

Minutes

DVD No. 210

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, April 6, 2009. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Mark Andrasik, Info. Systems Director
Karl Weinfurter, Info. Systems Specialist
Joe Johnson, Public Works Director
Deb Mansfield, City Clerk

Patty Bennett, City Attorney
Richard Coleman, Comm. Dev. Director
Mark Klein, Assistant Director Planning
Chris Claxton, P&R Director
Lovina Freeman, HR Director
Pam Gregory, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications on the Amended Agenda:

- * Addition of Item No. 9 – Councilmembers Report – Debra Filla
- * Item No. 7O – Continued to the April 20, 2009, Governing Body meeting
- * Item No. 7P – Item has been pulled
- * Item No. 12E – Continued to the April 20, 2009, Governing Body meeting

A motion to approve the Amended Agenda was made by Councilmember Rawlings; seconded by Councilmember Gill. 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.**

Tom Dusterhoft, 4800 135th Street, stated he owned "Massage Heights," a massage establishment in Leawood and noted the current ordinance does not allow for couples massage. He wanted to propose a discussion with Council to allow couples massage therapy. Of the 87 franchises across the country, this was the only location that prohibits couples massage therapy, which represents 6%-12% of their overall business of the other franchises.

Councilmember Azeltine stated he has been involved with this and supports couple massage therapy. He was concerned with the consistency and the enforcement of the ordinance and wanted to be assured that if it is prohibited in Leawood, people would not be able to go into a massage establishment and receive couples massages.

Councilmember Azeltine made a motion to refer this matter to staff and return to Council at a later date for further discussion; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

4. PROCLAMATIONS

**Public Safety Telecommunicators' Week,
April 12-18, 2009**

Mayor Dunn read and presented the proclamation to Captain Dale Finger of the Leawood Police Department.

Arbor Day, April 24, 2009

Mayor Dunn read and presented the proclamation to Parks and Recreation Director Chris Claxton.

**5. PRESENTATIONS/RECOGNITIONS Mark Andrasik, Installation of New
Video Equipment**

Mayor Dunn read a letter of recognition to Information Systems Director Mark Andrasik from colleague Karl Weinfurter in appreciation for all of his hard work on the video upgrade for the Council Chambers.

Mr. Andrasik expressed his appreciation and noted it was a coordinated effort from many people, including some of the Public Works Department, Professional Video, Karl Weinfurter, and Scott Smith.

6. SPECIAL BUSINESS

- A. **Resolution No. 3175** calling for a pre-budget public hearing to be held on Monday, April 6, 2009, for the 2010 fiscal budget and ratifying action by the City Clerk in publishing notice thereof on March 10, 2009

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

Councilmember Azeltine asked if there would be another public hearing before the conclusion of the budget process.

City Administrator Scott Lambers stated there is a statutory required budget hearing after the City's budget has been approved. At that time, the City Council is authorized to deduct from the budget; however, cannot make additional changes. The hearing tonight is an opportunity for citizens to suggest items they would like to see contained in the budget. This opportunity will not be available to them during the final budget hearing at the end of the process.

Mayor Dunn confirmed with Mr. Lambers the final hearing will be held before it is adopted.

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

- B. Pre-Budget Public Hearing on 2010 Fiscal Budget for the City of Leawood, Kansas

As no one was present to speak, a motion to close the public hearing on the 2010 Fiscal Budget was made by Councilmember Rasmussen; 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 Nos. 2009-8, 2009-9, 2009-10, 2009-11, and 2009-12
- B. Accept March 2, 2009 Governing Body minutes
- C. Accept March 2, 2009 Governing Body Work Session minutes
- D. Accept February 10, 2009 Parks and Recreation Advisory Board minutes
- E. Accept February 5, 2009 Green Initiative Task Force meeting minutes
- F. Accept February 26, 2009 IRONHORSE Advisory Board minutes
- G. Accept January 15, 2009 IRONHORSE Advisory Board minutes
- H. Accept February 10, 2009 Historic Commission meeting minutes
- I. Accept November 11, 2008 Historic Commission meeting minutes
- J. Approve Retail Liquor License Renewal for FPFKC Liquors, LLC [ZIPZ Spiritz], located at 4821 W. 135th Street
- K. Approve Massage Therapist License for Craig Allen's Fine Grooming to be located at 11544 Ash
- L. **Resolution No. 3176** accepting the Certified Cost Summary in the amount of \$4,945,000, in accordance with that certain Development Agreement dated September 18, 2008 between the City and 119th Street Development, LLC, pertaining to the One Nineteen Development Project, Transportation Development District; TDD, located at 119th Street and Roe Avenue [Project # 80456]

- M. **Resolution No. 3177** verifying the square footage condition has been met, as set forth in that certain Development Agreement dated September 18, 2008 between the City and 119th Street Development, LLC, pertaining to the One Nineteen Development Project, Transportation Development District; TDD, located at 119th Street and Roe Avenue [Project # 80456]
- N. **Resolution No. 3178** approving and authorizing the Mayor to execute a Right-of-Way Maintenance Agreement in the amount of \$42,549.12 between the City and Kansas Land Management, pertaining to right-of-way and median maintenance
- ***O. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Pepsi Americas pertaining to the vending and resale of soft drink products- ***CONTINUED TO THE APRIL 20, 2009 GOVERNING BODY MEETING***
- ***P. Resolution approving and authorizing the Mayor to execute a Service Agreement in the amount of \$19,716.33 between the City and American Sentry Electronic Systems, Inc., pertaining to security cameras at IRONHORSE Golf Course, located at 15400 Mission Road- ***THIS ITEM HAS BEEN PULLED***
- Q. **Resolution No. 3179** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$285,120.00 [\$1.76/square yard] between the City and Musselman & Hall Contractors pertaining to the 2009 Slurry Seal Program
- R. **Resolution No. 3180** approving and authorizing the Mayor to execute a Construction Agreement between the City and Linaweaver Construction Company in the amount of \$1,361,527.14, pertaining to the 2009 Residential Street Re-Construction Project
- S. **Resolution No. 3181** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$69,061.00 between the City and Professional Video Supply, Inc., for the installation of new video equipment and cabling in the Council Chambers
- T. **Resolution No. 3182** revising the fee schedule, not specifically provided for in the Code of the City of Leawood, 2000, specifically for IRONHORSE Golf Course League fees, in accordance with Section 1-701 of the Code of the City of Leawood, 2000
- U. **Resolution No. 3183** approving a Final Site Plan for a tenant finish for Village of Seville - Zepi's Pizza & Pub, located on the northwest corner of 133rd Street and State Line Road, within the Village of Seville development. (PC # 11-09) [*From the February 24, 2009 Planning Commission meeting*]
- V. Declaration of surplus property: [3] Sony dual audio tape recording devices Model BM-246 serial/0529712; serial/0528653; and serial/0523636
- W. Police Department February, 2009 Monthly Report
- X. Fire Department February, 2009 Monthly Report
- Y. Municipal Court February, 2009 Monthly Report

Mayor Dunn requested to pull Item No. 7T and Councilmember Bussing pulled Item No. 7F for discussion.

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 8-0.

7F. Accept February 26, 2009 IRONHORSE Advisory Board minutes

Councilmember Bussing asked if someone from the golf course was scheduled to present an update regarding outstanding issues of maintenance.

Mr. Lambers indicated there could be an update at the April 20, 2009, Governing Body meeting from Shane Gardner, Orion Management Solutions and Ironhorse Golf Superintendent Pete Spratlin.

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

7T. **Resolution No. 3182** revising the fee schedule, not specifically provided for in the Code of the City of Leawood, 2000, specifically for IRONHORSE Golf Course League fees, in accordance with Section 1-701 of the Code of the City of Leawood, 2000

Parks and Recreation Director Chris Claxton referred to the memo in the packet demonstrating the difference in fees. She was hopeful this would allow them to retain their numbers in the men's league and potentially increase the women's league. It was Orion's recommendation that the fees be reduced from \$40 to \$30 for 18-hole leagues.

Mayor Dunn confirmed with Ms. Claxton that the income projection would go from \$35,000 to \$29,000.

Councilmember Gill confirmed with Ms. Claxton that the men's leagues play on Tuesday's and the women's leagues play on Wednesday's. She confirmed that these fees would only be applicable to those times.

Councilmember Bussing confirmed with Ms. Claxton that leagues begin on April 15, 2009, and asked her to return with a count of both the men's and women's leagues at the first Council meeting in June.

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

8. MAYOR'S REPORT

- A. Attended a Council of Mayors' meeting, hosted by Mission Hills Mayor David Fromm. Mayor Dunn noted a letter regarding State budget legislation was drafted and sent to the Johnson and Wyandotte Counties delegations at the conclusion of the meeting.

- B. Attended a Council of Mayors' meeting, hosted by Spring Hill Mayor Mark Squire. The State budget dominated the discussion with information obtained from Topeka indicating, thus far, the alcohol tax revenue will remain with the cities.
- C. Attended the Kansas City Israel Action Forum, sponsored by the American Israel Public Affairs Committee at the Kehilath Israel Synagogue. There were several hundred people in attendance, including all four members of the Kansas Congressional Delegation to hear Dr. Michael Oren, a world renowned author and Senior Fellow at the Shalem Center in Jerusalem.
- D. Participated in a roundtable discussion on real estate in the metro region, sponsored by The Private Bank.
- E. Mayor Dunn was joined by Councilmember Rawlings at an art exhibit, featuring Julie Johnson, Elaine Lierly Jones, Jeff Walker, and Pat Woodworth. The exhibit was co-sponsored by the Leawood Arts Council and M&I Bank.
- F. Attended the 5th Annual Patriotic Assembly, sponsored by Leawood Elementary School, in conjunction with Operation Valiant Hearts. Both Police Chief John Meier and Fire Chief Ben Florance, along with their department leaders, also participated. The assembly was organized by Hannelore Snyder Brown and assisted by Officer Mark Chudik of the Leawood Police Department.
- G. Attended Johnson County Commission Chairwoman Annabeth Surbaugh's State of the County Luncheon Address, along with Councilmembers Rasmussen, Azeltine and Cain, Finance Director Kathy Rogers and City Clerk Deb Mansfield. There were several hundred people in attendance to hear about the challenges and opportunities facing Johnson County. This was sponsored by the Johnson County Public Policy Committee.
- H. Mayor Dunn joined Community Development Director Richard Coleman and Planning Commissioners Kelly Jackson and Bud Munson at the Academy for Sustainable Communities "Visualizing Density," presented by Alex MacLean and Julie Campoli. The Mayor noted it was a very educational seminar.
- I. Attended a Leawood Chamber of Commerce ribbon cutting ceremony with Councilmember Azeltine at M&I Bank, located in Villagio on 135th Street. This is their 3rd Leawood free-standing bank and their 16th in the region. Mayor Dunn wished them much success.
- J. Attended a Leawood Chamber of Commerce ribbon cutting ceremony with Councilmembers Azeltine and Rasmussen at Vicos, a woman's clothier and accessory shop, located in Mission Farms. Mayor Dunn noted Vicos had moved to Leawood from Overland Park and wished them much success.
- K. Mayor Dunn congratulated Howard Mann on becoming an APWA Certified Fleet Professional. Mr. Mann has had many years of dedication as the City's Fleet Manager.
- L. Fire Chief Ben Florance was re-designated as Chief Fire Officer [CFO]. He achieved this originally in 2003. To be re-designated, he had to continue to develop as a CFO in four areas; Professional Development, Professional Contributions, Active Association Memberships and Community Involvement. Mayor Dunn congratulated Chief Florance and thanked him for his continued effort in all he does for the City of Leawood.

- M. Mayor Dunn noted the recycling information placed upon the dais from the Green Education Committee of the Green Initiative Citizens Task Force. The Mayor expressed appreciation to resident Cindy Thesing, Chair of the sub-committee.

9. COUNCILMEMBERS REPORT – Councilmember Filla

Councilmember Filla called attention to the upcoming Spring Cleaning E-Waste and Shredding Event on April 25th noted on the back of the recycling brochure. They are co-hosting the event with Overland Park, which will be held at Shawnee Mission South High School. Ms. Filla noted there were extra brochures available if anyone needed them.

Councilmember Filla asked Council to approve a letter drafted by the Green Committee to the Johnson County Environmental Department. She indicated 11% of the landfill is yard waste and it costs \$1 Million per acre to build a landfill. The letter states that the committee supports them drafting a policy that would restrict yard waste at the landfill in Johnson County.

A motion to approve the letter to be sent to the Johnson County Environmental Department was made by Councilmember Filla.

Ms. Filla confirmed this would only restrict yard waste.

Mayor Dunn noted she was uncomfortable with this due to it being a reflection on the City and was unsure what the regulations would be. The Mayor stated she didn't want to endorse regulations that were currently in the drafting stage.

Ms. Filla indicated her motion should have been to schedule a work session regarding this, not to approve it. Mayor Dunn stated they should wait until they are finished drafting the regulations before scheduling a work session.

Ms. Filla noted there was a work session scheduled in June to discuss becoming a bike friendly community and wanted to include this discussion at that time.

Ms. Filla gave a presentation from the Mid America Regional Council's [MARC] leadership on sustainability series "Creating a New Sustainable Economy."

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

Mayor Dunn indicated that other than acceptance, any of the following committee recommendations that have costs associated with them would return on a future Agenda for approval.

11. PUBLIC WORKS COMMITTEE

[From the February 17, 2009 Public Works Committee meeting]

A. Recommendations from Public Works Committee

1. Recommend installation of audio component to traffic signals at the intersection of 103rd and State Line Road to assist a visually impaired individual

Councilmember Gill indicated there were several individuals who are impaired and do business within the City and use public transportation. This is a confusing intersection and Public Works Director Joe Johnson has included the cost of this installation under the Federal Tarp Funds as part of the \$1.3 Million project on 103rd Street.

2. Install School Zone light on 133rd Street and modify the existing light on Mission Road for Mission Trails Elementary School

Councilmember Gill stated with the build out of 133rd Street and construction, the committee felt the school zone needed to be extended east and west, as well as north and south and also to install updated signals. Mr. Gill thought this would cost approximately \$36,000.

Mr. Johnson indicated as part of the arterial mill and overlay this year, it includes Mission Road from 127th to 135th Street and they will include replacing the existing school signals if the bids come within their budget. They would need to consider funding in the future to install new ones on 133rd Street.

Mayor Dunn confirmed with Mr. Johnson there would not be any immediate signage on 133rd Street without the lights.

Mayor Dunn asked if Mr. Johnson wanted Council to accept the recommendations and have these two items return at a later date for approval.

Mr. Johnson stated they would like a motion to approve the installation of the audio equipment at 103rd and State Line Road. The cost to include the audible was estimated at \$8,000.

A motion to approve the installation of the audio component in accordance with the minutes on Item No. 11A was made by Councilmember Gill; seconded by Councilmember Azeltine.

Councilmember Peppes confirmed with Mr. Johnson that Missouri residents were requesting this and 100% of the funding was coming from stimulus funds, not taxpayer dollars.

Councilmember Gill noted this would benefit both Missouri and Kansas residents.

Councilmember Azeltine confirmed with Mr. Johnson there were other audio components within Overland Park; however, not in the City of Leawood at this time.

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

A motion to review the request to install a school zone light was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 8-0.

3. Speed limit along 133rd Street – ***NO ACTION REQUIRED***

Mayor Dunn confirmed with Mr. Johnson that the speed limit would remain as is at this time.

12. PLANNING COMMISSION

[From the February 24, 2009 Planning Commission meeting]

- A. **Resolution No. 3184** approving a Final Site Plan for Village of Seville - Capitol Federal Utility Boxes, located on the northwest corner of 133rd Street and State Line Road, within the Village of Seville development (PC # 07-09)

Duane Nellis, WDM Architects, stated he was representing Capitol Federal and indicated the State Line Road facility would open in approximately seven weeks.

Mayor Dunn referred to Page 3 under staff comments and confirmed with Assistant Planning Director Mark Klein that the applicant had submitted a revised landscape plan. Mr. Klein stated part of the utility boxes are located on the property to the south and indicated they would request additional landscaping when that applicant makes their request.

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

- B. **Ordinance No. 2385** approving a Special Use Permit [SUP] for the operation of a convenience store with gas station for Plaza Pointe - Zipz! Convenience Store, located south of 135th Street and west of Roe Avenue, within the Plaza Pointe development (PC # 03-09) [Roll Call Vote]

Tom Swafford and Benjamin Larsen, new lease holders of Zipz Convenience Store noted nothing was changing as far as the store or gas station.

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

- C. **Ordinance No. 2386** approving a Special Use Permit [SUP] for packaged liquor sales for Plaza Pointe - Zipz! Convenience Store, located south of 135th Street and west of Roe Avenue, within the Plaza Pointe development (PC # 03-09) [Roll Call Vote]

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

- D. **Ordinance No. 2387** amending § 16-2-7 of the Leawood Development Ordinance [LDO], pertaining to adding "kennels" to the table of uses within the BP (Business Park District) (PC #10-09) [Roll Call Vote]

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

Councilmember Rasmussen indicated he would be voting against this ordinance. He felt it was not appropriate to add this type of use to business park zoning when it is abutted by an R-1 district.

Mr. Lambers stated the business park before Council this evening will remain as is. The business park Council directed them to re-visit with regard to its uses will be a separate and distinct business park classification, because it doesn't resemble a business park in character. When staff returns with the business park designation for north of the City, it will be totally different than the business park to the south.

The motion carried with the following unanimous roll call vote of 8-0. Yea: Councilmembers Rawlings, Bussing, Azeltine, Gill, Filla, Rasmussen, Cain, and Peppes (Mr. Rasmussen voted in favor of the ordinance based on the comments from Mr. Lambers). Nay: None.

*** **[From the March 10, 2009 Planning Commission meeting]**

- E. Ordinance approving a Preliminary Final Site Plan for Bi-State/Centennial Park – Maxwell Hotel and Salon (Kennel), located south of 143rd Street and east of Overbrook (PC # 09-09) [Roll Call Vote] – **CONTINUED TO THE APRIL 20, 2009 GOVERNING BODY MEETING AT THE REQUEST OF THE APPLICANT**

13. **OLD BUSINESS** – None.

14. **OTHER BUSINESS** – None.

15. **NEW BUSINESS**

- A. Schedule a Governing Body Executive Session on Monday, April 13, 2009, at 6:30 P.M., for personnel matter; City Administrator's 6-month review

A motion to approve the Executive Session for Monday, April 13, 2009, was made by Councilmember Rawlings; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 8-0.

- B. Schedule a Governing Body Executive Session on Monday, April 6, 2009, immediately following the regular Governing Body meeting to discuss matters related to the acquisition of real property

A motion to recess into Executive Session for a period of 20 minutes was made by Councilmember Rawlings; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 8-0.

The Governing Body recessed into Executive Session at 8:40 P.M.

The Governing Body reconvened into regular session at 9:00 P.M.

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

There being no further business, the meeting was adjourned at 9:00 P.M.

ADJOURN

Debra Mansfield, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk