve Change Order No. 1 in the amount of \$19,274.00 to Bruner Contracting Company, LLC, pertaining to the Public Works Storage Facility located at 14303 Overbrook [CIP # 76011]

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

8. MAYOR'S REPORT

- A. Attended a ribbon cutting ceremony for Natural Body spa and shoppe, featuring a green spa philosophy, located in the One Nineteen Shopping Center. Mayor Dunn noted they are headquartered in Atlanta, Georgia; this is the first shop in this region and is their 23rd store nationwide. They joined most of the other retailers at the grand opening weekend for the One Nineteen Shopping Center with charitable donations to the "Gift of Life," which is a non-profit organization that aims to increase organ and tissue donations. Mayor Dunn noted appreciation to everyone that was able to attend.
- B. Mayor Dunn thanked Councilmembers Azeltine and Cain for attending the ribbon cutting ceremony for Tide Dry Cleaners, located at 133rd and Roe in Parkway Plaza.
- C. Mayor Dunn congratulated Leawood resident Joe Jarvis, Junior at Barstow School, and his fellow comrade, Brock Knapp, of Overland Park, for raising more than \$40,000 in the past year to renovate and repair the swimming pool at Spofford, a Kansas City residential treatment center for abused and neglected children.
- D. Reminder that Wednesday, September 10, 2008, is the Annual Police and Fire Open House, held in collaboration with the City's Police Community Partnership from 5-8 P.M.

9. COUNCILMEMBERS REPORT

- A. Councilmember Filla attended the MARC solid waste management district meeting, representing Mayor Dunn. Ms. Filla stated they intend to create an integrated solid waste management system, prioritizing waste reduction, re-use, recycling, composting, and safe disposal and treatment of only materials deemed too difficult and costly to recover. The best plan to help create a longer use for landfills is to reduce what goes into them and recycle more, which is the focus of the Green Initiative Citizen Task Force. Ms. Filla noted invitations to the upcoming homes association meeting on October 9, 2008, had been placed upon the dais.

Councilmember Filla referred to the three objectives of the Green Initiative Citizen Task Force Committee; recycling, conservation, and mobility options, and asked that the Parks and Recreation Department explore the necessary steps for the City becoming a bicycle friendly community.

A motion was made by Councilmember Filla to refer this to the Parks and Recreation Department for their evaluation; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

Mayor Dunn noted appreciation to Councilmember Filla for attending the MARC event.

Councilmember Filla noted a referral from a Leawood resident regarding stormwater drainage from their property on 89th Street.

A motion was made by Councilmember Filla to refer this to the Stormwater Committee for review; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

- B. Councilmember Rasmussen noted the Golf Course Committee had a plan to rectify the problems at Ironwoods Golf Course. The plan includes cost, as well as a time line. Mr. Rasmussen noted Council should receive this information in their packets as an agenda item for the September 15, 2008, Governing Body meeting.

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the July 22, 2008 Planning Commission meeting]

- A. **Ordinance No. 2340** approving a Preliminary Site Plan, Final Site Plan and Final Plat for Bi-State Centennial Park, Lots 10 & 11, located north of 141st Terrace and east of Overbrook [PC Case 58-08] [Roll Call Vote] – ***CONTINUED FROM THE AUGUST 18, 2008 GOVERNING BODY MEETING***

Todd Lipshutz, RH Sailors & Company, represented the developer and the applicant. Mr. Lipshutz noted there were two lots currently being platted into one for office condominium buildings. The buildings are 9,000 and 6,000 square foot. They exceed the recently approved guidelines for Centennial Park as it relates to masonry on the building, which is a combination of stucco and cultured stone.

Mayor Dunn noted Stipulation No. 11 – “The light intensity along the east property line shall be a maximum of 4.0 FC,” and asked if there were any residential communities nearby that may have an issue with the light intensity. Senior Planner Jeff Joseph confirmed that the residential community was to the north and that the lighting would be along the east side.

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

Councilmember Bussing confirmed with Mr. Lambers that the development ordinances and the guidelines for Centennial Park had changed since the Cocherl Building was built. The City now allows masonry, stucco, and other materials than the brick façade that is, currently, on the Cocherl Building. Mr. Lambers clarified for Mr. Bussing that the rationale for the change was to help make the business park marketable.

The motion carried following a unanimous roll call vote of 8-0. Yea: Councilmembers Bussing, Gill, Azeltine, Rawlings, Peppes, Cain, Filla, and Rasmussen. Nay: None.

Councilmember Bussing asked if the lots that bordered Kenneth Road would be developed in accordance with the guidelines in place for the Cocherl Building. Mr. Lambers stated they were more stringent than those guidelines and require a greater amount of stone material as opposed to stucco.

- B. **Ordinance No. 2341** approving a Special Use Permit for Molle Offsite Parking, located approximately at 104th Street and State Line Road [PC Case 47-08] [Roll Call Vote] – ***CONTINUED FROM THE AUGUST 18, 2008 GOVERNING BODY MEETING***

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

Anna Molle Staci, General Manager of Molle Toyota, read a prepared statement regarding approval of a Special Use Permit [SUP] for offsite parking.

Mayor Dunn noted when this was initially permitted in 2001, it was for 26 vehicles. The current request is for 56 parking spaces; this would be an addition of 30 parking spaces. Mayor Dunn confirmed with Mr. Lambers the number of spaces requesting to be approved was 53. Mr. Lambers stated they were originally permitted 26, and added 30 with the subsequent SUP, totaling 56 at the time it had expired.

Mayor Dunn confirmed with Ms. Staci that all of the parking spaces would be occupied with new vehicles 100% of the time. Depending upon the size of the vehicles would determine how many could be parked there.

Councilmember Bussing requested that the wording be changed in the ordinance to stipulate that the number of spaces would be limited to 53 and the parking be used for new vehicles only.

Councilmember Rasmussen amended the motion to add these stipulations; seconded by Councilmember Peppes.

Councilmember Peppes confirmed that these stipulations needed to be fulfilled before the SUP was issued. He also confirmed with Mr. Lambers that the dead trees would be replaced, the pot holes would be repaired, and the sealer would be applied before the vehicles were parked there.

Mayor Dunn confirmed with Mr. Lambers the reason there was not a request for a landscape buffer around the perimeter was because the SUP request is for only one year.

The motion carried following a roll call vote of 7-1. Yea: Councilmembers Rasmussen, Peppes, Cain, Filla, Azeltine, Rawlings, and Bussing. Nay: Councilmember Gill.

- C **Ordinance No. 2342** approving a Preliminary Site Plan and Final Site Plan for Mission Trail Elementary School, at 133rd Street and Mission Road [PC Case 61-08] [Roll Call Vote] – ***CONTINUED FROM THE AUGUST 18, 2008 GOVERNING BODY MEETING***

Mr. Lambers stated Stipulation Nos. 3 and 4 needed to be omitted.

Scott Pashia, NSP Architecture, stated he was representing the Blue Valley School District. Mr. Pashia gave a presentation on the renovation/addition to the Mission Trail Elementary School. There will be an addition of approximately 8,500 square feet, with an additional 1,900 square foot mechanical enclosure. The existing mechanical units are located on the roof, which will be removed. The new proposed mechanical enclosure will be at grade level. The addition will be to the southeast of the project, which faces 133rd and Mission Road.

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

Councilmember Cain referred to an additional turn lane that was being considered for 133rd Street in the future and asked which direction it would be going.

Mr. Pashia noted at the previous meeting there was discussion of adding students; however, the intention of the district is to reorganize and provide larger classrooms. The queue should remain the same and they are encouraging bus usage.

Mr. Lambers stated the turn lane would be directed to the north. As stated in the application, they are adding and consolidating three classrooms. They claim there is no increase in students. Staff's analysis is based on information provided from the school district. He noted concern from staff that these three classrooms could be reconverted and there could be 60 – 80 students added to the population of the school. If this is the case, the City would return to the school district with traffic management concerns, which would also include improvements needed along Mission Road.

Mayor Dunn asked Mr. Lambers if any of the remarks stated needed to be incorporated into any of the stipulations/conditions for approval, since there is no information included regarding future traffic. Mr. Lambers stated the City had to take the application at its face value. It will be on record that the City did so not requiring additional traffic mitigation measures. Also, referring to Stipulation No. 2 – “All power lines, utility lines, etc. (existing and proposed, including utilities and power lines adjacent to and within abutting right-of-way) are required to be placed underground. The time that the utilities shall be placed underground shall be as determined by the City of Leawood Governing Body.” Staff does not deem it necessary to underground the utilities as of this point; however, should the property to the south develop, the City would anticipate that the utilities be installed at this time underground along Mission Road to the property line to the north.

Mayor Dunn confirmed with Mr. Lambers and Police Chief John Meier there was no need to require any improvements at this time with the application. Staff felt as long as the school didn't add to the population, no additional mitigation measures were necessary.

Councilmember Cain asked what the current population was of the school. Mr. Pashia stated he didn't have that information available. She noted the swing in population from year to year. Mr. Lambers stated the City would consider an average population over a three-year time frame.

Mr. Pashia noted since there has been the addition of new elementary schools, the population had subsided some.

Councilmember Azeltine asked if the school district had made any projection of the population in the future. Mr. Lambers stated they can adjust the boundary lines; therefore, it makes it difficult for them to forecast. Mr. Azeltine confirmed with Mr. Lambers that the district's expectation was for the student population to remain static at this point.

Mayor Dunn confirmed with Mr. Lambers that if staff returned in the future with an issue, they could debate it and then require some improvements.

Councilmember Gill clarified to amend his motion to presume what Mr. Lambers described regarding future traffic issues, based upon an increase in population of students. Also to include: the discussion regarding Stipulation No. 2 - power/utility lines and the deletion of Stipulation Nos. 3 and 4. Councilmember Rawlings concurred with the amended motion.

The motion carried following a roll call vote of 8-0. Yea: Councilmembers Gill, Rawlings, Filla, Cain, Peppes, Azeltine, Bussing, and Rasmussen. Nay: None.

- D. Ordinance No. 2343** approving a Preliminary Site Plan and Final Site Plan for Villaggio East Drainage Facility, located on the southeast corner of 135th Street and Fontana [Roll Call Vote]

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

James Taylor, President James E. Taylor Design Group, stated he was representing the Villaggio Development Group West and was present to answer any questions.

Councilmember Gill confirmed with Mr. Taylor that the developer agreed to Stipulation Nos. 4 and 5.

The motion carried following a roll call vote of 8-0. Yea: Councilmembers Rasmussen, Bussing, Peppes, Azeltine, Rawlings, Cain, Filla, and Gill. Nay: None.

[From the August 12, 2008 Planning Commission meeting]

- E. Resolution No. 3098** approving a Final Site Plan for Parkway Plaza-Tide Cleaners [Former Green Earth Cleaners-Retail 10], located on the northwest corner of 135th Street and Roe Avenue

Aaron Eisel, Proctor & Gamble Company, noted appreciation to Councilmembers Azeltine and Cain for attending the ribbon cutting ceremony for Tide Dry Cleaners.

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

Mayor Dunn asked how the size of the “Tide” logo banner on the Roe Avenue side of the building compared to the 24” diameter stipulated in Stipulation No. 2. Mr. Eisel stated he was unsure of the actual size and noted he could present a picture.

Mr. Lambers explained that staff’s first concern and opposition to this was the actual logo itself. The Leawood Development Ordinance [LDO] is silent to them. There have been increasing requests for logos that are contrary to the design criteria of every shopping center that the City has approved. Logos are intended by the retailers to create some individuality. Staff, Planning Commission, and Council have been supportive of those applications; however, recently the proliferation of larger, multiple, and “gaudy” logos have been requested. There is concern of the colors on the logo and the location of the second logo being on the east (Roe Avenue) side. Mr. Lambers understood retailers were trying to distinguish themselves and felt this could be done within reason. He referred to the Apple Store and noted the logo was considerably larger than anything the City had ever approved; however, they have no sign attached. These approvals are done on a case-by-case basis. Mr. Lambers stated he was adamantly opposed to the logo on the Roe Avenue side of the building. He felt Council should limit the application of the logo to only the shopping center side, and consider each application on its own individual merits.

Mr. Lambers referred to the Mayor’s question as to the size of the logo and stated it was 20” with the logo 2” greater in diameter.

Councilmember Bussing asked Mr. Lambers opinion of the Apple Store logo, since it is so large. Mr. Lambers stated it met the guidelines being less than 5% of the building size. There is no sign attached and is a unique application Council considered very deliberately to allow it to be permitted.

Councilmember Cain confirmed with Mr. Eisel that the 24” sign was temporarily allowed to be displayed at the ribbon cutting. Ms. Cain stated she approved of the sign and thought it was very tastefully done.

Councilmember Gill referred to the window scrims and Stipulation No. 4 and felt this was considered additional signage. Mr. Gill stated he liked the pictures; however, felt the words were being used for additional advertising. He also felt this could interest others wanting to use window advertising. Mr. Eisel stated the scrims were there to help block the view of production equipment of the dry cleaners. He also felt the words referred to communicating a new way to think about dry cleaning. Mr. Gill felt they were “power words” designed to sell cleaning. Mr. Eisel stated when they met with the Planning Commission they were told they could not do any “branding,” and felt that meant no “Tide” logos. They had complied with this request. Mr. Eisel stated they could remove the wording on the scrims, if necessary. Mr. Gill stated the colors of the scrims were visually interesting and felt they complimented the logo.

Mayor Dunn noted generally, when there is signage placed in a window, it is done as a special request for a limited amount of time and a permit fee is required in order to display it.

Councilmember Azeltine stated the ribbon cutting ceremony was very well orchestrated and that this is their pilot store. They are working in connection with “Green Earth” and the processes

used are environmental friendly. Mr. Azeltine asked how high the sign was placed. Mr. Lambers stated according to the application it was 5-7 feet high. Mr. Azeltine stated it seemed higher than that when he attended the ribbon cutting. He understood the point staff was making; however, didn't want Council to appear arbitrary, since they approved the Apple Store logo, which is much larger than this one. Mr. Lambers stated currently, the applicants are allowed one sign on the front of the building; the second sign approval depends on whether Council and staff feel it is appropriate. At the Planning Commission, the applicant complained that the City didn't have standards for this. Mr. Azeltine stated the ordinance might need tightening up. Mr. Lambers stated there was nothing in the ordinance that pertained to this. Mr. Azeltine felt this could be part of the reason to the prior arbitrary nature of some of the decisions made by Council and staff. He felt the signage was very tasteful and needed to be placed in a visible location and noted it wasn't reasonable for Council to deny it. Mr. Azeltine felt since the ordinance was silent to this, each case should be taken on an individual basis. Mr. Lambers wanted Council to direct staff as to the number of signs that would be appropriate and have this added in the ordinance. Mr. Azeltine stated neither Proctor & Gamble nor the dry cleaners needed to pay for the City's vague language in the ordinance and, therefore, he would be supporting the resolution.

Councilmember Filla referred to the scrim and stated she was pleased Mr. Eisel was in agreement to remove the words and felt the pictures spoke for themselves and the words would be redundant. Ms. Filla stated she would be happy with just one sign and felt the "Tide" logo was somewhat misleading in terms of a dry cleaner. Mr. Eisel stated their name is their logo and "Tide" was one of the six most recognized brands in the world.

Councilmember Gill concurred with Mr. Lambers issues and stated they needed clear definition in the ordinance on the number of signs allowed. Mr. Gill wanted clarification added in the motion that there would not be words included on the scrim.

Councilmember Bussing concurred with Mr. Gill's comments and was concerned with the discussion related to this application noting it had become extremely arbitrary of what someone likes or doesn't like, lacking any firm direction in the City's statutes or ordinances. Mr. Bussing felt the logos were fine and the scrim were appropriate, with or without the words.

Councilmember Rasmussen referred to Stipulation No. 4 and felt the interpretation should address Councilman Gill's concerns of the scrim. Mr. Lambers stated it would be a question of interpretation to what the words mean. He stated the argument would be that the words imply the business, or that they are simply describing the pictures.

Mayor Dunn referred to the scrim and noted the staff recommended to "remove" them and the Planning Commission recommended they be "removable." Mayor Dunn confirmed with Mr. Eisel that the window graphics are removable; however, they would remain permanent. The applicant stated he was willing to leave the scrim without the wording.

Mayor Dunn referred to the two elevations of the signs and felt the "Tide" logo placed to the left of the sign was a cleaner look. She asked if this could be an option for both signs.

Jeff Horstmeier, Bell/Knott Associates, stated there was not enough wall space on the east side of the building to allow the "Tide" logo to be placed to the left; therefore, it was placed above the sign.

Mr. Lambers stated if taken into account the logo from top to bottom, this would allow for 2 ½ times the sign height that is beyond the design guidelines. The sign on the front elevation is the one staff has recommended for approval. Mr. Lambers stated the sign on the east side was more inconsistent to what staff has recommended in the past. Mayor Dunn confirmed with Mr. Eisel that both logos on the building were identical in size.

Mr. Lambers stated the sign on the east side of the building was outside the design guidelines of the shopping center; however, it was recommended for approval by the Planning Commission on a 4-2 vote.

Mr. Eisel stated they had a letter from the developer supporting the proposed signage.

Mayor Dunn confirmed with Councilmember Azeltine that he knew there was a deviation from the Planning Commission when he made the motion for approval. Mr. Azeltine noted he wasn't concerned with the wording on the scrims; however, he would amend the motion if needed. Mr. Azeltine accepted this as a friendly amendment; seconded by Councilmember Peppes. Stipulation No. 4 would be changed to read: "All window graphics shall be removable and they shall not contain any advertising or lettering other than visual graphics."

Councilmember Filla referred to Stipulation No. 2 and confirmed with Mr. Lambers that the applicant was matching the logo, not the layout of the sign. Mr. Lambers stated the layout on the east side would be considerably larger from top to bottom. Ms. Filla made a motion to amend the amended motion to delete the wall sign on the east side of the building; seconded by Councilmember Rasmussen.

Councilmember Cain noted many freestanding buildings in this location had at least two signs and felt the applicant shouldn't need to eliminate one.

Councilmember Filla confirmed with Mr. Lambers that staff's objection was only to the second logo on the east side, not the second sign.

Councilmember Filla clarified that her amended motion was to delete only the logo portion of the sign on the east side; seconded by Councilmember Rasmussen.

Mr. Eisel stated this would greatly prohibit their ability to be successful. The majority of awareness of the store will be driven from the Roe Avenue side of the building.

Councilmember Cain stated she understood the logo concept; however, asked if staff would consider accepting a blade sign if the applicant would agree to the change. Mr. Lambers stated this was an individual subjective evaluation.

Staff felt the colors of the logo exceed anything within the City, in terms of the design guidelines. Mr. Lambers stated he understood that individual retailers want unique color features; however, felt this one crossed the line.

Councilmember Azeltine felt that the City of Leawood should not be telling Proctor & Gamble that one of their top brands was not good enough to take up 18-20 inches on the side of a building. It is extremely unobtrusive and tasteful. Mr. Azeltine felt if the motion passed to remove the logo and not the sign, it would be viewed upon by the public and press as extremely arbitrary.

City Clerk Deb Mansfield clarified with Mayor Dunn that the motion initially made by Councilmember Azeltine and seconded by Councilmember Peppes was to approve the resolution. A request was then made by Councilmember Gill to amend the motion removing the words from the signs. Mayor Dunn noted this was accepted as a friendly amendment. Ms. Mansfield confirmed with Mayor Dunn that there was then a formal amendment to the motion that would be voted on by the Governing Body.

Councilmember Peppes stated it was time to take a vote and felt each application needed to be considered on a case-by-case basis. Dr. Peppes stated he would support a logo on the front and the back of the building for a company with the history behind Proctor & Gamble. He stated the logo gives them their credibility. Dr. Peppes stated staff needed direction on this and felt it needed to be done quickly.

Councilmember Gill stated the logo on Roe Avenue was very important for the applicant. It fits well with the concept and felt the applicant made a wise choice in coming to Leawood. Mr. Gill stated he would support the logo.

Councilmember Rasmussen felt the discussion was well worth while and hoped to follow through with comments made by Councilmember Peppes.

Councilmember Azeltine confirmed with Mr. Lambers since the motion had changed, that the vote would require a super majority to override the Planning Commission.

Mayor Dunn asked if the logo was placed in line next to "Dry Cleaners" on the Roe Avenue side of the building it there would be any acquiescence on the part of the applicant. Mayor Dunn felt this would be within the design guidelines, although there would still be two logos. This would allow better standing for the City when the next applicant requests something similar. Mr. Lambers stated this would still exceed the design guidelines; however, it would be to a lesser degree.

Mr. Horstmeier stated either the logo and/or the dry cleaner sign would have to become significantly smaller in order for it to work. Mr. Eisel felt the sign would have to be so small people would not be able to see it from the street.

Councilmember Azeltine asked to call the question on the amendment; seconded by Councilmember Rasmussen.

Mayor Dunn confirmed that the amendment was to remove the logo from the east wall sign facing Roe Avenue. Yea: Councilmembers Filla and Rasmussen. Nay: Councilmembers Azeltine, Rawlings, Bussing, Cain, Peppes, and Gill. Mayor Dunn confirmed that the amendment had failed, and the original motion would be voted upon.

Councilmember Gill confirmed with Mr. Lambers and Mr. Eisel that both logos were 24" in size.

Councilmember Bussing wanted clarification of the window scrim. Mayor Dunn confirmed there were to be no words, just the pictures. Mr. Bussing asked for rationale on this. Mr. Gill stated he made the motion because he felt it was advertising. Mr. Bussing confirmed with Mr. Lambers there were other stores on 119th Street that had signs in the windows; however, Mr. Lambers stated the Planning Commission had debated this on other requests. They were not permitted as part of the elevations that were approved. Mr. Bussing confirmed with Mr. Eisel that the scrim was removable. Mr. Bussing requested the scrim be allowed with the wording for one year, and then decide if they are offensive in their advertising. Mayor Dunn noted the scrim was to remain up. They are removable; however, the applicant has requested they remain up to block the view of the production of the dry cleaners. Mayor Dunn noted the friendly amendment was to remove the wording, not the scrim. Mr. Eisel stated they could commit to never changing the lettering on the scrim if it would make everyone more comfortable. Mr. Gill felt the words would quickly become a marketing message. Mayor Dunn reiterated Stipulation No. 4 – "All window graphics shall be removable and they shall not contain any advertising other than visual graphics."

The original motion to approve the resolution carried following a vote of 6-2. Yea: Councilmembers Rawlings, Azeltine, Rasmussen, Cain, Peppes, and Gill. Nay: Councilmembers Filla and Bussing. Councilmember Bussing stated he was frustrated with the lack of direction of the Governing Body.

Councilmember Gill concurred with Mr. Bussing's comments and noted their packets did not contain information regarding the scrim lettering. Mr. Gill noted he didn't see any lettering on the scrim until he drove by the dry cleaners.

12. OLD BUSINESS – None

13. OTHER BUSINESS – None

14. NEW BUSINESS

- A. **Ordinance No. 2344** granting to Southwestern Bell Telephone, L.P. d/b/a AT&T Kansas, a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2065 [Roll Call Vote]

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

Councilmember Peppes asked when they officially abandon the line, if they remove it. City Attorney Patty Bennett stated they had a lease on the inter duct, which is a small duct within the conduit itself that is not in use. The regular local exchange lines will remain.

The motion carried following a roll call vote of 8-0. Yea: Councilmembers Bussing, Peppes, Azeltine, Rawlings, Cain, Filla, Rasmussen, and Gill. Nay: None.

- B. **Resolution No. 3099** approving and authorizing the Mayor to enter into a Public Land Use Agreement between the City and Southwestern Bell Telephone L.P. d/b/a AT&T Kansas, pertaining to the installation and maintenance of communications facilities within existing conduit

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

- C. **Resolution No. 3100** authorizing termination of Architectural Design Agreement dated September 4, 2007, between the City and Ball Construction Services LLC [Dennis Reynolds] pertaining to the design of Gezer Park, located at 133rd and Mission Road [# 76006]

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

Councilmember Rasmussen stated he was in favor of terminating the contractor and asked how this would affect the ability to have the park up and running by spring of 2009. Mr. Lambers stated it would affect it; however, the contractors that will be present at the September 15, 2008, City Council meeting are aware of the target date and plan to achieve as much completion as possible by May, 2009. Mr. Lambers clarified for Councilmember Rasmussen there would be a specific calendar of events within two or three weeks after the contractors have been retained by the City.

The motion carried following a unanimous vote of 8-0.

ADJOURN

There being no further business, Mayor Dunn adjourned the meeting at 9:05 P.M.

Debra Mansfield, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk