

**Minutes**

DVD No. 198

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, September 15, 2008. Mayor Peggy Dunn presided.

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

**Mayor/Councilmembers absent:** Gary Bussing

**Staff present:**

Scott Lambers, City Administrator  
Chief John Meier, Police Department  
Chief Ben Florance, Fire Department  
Richard Coleman, Comm. Dev. Director  
Lovina Freeman, HR Director  
Joe Johnson, Public Works Director  
Kathy Rogers, Finance Director

Patty Bennett, City Attorney  
Mark Klein, Asst. to the Planning Dir.  
Jeff Joseph, Senior Planner  
Chris Claxton, P&R Director  
Scott Smith, Web Master  
Deb Mansfield, City Clerk  
Pam Gregory, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn referred to the Amended Agenda and noted the following modifications:

- \* Item Nos. 6C, 6D, and 12A were continued to October 6, 2008
- \* Additional Item No. 14A would be under Other Business.

A motion to approve the Amended Agenda was made by Councilmember Rawlings; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing 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      Constitution Week, September 17-23, 2008**

**5. PRESENTATIONS/RECOGNITIONS**

**6. SPECIAL BUSINESS**

A. **PUBLIC HEARING**

Consider vacating the easement located at 4813 W. 143<sup>rd</sup> Terrace, Highland Creek, 3<sup>rd</sup> Plat, Lot 49A

Mayor Dunn opened the public hearing for comment.

Julie Haverly, attorney for Swanson Midgley, was present and represented the petitioner.

As no one else was present to speak, a motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- B. **Ordinance No. 2346** vacating an easement located within Lot 49A, Highland Creek, commonly known as 4813 W. 143<sup>rd</sup> Terrace, Leawood, Johnson County, Kansas [Roll Call Vote]

A motion to approve the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous roll call vote of 7-0. Yea: Councilmembers Rasmussen, Filla, Peppes, Rawlings, Azeltine, Gill, and Cain. Nay: None. (Councilmember Bussing absent).

- C. Presentation of 2008 Comprehensive Plan and Map- ***TO BE CONTINUED TO THE OCTOBER 6, 2008 GOVERNING BODY MEETING***

- D. Resolution approving the Planning Commission's recommendation to adopt the 2008 Leawood Comprehensive Plan and map, in accordance with K.S.A. § 12-7-47 [*From the August 12, 2008 Planning Commission meeting*] - ***TO BE CONTINUED TO THE OCTOBER 6, 2008 GOVERNING BODY MEETING***

E. **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 119<sup>th</sup> Street and Roe [CIP # 80456]- ***CONTINUED FROM THE SEPTEMBER 8, 2008 GOVERNING BODY MEETING***

Mayor Dunn noted she had continued the public hearing on the advisability of creating a Transportation Development District [TDD] for the One Nineteen Development, located on the southeast corner of 119<sup>th</sup> and Roe Avenue.

Charles Miller, attorney representing the 119<sup>th</sup> Street Development, stated he was there to speak regarding forming a TDD, approving a development agreement, and levying a sales tax and special assessment. This would only be done within the boundaries of the One Nineteen Shopping Center.

There is a process that allows financing of approximately \$3,825,000 of transportation related improvements associated with this shopping center and will be financed with TDD bonds. These bonds are capped at \$4,950,000, which is the gross or par amount of the bonds. The net proceeds forecast are approximately \$3,800,000. The owner of the property receives the actual cost of the improvements and cannot go over the cap. The cap includes all the issuance cost, capitalized interest, and everything else associated with the bond issuance. The developer receives his actual cost and must go through a cost certification process with the City. This information is covered in the documents before Council and is also included in the bond documents. The bonds will be paid by the 1% sales tax and an annual special assessment equal to 25% of the annual debt service on the bonds. There is a process that allows for the assessment to be refunded to the property owners each year, if in the previous year, it was not needed to pay the debt service. It can only be refunded up to the amount of that assessment.

They have included all the protections that were included in the Park Place documents that were used as a reference, which include that 50% of the stores must be open; they have exceeded that mark with 55% - 56%. The sales tax must be in place for three months and the City has an outside consultant making sure there is sufficient revenue coming in to cover the debt service. The City has a disbursement process set up and cost certification in place. The sales tax should start January 1, 2009, and issuing bonds in July, 2009.

Mayor Dunn opened the public hearing for comments.

As no one was present to speak, a motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Rawlings.

Councilmember Rasmussen wanted the record to show what specific items were included in the bond issue unique to this property.

Mr. Miller stated there was approximately \$1.6 - \$1.7 Million of traditional public improvements that could be financed with a Public Benefit District using the TDD, which eliminates any City credit on the debt that is a component of it. The remainder of it was the extraordinary site work that had to be done in terms of moving fill and grading because of the topography of that site. This included the retaining walls and storm sewers. These are items that were unique to the property that justified the additional participation.

Mayor Dunn confirmed with Mr. Miller that the underground utilities were included in the \$1.6 Million.

The motion to close the public hearing carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- F. **Resolution No. 3101** approving and authorizing the Mayor to execute a Development Agreement, between the City and 119<sup>th</sup> Street Development, LLC, for property located on the southeast corner of 119<sup>th</sup> Street and Roe [CIP # 80456]

Councilmember Gill asked if the sales tax goes into effect January 1, 2009, and if the bonds were going to be issued in July, 2009. He noted there was a six or seven month period where taxes were being collected; however, bonds had not been issued and asked how those proceeds would be applied.

John Klaus, Stifel Nicolaus, stated wherever the monies are held, they would be used to pay down the bond issuance to lower the aggregate principal amount.

Mr. Gill asked how to track the incremental sales tax coming from the 119<sup>th</sup> Street Development.

Finance Director Kathy Rogers stated it was similar to Park Place. The City would get a separate report from the state and it would go into a restricted fund. The City can identify Park Place separately by the way Council approves the resolution. If it is approved for sales tax, the City will have to give them the individual business address and location map and they will remit them. The state will then pass it through.

Mr. Gill asked if the state would segregate it to the 119<sup>th</sup> Street Project. Ms. Rogers stated the state pays the City through a wire report and it is broken off and put into a segregated fund.

Mayor Dunn noted these items were discussed in work sessions with Ms. Rogers and Mr. Miller and were agreed upon through consensus. Mr. Miller concurred with Mayor Dunn.

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- G. **Ordinance No. 2345**, authorizing the creation of a Transportation Development District in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefor. [119<sup>th</sup> Street Development; CIP # 80456] [Roll Call Vote]

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

Mayor Dunn noted the bond issuance was for 22 years; however, projections in the work sessions suggested the bonds would be retired earlier.

Mr. Miller stated he couldn't guarantee the earlier payoff; however, indicated the most current projections show a payoff in 2017.

Councilmember Azeltine asked what percentage of occupancy the payoff was based upon. Mr. Klaus stated presently, it is at 55%. In 2009, they are anticipating \$70 Million in sales with approximately 70% - 75% occupancy; in 2010, approximately \$80 Million with 100% occupancy.

Mr. Azeltine confirmed with Mr. Klaus there hadn't been any other projections done based upon a lower tenancy. This is figured with a fairly high coverage; meaning, if the projected debt service is \$100,000 in 2015, they want the projected revenues to be two times the coverage. Mr. Azeltine confirmed with Mr. Klaus the coverage varies throughout the life of the bonds because of the level of debt service. He confirmed they have to quote an average coverage in the prospectus; approximately two times coverage throughout the life of the bond. Mr. Klaus stated that was how they structure all the bond issues, which is what the market requires they build in coverage.

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

- H. **Ordinance No. 2347** authorizing and providing for the imposition of a Transportation District Sales Tax within the 119 Transportation Development District located east of Roe and South of 119<sup>th</sup> Street and North and West of Tomahawk Creek Parkway, in the City of Leawood, Johnson County, Kansas; establishing a method of collection of such sales tax; and providing for the segregation of such sales tax revenues for the payment of the costs of certain transportation projects within the Transportation Development District [Roll Call Vote]

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

Councilmember Azeltine confirmed with Ms. Rogers that the sales tax rate was currently 7.925% and would change to 8.925%, with the addition of the 1%.

Councilmember Azeltine wished Red Development much success and noted he was very impressed with the project.

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

## 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. 111A
- B. Accept Minutes of the August 18, 2008 Governing Body Work Session meeting
- C. Accept Minutes of the August 4, 2008 Governing Body Work Session meeting
- D. Accept Minutes of the July 31, 2008 Ironhorse Advisory Board meeting
- E. Accept Minutes of the July 31, 2008 Green Initiative Citizen Task Force Committee meeting
- F. Accept Minutes of the August 8, 2008 Audit Services Selection Task Force Committee meeting

- G. Accept Minutes of the July 8, 2008 Public Work Committee meeting
- H. Approve purchase in the amount of \$26,134.66 from John A. Marshall Company, for the purchase of replacement chairs in the Oak Room in the Community Center
- I. **Resolution No. 3102** accepting a Storm Sewer Easement from James A. & Janet S. Stauffer, located at 8312 Meadow Lane, Leawood Lot 193, in connection with Storm Sewer Maintenance Project # 76014
- J. **Resolution No. 3103** accepting a Storm Sewer Easement from James W. & Kathleen T. Hipps, located at 9737 Overbrook, Leawood Estates, Lot 361, in connection with Storm Sewer Maintenance Project # 76013
- K. **Resolution No. 3104** accepting a Storm Sewer Easement from Jack A. Boring, Trustee, located at 9733 Overbrook, Leawood Estates, Lot 360, in connection with Storm Sewer Maintenance Project # 76013
- L. **Resolution No. 3105** approving and authorizing the Mayor to execute an Engineering Agreement for an amount of \$111,900 between the City and Phelps Engineering, Inc., pertaining to Gezer Park, located at located at 133rd and Mission Road [# 76006]
- M. **Resolution No. 3106** approving and verifying the City of Leawood's 2009 allotment to the 2009 Human Service Fund [United Community Services – USC] and the City of Leawood's participation for an amount not to exceed \$10,000
- N. **Resolution No. 3107** approving and verifying the City of Leawood's 2009 allotment to the Alcohol Tax Fund by Johnson County Drug and Alcoholism Council [DAC] for an amount not to exceed \$110,000
- O. **Resolution No. 3108** approving a Final Site Plan for a tenant finish for Park Place - Bradley Paper, located at the northeast corner of 117th Street and Nall Avenue, within the Park Place development [*from the August 26, 2008 Planning Commission meeting*]
- P. **Resolution No. 3109** approving a Final Site Plan for a tenant finish for Park Place - Muse Salon, located on the northeast corner of 117<sup>th</sup> Street and Nall Avenue, within the Park Place development [*from the August 26, 2008 Planning Commission meeting*]
- Q. **Resolution No. 3110** approving a Final Site Plan for a tenant finish for Park Place - KC Surroundings, located on the northeast corner of 117<sup>th</sup> Street and Nall Avenue, within the Park Place development [*from the August 26, 2008 Planning Commission meeting*]
- R. Police Department Monthly Report
- S. Fire Department Monthly Report
- T. Municipal Court Monthly Report

Mayor Dunn requested to pull Item Nos. 7L and 7Q for discussion. Councilmember Filla requested to pull Item No. 7S.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- L. **Resolution No. 3105** approving and authorizing the Mayor to execute an Engineering Agreement between the City and Phelps Engineering, Inc., pertaining to Gezer Park, located at located at 133rd and Mission Road [# 76006]

Roger Cassidy, Phelps Engineering, stated Phase I would consist of mass grading the parking lot, storm sewers, public sanitary sewers, and the art work foundation. There are plans available for bid and there is a two-week bid time frame. The bids are planned to be opened on September 26, 2008. Mr. Cassidy stated they anticipate this going before Council on October 6, 2008. Phase I should be completed by December 5, 2008. They also proposed Phase II, which is the final grading to include: The restroom building, shelter structures, water feature, walking paths, irrigation and landscaping. They intend to have plans ready to bid on October 8, 2008, with a bid opening date of November 5, 2008. They anticipate going before Council on November 17, 2008. This is a 150 calendar day construction time frame, which makes it completed on approximately April 17, 2009.

Mayor Dunn confirmed with Mr. Cassidy he was confident that the bulk of the grading would be done this calendar year. He noted they would also be installing the foundation for the art piece and it could be erected before December 5, 2008.

Councilmember Peppes asked Parks & Recreation Director Chris Claxton how this fits in with the \$1.1 Million budget for Gezer Park. Ms. Claxton stated the final engineers estimate had not been completed. The delay in time will probably have some effect. She noted they would have this information as the documents were collected. Dr. Peppes was concerned with starting Phase II and being close to over budget. Ms. Claxton stated everything in Phase I is primarily the site work. When this comes before Council in October, there should be a better understanding of both Phases I and II. Some items in Phase II have been delayed, such as the play structures not being installed until 2010; this will be put in the 2010 budget. There is also a shelter that will be held off for now, and added in the future.

Councilmember Peppes confirmed with Ms. Claxton there had not yet been any money spent with the first firm; they were still trying to work that out with them.

Mayor Dunn asked how much of the \$1.1 Million would be ascertained by the time this would return before Council on October 6, 2008. Mr. Cassidy hadn't completed an estimate on this yet; however, thought it would be approximately 20% - 25%.

Councilmember Rasmussen was concerned that the budget of \$1.1 Million would not be enough and asked Mr. Cassidy to give indication when they begin Phase II. Mr. Rasmussen noted the \$1.1 Million was taxpayer contribution. He asked Mr. Cassidy to let him know what parts of Gezer Park could not be built within the taxpayer budget.

Councilmember Azeltine asked what Mr. Cassidy and staff's confidence level was of getting the park open by April, 2009. Mr. Cassidy stated he was confident; however, had concerns with the weather cooperating.

A motion to approve Item No. 7L was made by Councilmember Peppes; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- Q.     **Resolution No. 3110** approving a Final Site Plan for a tenant finish for Park Place - KC Surroundings, located on the northeast corner of 117<sup>th</sup> Street and Nall Avenue, within the Park Place development [*from the August 26, 2008 Planning Commission meeting*]

Mr. Lambers stated when this project was initially approved, there wasn't a track record with cultured stone as it relates to durability. Since that time, there have been a number of projects where the material had not adhered to the wall and has fallen off. Staff has concerns with regard to contact of this stone. Staff has insisted there be a landscape area between a sidewalk and building on the recent projects that have the cultured stone and have been approved, to minimize any type of contact. Staff has expressed their concern to the applicant of Park Place regarding this. They insist it is an installation problem and they would install it properly. Staff's preference is natural stone as opposed to cultured; however, in this case it was approved. The City will monitor the situation to insure that the material is maintained.

Mayor Dunn confirmed with Mr. Lambers that these comments were being shared with the Developer.

Mr. Rasmussen asked what action the City could take to force the property owner to repair it, should it become a problem. Mr. Lambers stated they would receive notice and if they failed to correct it, they could be subject to losing their certificate of occupancy. The City could then require that natural stone be installed.

Mr. Rasmussen asked if these options were realistic in terms of procedure. Mr. Lambers stated to date, the City had gotten compliance; however, it had not happened readily. The City is currently being more aggressive with developments to make sure all of the Planning Commission stipulations are adhered to.

Mr. Rasmussen asked when the Council could expect the next report from the Planning Technician in regards to compliance with the stipulations. Mr. Lambers indicated it would be toward the end of the year. The inspector started in June, so there has not been a lot of work done on the report for 2008.

A motion to approve Item No. 7Q was made by Councilmember Peppes; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

S.     Fire Department Monthly Report

Councilmember Filla referred to the Certificate that Fire Department Chief Ben Florance received as a "Patriotic Employer" for supporting the National Guard and Reserve Force and stated she was proud the City supports this.

Chief Florance thanked Ms. Filla and stated he accepted the award on behalf of the City and the department stating they were nominated by Master Firefighter Joe Austerman, who came before Council upon his return.

A motion to approve Item No. 7S was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

## **8. MAYOR'S REPORT**

- A. Attended the Annual Police and Fire Open House last Wednesday evening along with Councilmember Rawlings, Chief Florance, Chief Meier, and their departments. This event was co-hosted by the City's Police Community Partnership. Mayor Dunn noted it was very nicely done and thanked everyone for their efforts.
- B. Attended the 20<sup>th</sup> Anniversary Celebration of Grand Court with Overland Park Mayor Carl Gerlach. This was a joint celebration hosted by Grand Court's Ownership Group and the Leawood and Overland Park Chambers of Commerce. Mayor Dunn wished them continued success and congratulated them on 20 wonderful years.
- C. Reminder that the Kansas Heritage Day Lecture is on September 16, 2008, at 6:30 P.M. Marlene Katz is presenting Esther Swirk Brown, pioneer in civil rights along with Judge Jon Gray. This event is hosted by the Leawood Historic Commission and normally held in January or February; however, due to weather issues in the past, it will be held in September from now on. Mayor Dunn thanked the Historic Commission and noted admission was free.
- D. On Labor Day weekend, the Leawood Fire Department collected donations totaling \$3,161.21 for the Muscular Dystrophy Association. There were a number of people who took shifts to collect for Jerry's Kids. Mayor Dunn thanked the department for their efforts.
- E. Mayor Dunn wished City Administrator Scott Lambers a "Happy Birthday" for tomorrow, September 16, 2008.
- F. Mayor Dunn noted there would be a retirement celebration for Captain Edward Seacord of the Leawood Fire Department, and would be held at Fire Station No. 2, September 16, 2008, from 3-5 P.M.

## **9. COUNCILMEMBERS REPORT**

- A. Acceptance of Maintenance Action Plan for Ironhorse Golf Course, at 15400 Mission Road

Councilmember Rasmussen noted there were some previous comments regarding the alleged deficiencies at the golf course regarding maintenance. The Golf Course Committee reviewed these comments and has a detailed recommendation for the concerns. There is a timeline and a budget, and he felt the plan deserved consideration and direction. Council will be getting reports as to progress being made. There have been unusual situations in terms of rain and consequent flooding at the golf course. Mr. Rasmussen noted holes 5, 9, and 10 were in need of repair.

It is a justifiable expenditure necessary to correct the problems and the accomplishments or recommendations should come through the Golf Committee and brought before Council to be kept aware of the progress.

A motion to accept the maintenance action plan for the Ironhorse Golf Course was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Mayor Dunn understood the motion was to accept the plan; however, noted it was not referring to specific dollars.

Mr. Rasmussen stated he was asking City Council to approve the work required, hole by hole, including the time frame and money required. He referred to the schedule and noted the money amount to be \$25,000. The Golf Committee needed to address the City Administrator their instructions to expend this amount of money.

Councilmember Azeltine noted appreciation to those who got this report to the Council in less than a month, and recognized Parks & Recreation Director Chris Claxton, Ironhorse Golf Superintendent Pete Spratlin, Dick Fuller, Chairman of the Golf Course Committee, Chuck Sipple, Ironhorse Advisory Board, and Don Clark of CE Design. He also thanked Triple Crown Member and Leawood resident George Waterman, who helped develop the framework for the maintenance plan.

Councilmember Cain asked if there was enough staff on hand to get this completed on time. Mr. Rasmussen stated part of the work would be contracted out. He felt the maintenance plan was doable; however, weather could play a part in the delay.

Mayor Dunn noted appreciation to Mr. Fuller, Mr. Spratlin, and Ms. Claxton for their diligence in preparing their report.

Mr. Fuller thanked the City Council for their support and noted special appreciation to Councilmembers Azeltine, Rasmussen and others for their involvement.

Mr. Rasmussen noted that staff and Orion Manager Shane Gardner would be the communication to the Triple Crown Members and residents regarding the progress.

Mayor Dunn confirmed with Mr. Lambers that the funds would be drawn from the City contingency reserve funds, since this program was part of the City's general fund.

Mayor Dunn asked Mr. Lambers how the communications would be continued. Mr. Lambers indicated no decision had been made at this time; however, the web page would be one vehicle for communicating.

The motion to approve the funds and accept the Maintenance Action Plan was approved following a unanimous vote of 7-0. (Councilmember Bussing absent).

## **10. STAFF REPORT – None**

## **COMMITTEE RECOMMENDATIONS**

### **11. PUBLIC WORKS COMMITTEE**

*[from the July 8, 2008 Public Works Committee meeting]*

- A. Recommendation of review of small sized standard contract forms

Councilmember Gill, Chairman of the Public Works Committee, stated the work of the committee was unanimous in its consensus on these upgrades.

Public Works Director Joe Johnson stated they had been using the contracts that were being asked for approval for the past several years and had finally formalized the standard agreements with the Public Works Committee. The City Attorney made recommendations for titles that will describe what the contract is. The Ad Hoc Committee made a recommendation to the entire committee and, currently, to the Governing Body for approval.

A motion for approval of the small size standard forms was made by Councilmember Peppes; seconded by Councilmember Gill.

Mayor Dunn added her appreciation to the City professionals, Dr. Peppes, Mr. Gill, and all who served on the Ad Hoc Committee.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

### **12. PLANNING COMMISSION**

*[From the July 8, 2008 Planning Commission Meeting]*

- A. Ordinance approving a Preliminary Site Plan, Final Plat and Final Site Plan for Leawood Public Library addition, located on the northwest corner of 117<sup>th</sup> Street and Roe Avenue [Roll Call Vote] –***Continued From The August 4, 2008 Governing Body Meeting- CONTINUED TO THE OCTOBER 6, 2008 GOVERNING BODY MEETING***

*[From the September 9, 2008 Planning Commission Meeting]*

- B. **Resolution No. 3111** approving a Sign Plan for Hair Saloon, located at the northwest corner of 135th Street and Roe Avenue

Chris Sailors, R.H. Sailors & Company, stated they had a tenant interested in joining Parkway Plaza and had been working with them to get their unique trademark logo sign to fit within some of the guidelines. He indicated there were five other Hair Saloons in the St. Louis, Missouri, area.

Councilmember Gill confirmed with Mr. Sailors they would not need a liquor license.

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

Mayor Dunn noted there was a lot of discussion at the Planning Commission meeting regarding the size of the sign and if it was within the criteria guidelines. She noted Planning Commission Stipulation No. 2 states not to exceed 4 feet in height and is limited to 5% of the façade and asked how this conformed to the Parkway Plaza sign criteria.

Senior Planner Jeff Joseph stated it was within the multi-sign criteria; however, was not within the 18” maximum height for single lines. The logo does not fit in with the criteria.

Mayor Dunn confirmed this was shortened by an inch by the Planning Commission. The “Hair Saloon” letters were made shorter and the “For Men” was made smaller so that it would conform with the 4 feet and still keep proportioned to get their trademark logo.

Councilmember Gill confirmed with Mr. Sailors that the basic lettering conformed; however the logo hanging over the top and bottom did not.

Mr. Gill confirmed with Mr. Joseph that the letters were 24” tall on each side of the proposed “Hair Saloon” and were larger than the criteria of 18”.

Mr. Gill confirmed with Mr. Joseph that the aggregate signage would exceed what others were permitted. Mr. Gill indicated he didn’t have an objection to the logo; however, asked if they could make it proportional so it wasn’t the biggest sign on the wall. Mr. Sailors stated the 24” letters that are shown would be for a larger tenant in the building.

Mr. Gill confirmed with Mr. Joseph that the aggregate from top to bottom was 4 feet.

Mr. Gill confirmed with Mr. Joseph that 18” for the first line, and then a gap, then 18” for the second line would be within the ordinance.

Mayor Dunn indicated there was discussion at the Planning Commission meeting along with Mr. Lambers that there would be a future joint work session to discuss logos in depth. Mr. Lambers indicated that logos, as well as awnings, would need to be discussed to provide staff direction in terms of making recommendations.

The motion to approve the resolution carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

**13. OLD BUSINESS – None.**

**14. OTHER BUSINESS**

- \*A. Discuss modification of Benefit District Policy requirement for security necessary for Cornerstone Special Benefit Districts

Mr. Lambers stated there had been discussions in regard to the security for the Special Benefit District [SBD] financing for the Cornerstone Shopping Center. There was an extension granted to their existing letter of credit and runs through mid October.

This is the first time the City has had a situation where five years had lapsed with the development not meeting criteria, in terms of percentage of square footage. The City does not anticipate that threshold will be met in the foreseeable future; therefore, the letter of credit needed to be extended. The owners of the shopping center have obtained an entity that will be providing a replacement letter of credit at the City Council meeting on October 6, 2008. They have requested to consider a modification to the City's policy because the standards are based upon a new development under single ownership.

This shopping center has had several parcels developed and sold-off, which are responsible for their own special assessments. Typically, the City does not partition off properties until these specials are met and the entire letter of credit is gone. It seems reasonable that a modification is in order for this project, given the developments that have occurred that have separate ownership. The two options the City has are to look at their obligation in terms of construction costs, or in terms of their annual special assessments. It takes three years of delinquent taxes before the county can foreclose on a property; therefore, as long as the City had a letter of credit with three years of special assessments, it would give them a vehicle to make those special assessment payments each year and allow the county to foreclose on the property and payoff the debts that are against it. The City's interest would be protected. If the City were to do this, there would need to be a letter of credit of approximately \$420,000 or \$425,000. This would be done on an annual basis due to the sliding reduction in the assessments each year from 2012; it would drop to \$388,000; 2015 to \$354,000; 2018 to \$319,000; and 2021 to \$134,000. Mr. Lambers thought before then, they would meet the threshold and the letter of credit would no longer be required and thought it would occur over the next three years. It would be on an annual basis; however, the City would look at a three-year time frame with a letter of credit approximately \$421,000. Tonight, staff would need consensus of the Council to allow this dollar amount to be in a letter of credit and presented to Council on October 6, 2008.

Councilmember Gill indicated there were no briefing materials on this in the packet. He felt this was a serious request and was being asked to cut by more than 50% for the security and collateral. Mr. Gill asked to have an Executive Session with the City's bond counsel and bond advisors to understand the implications and legalities of what they were being asked to do.

Mr. Lambers stated the parcels that had been sold-off did not have a letter of credit obligation. It was all with the main developer, and once the developer had achieved 35% of the square footage with a certificate of occupancy, the letter of credit goes away. They are, currently, in the low 20's and if the planned structures had been built, completed, and issued a certificate of occupancy, they would have exceeded the threshold and the letter of credit would not be required by the City Council. These letters of credit exist for no more than two or three years; until the threshold has been met.

Councilmember Rasmussen concurred with Mr. Gill's concerns and wanted Mr. Lambers to clarify his previous comments.

Mr. Lambers stated the individual properties are sold-off and receive separate assessments because they are under different ownership.

Mr. Rasmussen confirmed with Mr. Lambers that the security for the infrastructure was placed upon the individual property owner.

Mr. Lambers stated the City has not only the individual properties who have the obligation and the improvements, but the developer was willing to do a letter of credit for which he is still obligated; however, doesn't want to cover those properties that are parceled out.

Mr. Rasmussen thought the security was being reduced to the City and requested a work session to discuss this further. Mr. Lambers stated if the payments don't get paid to the county, it would give the City ample opportunity to foreclose on the property.

Mayor Dunn confirmed with Mr. Lambers that the letter of credit would not reduce the risk to the City.

Mr. Lambers stated the City had a letter of credit that was \$1.1 Million based upon the original estimate of 35% costs. The actual construction costs were considerably less, so the letter of credit would be in the \$700,000 - \$800,000 range. The developer is requesting that the assessments would have to go into default before the county could foreclose and would equal approximately \$400,000. It is reducing the amount of coverage that the City has; however, after three years, the City could foreclose on the property even though there is a letter of credit. The numbers and percentages in place were arbitrarily selected to provide security for the City. There is not really a basis for it and by tying it to the annual debt service payments, it would trigger a default if not paid. The City Council has the right to retain the current letter of credit at 35%, based on the construction cost. If Council wanted to have a work session, it would need to be scheduled before October 6, 2008, to allow enough time to take action. The City has until October 14, 2008 to exercise the letter of credit.

Mayor Dunn confirmed with Ms. Bennett it would be appropriate to have an Executive Session this evening to address questions from Council regarding the attorney client privilege.

A motion to recess into Executive Session for a period of 20 minutes concerning the attorney/client privilege was made by Councilmember Gill; seconded by Councilmember Filla. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

The Governing Body recessed into Executive Session at 9:05 P.M.

The Mayor and Council reconvened into regular session at 9:30 P.M.

Councilmember Gill stated Ms. Bennett clarified the legalities through the tax collection process and what control the City had, and the timeline to effectively produce cash at the end of a tax sale process; however, he wanted to learn more information than what was given this evening. Mr. Gill requested additional time to speak with the City's bond advisors, bond counsel, City Attorney, Mr. Lambers, and their Chief Financial Officer.

Mr. Lambers stated they would have the documentation in place before the October 6, 2008, meeting and it would be under Special Business. He noted he would send it under separate cover ahead of the normal agenda distribution.

Councilmember Azeltine concurred with Mr. Gill's comments and thought it was important that they demonstrate a willingness to work with the developer on this issue.

Mr. Azeltine referred to the steel structure at 137<sup>th</sup> and Nall and requested to have a progress report on this at the October 6, 2008, meeting.

Mayor Dunn confirmed with Mr. Lambers there was no additional direction he needed from Council.

**15. NEW BUSINESS – None.**

A motion to adjourn the regular session was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

**ADJOURN**

There being no further business, Mayor Dunn adjourned the meeting at 9:35 P.M.

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Debra Mansfield, CMC, City Clerk

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Pam Gregory  
Recording Deputy City Clerk