

Minutes

DVD No. 213

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, May 18, 2009. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Major Troy Rettig, Police Department
Chief Ben Florance, Fire Department
Scott Smith, Web Master
Lovina Freeman, HR Director
Deb Mansfield, City Clerk

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

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

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

Gordon Henke, 8901 High Drive, received a patrons' letter from the postal service and asked for assistance from the Governing Body in preventing the closing of the post office located in Leawood.

Mr. Henke was also concerned that a park would be in place before any homes are constructed near the Leawood Country Club. He also didn't want Leawood to begin initiating storm sewer charges similar to Prairie Village.

Councilmember Rasmussen confirmed with Mr. Lambers that the estimated total for the park was \$2.1 Million. Mr. Lambers felt confident that the project costs identified for Council would be on budget.

A motion to approve Change Order No. 5 in the amount of \$55,000 was made by Councilmember Gill; seconded by Councilmember Cain.

Mayor Dunn confirmed with Parks and Recreation Director Chris Claxton that the park was scheduled to open by the end of June, 2009.

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. 2009-17, and 2009-18
- B. Accept Minutes of the May 4, 2009 Governing Body meeting
- C. Approve Minutes of April 14, 2009 Parks and Recreation Advisory Board
- D. Approve renewal of Retail Liquor License for Wolff's Fine Wines & Spirits, located at 11841 Roe Avenue
- E. Approve purchase in the amount of \$134,456.00 for 2,800 tons of road salt from Central Salt-Envirotech Central
- F. **Resolution No. 3204** adopting the 2010-2014 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas
- G. Approve Massage Therapist License for Integrite Salon to be located at 4800 W. 135th Street
- H. Approve Purchase of Golf Course Equipment, in the amount of \$71,027.00, from Turf Professionals Equipment Company, for maintenance of Ironhorse Golf Course
- I. Approve Purchase of Golf Course Equipment, in the amount of \$93,983.00, from Kansas Golf and Turf Equipment Company, for maintenance of Ironhorse Golf Course
- J. **Resolution No. 3205** ordering a public hearing to be held on June 15, 2009 on proposed assessments for construction of certain public and private road and parking lot related improvements, and such other transportation related improvements for property located on the southeast corner of 119th Street and Roe Avenue, known as One Nineteen Development located within the City of Leawood, Kansas, and direction the City Clerk to publish notice thereof and provide written notice to owners of property of such assessments [ONE NINETEEN] [Project # 80456]

- K. **Resolution No. 3206** accepting a Permanent Storm Sewer Easement from Richard O. Sword and Suzanne Haynes Sword, 3411 W. 87th Street, Lot 1, Leawood Heritage, a subdivision in the City of Leawood, Kansas, in connection to the 2010 Residential Street Reconstruction Program/Stormwater Improvement Project
- L. **Resolution No. 3207** approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the City of Kansas City, Missouri, regarding the resurfacing of State Line Road between 92nd Street and 103rd Street
- M. **Resolution No. 3208** approving and authorizing the Mayor to execute a Right-of-Way [ROW] Maintenance Agreement between the City and E. Denver and Susan S. Vold for property located at 12633 Cedar
- N. **Resolution No. 3209** approving and authorizing the Mayor to execute a Development Agreement between the City and Timothy E. and Corrine O'Brien Trustee, pertaining to the acquisition of real property for the purpose of constructing an extension to Roe Avenue from 140th to 143rd Street [CIP # 80189]
- O. **Resolution No. 3210** accepting Deed of Dedication, Permanent Drainage Easement, Permanent Utility Easement, and Temporary Construction Easement from Timothy E. and Corrine O'Brien, Trustee, for the purpose of constructing an extension to Roe Avenue from 140th to 143rd Street [CIP # 80189]
- P. **Resolution No. 3211** approving and authorizing the Mayor to execute an agreement regarding real estate between the City and Brian and Melea McRae pertaining to the acquisition of real property adjacent to Ironhorse Golf Course for the purpose of maintaining storm drainage to Hole No. 5.
- Q. **Resolution No. 3212** accepting a General Warranty Deed from Brian and Melea McRae for real property adjacent to Ironhorse Golf Course, pertaining to drainage on Hole No. 5.
- R. **Resolution No. 3213** approving and authorizing the Mayor to execute an agreement regarding real estate between the City and Hills of Ironhorse Community Association pertaining to the acquisition of real property adjacent to Ironhorse Golf Course for the purpose of maintaining storm drainage to Hole No. 5.
- S. **Resolution No. 3214** accepting a General Warranty Deed from the Hills of Ironhorse Community Association for real property adjacent to Ironhorse Golf Course, pertaining to drainage on Hole No. 5.
- T. **Resolution No. 3215** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,146,909.85 between the City and Amino Brothers, pertaining to the Roe Avenue Improvement Project, between 135th Street and 143rd Street [CIP # 80189] [Project # 72011]
- U. **Resolution No. 3216** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$ 602,802.60, between the City and Miles Excavating, Inc., pertaining to the Mission Road Improvement Project, between 127th Street and 135th Street [Project # 72012]
- V. **Resolution No. 3217** approving a Revised Final Site Plan for Mission Farms - Zest Patio Plan, located on the northeast corner of Mission Road and I-435 Highway (PC Case # 18-09) [*From the April 28, 2009 Planning Commission meeting*]

- W. Declaration of Surplus Property
- X. Police Department Monthly Report
- Y. Fire Department Monthly Report
- Z. Municipal Court Monthly Report

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 Council of Mayors' meeting, hosted by Lenexa Mayor Mike Boehm. The meeting was held at the Black Hoof Park, located on 300 acres with a 35 acre lake. It has been recognized by the U.S. Society of Dams as the "Best Dam in America" and is a "Rain to Recreation" project. Seven new Mayors from the April elections were in attendance. The main topic of discussion came from the Overland Park Lobbyist direct from Topeka updating that the alcohol tax revenue was secure for the next year.
- B. Attended a D.A.R.E. [Drug Abuse Resistance Education] Graduation for students at the Curé of Ars School with Police Chief John Meier and D.A.R.E. Officer Randy Wiler.
- C. Mayor Dunn was joined by Councilmembers Bussing, Cain, Peppes and Rawlings for an Artist Reception and art on-loan piece dedication for "Leaping Hedges," by Jesse Small in the lobby at City Hall. The Mayor thanked Parks and Recreation Director Chris Claxton for organizing the reception.
- D. Mayor Dunn congratulated Councilmember Debra Filla and her husband, Andrew, on their 25th Wedding Anniversary.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Filla; Update on the E-Waste Project

Councilmember Filla reported that the Green Initiative Citizens Task Force had partnered with the City of Overland Park to collect old televisions, monitors, etc., and collected over 120,000 pounds of equipment. They are hoping to improve the process and schedule a new date for collection. Ms. Filla thanked the staff and volunteers for their assistance.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the April 14, 2009 Planning Commission meeting]

- A. **Ordinance No. 2392** approving a Revised Preliminary Site Plan for Park Place - Building G and Parking Garage B, located north of 117th Street and east of Nall Avenue (PC Case # 14-09) [Roll Call Vote]

CITY ADMINISTRATOR COMMENT:

It is the opinion of the City Administrator that the Planning Commission recommendation contains several omissions that were recommended by the City staff that are appropriate to be included in the stipulations and that this item should be remanded back to the Planning Commission for their further consideration of those items.

Jeff Alpert, Park Place Developers, gave a presentation of the revised preliminary development plan for Park Place, which consisted of a second parking garage and a multi-use retail and office building.

The plan before Council was a representation of the originally approved plan in June, 2003. The Master Plan demonstrated Phase I constructed, including the Aloft Hotel, which is scheduled to open in mid July.

The area in question is located in Phase II-A to the east of the hotel. There are three levels with a little over 71,000 square foot of building area.

Parking Garage B has five levels and is designed for two additional levels if additional parking is needed in the future. The architecture and landscaping will be consistent with the design and elements already established in Park Place. There will be a variety of masonry materials.

Mayor Dunn wanted clarification regarding the elevations of the parking garages. Assistant Planning Director Mark Klein stated the revised elevations for the parking garage on Nall were approved through the Planning Commission and City Council.

Mayor Dunn asked how they were changing the parking garage on 117th Street. Mr. Alpert stated they were using a variety of different materials with slightly different design elements. Mayor Dunn stated that building materials and elevations were typically final plan approval items and noted Mr. Coleman was still working with Mr. Alpert on the elevations.

Councilmember Gill stated Park Place was a beautiful development and liked the parking garage on Nall. He wanted to keep the same consistency throughout. Mr. Alpert wanted to introduce a similar character with some variation.

Councilmember Rawlings asked which stipulations they had issues with.

Mr. Alpert stated they requested that the Planning Commission eliminate the stipulation requesting 70% of the ground floor level be retail. The marketability would be difficult for retail in this parking structure. The underlying philosophy to the design of Park Place is to have streets with usage on both sides; therefore, there is no opportunity for retail on 117th Street. The street is wider than the dimensions they would normally use for retail.

Mr. Alpert referred to an issue regarding traffic on the alley between Parking Garage B and Building G. There are two entrance/exits into the parking garage; one off of 117th Street and the other located at the northwest corner.

They wanted two-way traffic from the northwest corner entrance/exit to Ash Street and wanted to avoid traffic turning right because of the pedestrian walkway. The remainder of the alley is planned for service vehicles. Staff had requested this be a one-way street. A traffic study was done and revealed it would be appropriate to have the traffic flow the way the developer had proposed. Direction to drivers would be handled through signage.

Mayor Dunn confirmed with Mr. Alpert that Building G has lower level retail with two upper levels of office space. The front of the retail space faces 116th Street and wraps around the east and west sides of the building.

Mr. Alpert clarified for Councilmember Bussing that the existing alley behind the Trezo Vino Restaurant is a one-way street going north for service vehicles. The entrance is located next to the garage off of Nall. Mr. Alpert confirmed he was satisfied with the appearance and efficiency of this existing alley.

Councilmember Peppes confirmed with Mr. Alpert there would be parking available to the east of Building F during construction of Parking Garage B and Building G.

Councilmember Bussing reiterated Councilmember Gill's comments regarding the beauty of the development and keeping the same consistency throughout. He referred to staff concerns regarding the amount of stucco and asked why the developer wanted alleviation of this stipulation.

Mr. Alpert stated they weren't asking for alleviation and felt this should be addressed during the final development plan review. They didn't want constriction at the preliminary plan level. Mr. Bussing felt the stipulations were given careful consideration and thought they might consider a small percentage change, but wanted their consistency to continue.

Mayor Dunn indicated there were five items that the Planning Commission omitted from staffs recommendation; however, thought Mr. Alpert was planning to incorporate some of these items. She thought the City Administrator recommended this be remanded to the Planning Commission for reconsideration because they were omitted and noted that these items reiterate the Governing Body's desires.

Mr. Coleman stated there was concern with the parking garage and building materials and felt these were important issues. He concurred with the City Administrators position to remand it.

Mr. Alpert stated they were unaware of the intent to remand this to the Planning Commission until this evening. They currently have a signed lease for 25,000' of the 45,000' feet of office space with a national insurance company and a time frame required to meet by October, 2010. Mr. Alpert was concerned that by remanding this, they would lose too much time and could cause them to lose the lease. He requested it not be remanded.

Councilmember Filla appreciated the landscaping they had done and wanted to see the tree lined sidewalks along 117th Street continued to City Hall.

A motion to pass the ordinance approving the Planning Commissions recommendations was made by Councilmember Filla; seconded by Councilmember Azeltine.

Ms. Filla was comfortable in moving forward since this was the preliminary, not final, plan. The developer intends to work toward the inclusion of the concepts and ideas that were omitted.

Councilmember Rasmussen asked why they wanted to limit the alley to only service vehicles. He felt they could limit the delivery hours and utilize the back of the building.

Mr. Alpert stated the alley isn't designed with the same level of finish as their main street and there's no room for parking. The sidewalk can only be seven feet wide and he felt a retailer wouldn't have the best chance for success if the alley was their only orientation.

Councilmember Bussing stated they had built everything, thus far, with all of the stipulations in place and was concerned why they couldn't continue. He wanted the developer to have confidence in working with staff and the Governing Body if there was a variance in the stipulations during this next phase of construction.

Mr. Bussing felt the retail in the garage was a business decision, not a planning decision. He had greater concern with the amount of stucco and some of the other stipulations mentioned.

Mr. Alpert noted the Becker Building in their development was approximately 50% stucco and the shell of Building F was almost 100%. They understood that the Planning Commission and Council want to see more brick and less stucco. They intended to honor this request, but didn't want to be restricted to it before they return with the design.

Mr. Bussing stated that Council didn't restrict them on the Becker Building and didn't understand why the developer felt they would restrict them now. Mr. Alpert didn't want this to become a large issue and felt they could trust one another to continue. Mr. Bussing also felt they could trust one another, but wanted verification.

Mr. Alpert thought there wasn't a stipulation for a maximum of 25% stucco in the original approved plan in June, 2003. The first time he recalled this was in conjunction with the approval of the hotel.

Mayor Dunn recalled discussion of it and wanted natural elements at least on the first floor. Mr. Alpert stated the first 20 feet from the ground up is where most attention is paid to detail.

Mr. Klein stated when the developers of Park Place first came in, there were nice design guidelines with architectural criteria provided; however, there was expectation from staff that there would be a significant amount of masonry. Staff was concerned that as the development proceeded, it appeared they were using more and more stucco. This issue was raised before the City Council and Planning Commission before. There was discussion that a lot of masonry would be on the first floor. Sometimes it's difficult to do this due to tenants wanting their own identity. Staff wanted to ensure the masonry and see that the City receives a high quality project.

Mayor Dunn was concerned with some specific items in the omitted stipulations.

Councilmember Filla asked if Council could later not approve the final plan if they felt there was not enough masonry or too much stucco. She wanted the ability for Council to have the final say.

Mayor Dunn felt by excluding it from the preliminary plan, there would be less indication of what Council desired. She understood it's a final plan element for building materials and elevations; however, felt staff was trying to give the intent and desire of the Governing Body and Planning Commission. The motion on the table was to approve how the Planning Commission recommended it.

Mayor Dunn confirmed with Mr. Alpert that the fire truck overhead clearance of 13' feet 6" inches in the parking garage had been revised to 16' feet of clearance.

Councilmember Gill asked for clarification of Councilmember Filla's comments regarding their ability to have final say on the amount of stucco.

Mr. Lambers felt this should be expressed as part of the stipulation as an override. The applicant should know the ceiling of what the Governing Body wants in order to meet the time table. His recommendation was to remand; however, he noted an override would be appropriate as well.

Mr. Alpert asked what would happen if they agreed to the stipulation of no more than 25% stucco and returned at final with 27%. He was concerned they would need to return to the Planning Commission and didn't want to be pinned down to specific numbers.

Mayor Dunn noted the Governing Body was more reasonable than that.

Councilmember Gill felt Stipulation No. 14A, regarding the percentage of masonry, was the main issue. This gives guidance of what Council wants and noted 25% was only a number. He wasn't concerned with the amount of stucco; however, wanted assurance of a similar quality parking garage with originality and character.

Councilmember Azeltine asked what percentage of the project was complete in terms of total density. Mr. Alpert stated there was approximately 275,000 square feet constructed out of an approximate 1.2 Million. Mr. Azeltine asked what percentage of the completed construction was stucco. Mr. Alpert indicated it was approximately 35%-40%. Mr. Azeltine confirmed with Mr. Alpert they used different materials to provide a variety of design. Economic concerns were also considered and he asked for balance in all of the issues.

Mr. Alpert stated they had already submitted their final development plans to the City for review and thought there was no more than 26%-27% stucco.

Mayor Dunn noted comments regarding stucco were in Stipulation No. 14A; however, Stipulation Nos. 14B, 14C and 14D were also omitted. She was surprised these were all omitted by the Planning Commission and felt they should remain as a guideline and intent from the Governing Body.

Mr. Alpert confirmed with Mayor Dunn that Stipulation No. 14B was included in the final plans even though the Planning Commission removed it. They made changes to the building to create more undulations.

Mayor Dunn noted Stipulation No. 14C regarding the east façade of the parking garage and future development to the east and didn't recall this being an issue.

Mayor Dunn referred to Stipulation No. 14D regarding concern to the overall appearance of the parking garage. Mr. Alpert compared the two parking garages and noted significant differences in the design of the west elevation that fronts Nall and the east elevation that fronts the service road. Some facades are treated with a higher quality of material and a higher level of detail than others, depending upon location.

Mayor Dunn confirmed with Mr. Alpert that the south, east and west elevations referred to in Stipulation No. 14D were treated with an equal level of detail and submitted as part of the final plan.

The motion to pass the ordinance approving the Planning Commissions recommendations carried following a roll call vote of 7-1. Yea: Councilmembers Filla, Azeltine, Rawlings, Peppes, Gill, Rasmussen, and Cain. Nay: Councilmember Bussing.

Mr. Alpert commented that they held a tour of Park Place for the City of Overland Park, including their Planning Commission, some Councilmembers and staff. They wanted to see Park Place as an example of a Mixed Use Development in a suburban area. He felt this was a real credit to the City of Leawood.

[From the April 28, 2009 Planning Commission meeting]

- B. **Resolution No. 3218** approving a Revised Final Site Plan for Villaggio at Leawood - Revised Design Guidelines, located on the southeast corner of 135th Street and Roe Avenue (PC Case # 17-09)

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

Estel Hipp, 12601 Cedar, wanted to correct a misinterpretation of the original design guidelines that were approved for the initial final site Plan for Villaggio. The appropriate color of the light poles and fixtures to be used for the internal parking lots and internal drives within the project should be textured dark forest green instead of black.

Mayor Dunn asked what the difference was between dark forest green and verde green. Mr. Hipp indicated the public street light fixtures along 135th Street, Fontana, and Roe were verde green. The design intent was to have the poles blend in with the trees and landscaping being planted along the streets.

The motion to approve the resolution carried following a unanimous vote of 8-0.

- C. Ordinance amending Section 16-4-1 (Accessory Uses) of the Leawood Development Ordinance [LDO], pertaining to Sunrooms. (PC Case # 19-09) [Roll Call Vote] ***CONTINUED TO THE JUNE 15, 2009, GOVERNING BODY MEETING***
- D. **Ordinance No. 2393** amendment Section 16-2-10.3(C) (Roof Materials for All Buildings, Except Single-Family Residential) of the Leawood Development Ordinance [LDO], pertaining to the removal of asphalt shingles as a permitted roofing material on commercial buildings (PC Case # 21-09) [Roll Call Vote]

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

12. OLD BUSINESS – None.

13. OTHER BUSINESS

- A. **Ordinance No. 2394C** amending §4-904 of the Code of the City of Leawood, 2000, entitled 'International Residential Code for One-and Two-Family Dwellings amended; Section R105.1 Permits, Required,' and repealing existing by allowing for a 48-hour notice to be given to Homes Associations regarding existing Section 4-904 and other sections in conflict herewith [Roll Call Vote]

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

Mayor Dunn noted this was for homes associations that had requested it.

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

- B. **Ordinance No. 2395** authorizing and providing for the acquisition of lands or interests therein by condemnation for property located at the northeast corner of 117th Street and Roe Avenue for a Parks and Recreation or other public use, in accordance with K.S.A. §26-501, ET SEQ. [Roll Call Vote]

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

Councilmember Gill confirmed with City Attorney Patty Bennett there wasn't any legal impediment to the City by adopting or acting on this ordinance.

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

C. Discussion of Land Use Report on State Line Business Park

Mr. Coleman indicated staff needed direction from Council on how to proceed.

Councilmember Rasmussen stated this was designated as a BP [Business Park] District and Council has struggled with it for approximately 20 years. There are many different business uses located there. This ground has been considered blighted. It is adjoining an R-1 District [Planned Single Family Low-Density Residential]. He felt if they have a new applicant, they should consider if their use would deteriorate or enhance the area.

Mayor Dunn noted the document before them illustrated many non-conforming uses and developments that are not meeting the criteria, setbacks, etc., for BP designation. She wanted Council to consider this as a Land Use Report on State Line Business Park and not connect it with another application that has yet to be filed with the Planning staff.

Councilmember Filla confirmed that Cruise Planners had recently located to this BP. She wanted suggestions for beautification, such as landscaping, improvement of asphalt, etc., to continue to improve the properties. There are many viable businesses located there and wanted to know how they could coincide all of them to achieve a more unique and definable BP similar to the one south.

Ms. Filla asked where staff was in the process of the current application for use.

Mr. Coleman stated this was designated as a BP District and the use they were proposing was not allowed. They would need to change the allowable uses in order for the applicant to move in and also waive the setbacks. There was concern that with the small size of the lot and required setbacks, it wouldn't be feasible.

Ms. Filla felt they should consider each application on an individual basis to determine if the request would improve it and provide a service needed by our constituents. She was supportive of continuing what was in place.

Mr. Lambers felt Mr. Coleman's point should still be considered. There's a specific inquiry for an application that's not permitted and this shouldn't be the driving factor. The application wouldn't be valid without an accompanying change to the City's zoning ordinance to allow it in the BP designation. He felt they should decide what type of overall zoning category needed to be in place in order for people to apply. Mr. Lambers stated they may need to create a commercial zoning category that would have a very wide range of permitted uses and very wide range of Special Use Permits [SUP] with specific uses. This would be an extremely broad category limited to this tract of land in the City.

Mayor Dunn asked if they changed the zoning, if they would have recommended design guidelines for the entire area. Mr. Lambers stated in order to expedite it; they needed to consider the uses and decide if they are permitted, SUP, or not permitted.

Councilmember Peppes indicated there were currently seven businesses located there that were not zoned properly. If they create a broad zoning, he felt they should be specific with the applicants of what needed to change.

Mr. Coleman stated one of the problems was that these lots are extremely small for businesses. The lot of the subject property is equal to the size of a residential lot.

Mr. Lambers noted if the concept in environmental mitigation is used, someone would present a building plan and install the landscaping in other areas on site. Initially, the desire is to install the landscaping as traditionally done; however, if this isn't possible, they could offset it to another location.

Councilmember Cain liked the idea of making it known to applicants that this is a blighted area and they'll need to improve it.

Councilmember Bussing thought with new zoning they would have some minor improvements; however, felt many things wouldn't change unless they enforced it. He requested they get a broader study of what they want, establish plans on how much it would cost and how they could get there.

Mr. Lambers noted the State Legislature passed a new bill titled "The Community Improvement District" [CID]. It's a large expansion of the Transportation Development District [TDD] to open almost every possibility to collect sales tax money to upgrade and is intended for targeted blighted areas. The merchants aren't required to pay for it, but would have an increased tax to their customers. The funds are used for façade, traffic, landscape improvements, etc. This could be a vehicle for this area due to the large amount of retail. He concurred with Councilmember Bussing that they needed an overall plan, but was concerned how to accommodate the current applicant's request.

Mayor Dunn asked if the CID required 100% of the users to agree like the TDD does. Ms. Bennett thought it was 100% on assessments and 55% or 65% on the sales tax. Mr. Lambers stated Council would inform the businesses that if they don't receive 100% agreement, it wouldn't happen. Councilmember Rasmussen wanted this area to have a separate and distinct type of zoning and stated it wasn't a coordinated BP District.

Councilmember Filla liked the idea of the CID and thought some of the businesses would want the improvements. She requested that they be sensitive in using the term "blighted." These are viable businesses that provide a service to the community. Ms. Filla wanted to move forward with the interested applicant and test the viability of some of these ideas.

Mr. Lambers wanted something in place for them to adhere to so others who follow are required to do the same. He recommended that this application be put on hold and schedule a work session for discussion. Mayor Dunn concurred with Ms. Filla's comments regarding sensitivity to the term "blighted."

Mr. Lambers noted the legislature intended that the CID be used for retail facilities that are in a downward cycle.

Councilmember Azeltine concurred that something needed to be done and that the Governing Body should be respectful and considerate when describing these businesses.

Mr. Lambers received enough information to draft a proposal for Council and wanted to schedule the work session as soon as possible in order to accommodate the current application.

Councilmember Rasmussen stated several of these businesses had expressed an interest in expanding and asked how they could go about it.

Mr. Lambers stated it would be difficult due to traffic and parking already critical.

14. NEW BUSINESS

- A. Schedule a Governing Body Work Session on Monday, June 8, 2009, at 6:30 P.M., to discuss Transportation Development District [TDD] for One Nineteen Development Project, located at 119th Street and Roe Avenue [Project # 80456]

A motion to approve the work session was made by Councilmember Filla; seconded by Councilmember Rawlings.

Mr. Lambers stated this work session is to review the sales tax analysis currently being performed to justify the maximum bond amount to be issued of \$4.95 Million.

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

- B. Schedule a Governing Body Work Session on Monday, June 15, 2009, at 6:00 P.M., to discuss Bicycle Friendly Community

A motion to approve the work session was made by Councilmember Rawlings; seconded by Councilmember Filla.

Councilmember Gill confirmed with Mr. Lambers that this had gone through the Parks and Recreation and Public Works Committees.

Mr. Lambers stated they were preparing a report to identify the implications either required or desired to comply with the designation. Council can decide whether to proceed; it would then return to both committees.

Councilmember Filla noted this originally came from the Green Initiative Committee as a recommendation and was remanded to Parks & Recreation for their review.

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

Mayor Dunn reminded Council that the June 1, 2009, Governing Body meeting had been cancelled and the next meeting was scheduled for June 8, 2009.

There being no further business, the meeting was adjourned at 10:00 P.M.

ADJOURN

Debra Mansfield, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk