

**Minutes**

DVD No. 215

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, June 15, 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  
Chief John Meier, Police Department  
Chief Ben Florance, Fire Department  
Jack Reece, Web Master  
Lovina Freeman, HR Director  
Deb Harper, City Clerk

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

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the following addition to the agenda:

- \* Item 9B – Councilmembers Report - Councilmember Filla

A motion to approve the Agenda was made by Councilmember Cain; seconded by Councilmember Bussing. 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.**

Jeffrey Nessel, 12012 Ensley Lane, stated 1 out of every 50 children is affected by Autism in the United States. Currently, 12 states have passed laws that mandate insurance companies cover both the diagnosis and treatment of spectrum disorders.

The Assessing Autism Services Bill [“Kate’s Law”] recently lost a tied procedural vote and never made it to the floor of the Kansas house. Applied Behavior Analysis [ABA] has been proven in clinical studies to either cure Autism or improve a child’s verbal and social skills and costs \$30,000-\$50,000 per year. Mr. Nessel referenced two websites for specifics of the Bill; Kansas Coalition for Autism and Autism Votes. The proposed cost of “Kate’s Law” to the average Kansas citizen is less than \$2 per month in raised premiums, or approximately .06 cents per day. “Kate’s Law” will be brought forward again during the legislative session and Mr. Nessel felt as elected officials, the City Council could be a tremendous ally.

Mayor Dunn expressed appreciation to Mr. and Mrs. Nessel for being great advocates for Autism and bringing this important matter to their attention.

4. **PROCLAMATIONS** - None.

5. **PRESENTATIONS/RECOGNITION** – None.

6. **SPECIAL BUSINESS**

A. **Public Hearing:** Proposed Assessments for One Nineteen Transportation Development District Project [CIP # 80456]

As no one was present to speak, Councilmember Azeltine made a motion to close the Public Hearing; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

B. Report from Shane Gardner: Report on Golf Leagues at Ironhorse Golf Course

Shane Gardner, Orion Management Solutions, gave a report on the progress of the leagues at the golf course.

For the morning leagues, the Senior League had 40 members last year and should remain close to the same this year. The largest gain has been in the Ladies League, which doubled in size. The revenues have increased as well; however, part of this is due to a longer season. One of the strongest evening leagues is St. Michael’s. They play only one time per month, but participation has grown. Staff has become more active in forming leagues because organizations have had to reduce their staff. The Executive Women’s Golf Association is new and Ironhorse is hosting their Chapter Championship. They have also provided free clinics for the ladies to encourage continual play. The Church of the Resurrection League has slightly decreased due to their work schedules. Staff is forming a Sunday Couples League, which began as a 6-week program. Currently, they plan to have a pay-as-you-go format for people unable to attend each week to help maintain interest.

Councilmember Rawlings asked how actual revenue compared to their projected revenue. Mr. Gardner indicated they have slightly exceeded their membership and league revenue numbers and, although tournament numbers fluctuate, he felt this revenue would increase as well. Their largest component is from daily play.

- C. Request for direction regarding the replacement of the golf car fleet for Ironhorse Golf Course and purchase of GPS system for golf cars

***Staff Comment:***      ***The City Administrator does not concur with the Ironhorse Advisory Board's recommendation to expend an additional \$85,000.00 for a GPS system to be placed on the golf cars.***

City Administrator Scott Lambers felt due to the current economy and that this wasn't a budgeted item, it wouldn't be appropriate for the additional expenditure at this time. He recommended continuing with the golf cars they have.

Mayor Dunn confirmed with Mr. Lambers that the \$192,000 new quote for the lease amount was budgeted and this request would be an additional cost.

Mayor Dunn recognized Dick Fuller, Chairman of the Ironhorse Golf Course Advisory Board in attendance.

Councilmember Gill asked what percentage of people had their own GPS systems. Mr. Gardner thought it was approximately 15%-20% and was increasing each year. The golf shop does not sell them and a quality one would cost approximately \$400. There is a license fee of \$50-\$75 that would need to be included each year and also an annual maintenance fee, which varies with each unit. The main value in providing the systems were; (1) golfers having access to yardage information from any location; (2) ability to restrict access and speed to certain areas for the golf cars, and (3) ability of the golf shop to see the position of every golf car.

Councilmember Rawlings confirmed with Mr. Gardner this was a recommendation from the Golf Course Committee. He asked if any other courses competitive with Leawood were equipped with a GPS system and if they enhance play. Mr. Gardner thought they would help with the "pace of play," however, felt that wasn't enough of a benefit to justify the expense. There are five golf courses that have the system and one that is in the process of acquiring it: (1) Falcon Ridge; (2) Prairie Highlands; (3) Tiffany Greens; (4) Shoal Creek; (5) Swope Memorial, and (6) Adams Point (within 6 months). There are two courses Leawood competes with that don't have the system; Deer Creek and Sycamore Ridge.

Mr. Gardner confirmed for Councilmember Azeltine that most private clubs don't have the GPS systems and noted it would benefit a public golf course more due to the consistency of new players. The \$86,000 is over a four-year term of the lease. Of this amount, there is \$11,500 per year for maintenance and the company will provide the first year of maintenance at no cost if a contract is signed for a three-year period. This equates to a \$75,000 expense over 3 or 4 years.

Mayor Dunn confirmed with Mr. Gardner that the term is for a four-year lease; however, they have the option to trade them after three. She asked if they could delay this and budget it at the appropriate time. Mr. Gardner thought they could keep the golf cars they currently have for another year; however, noted some additional maintenance expense.

Councilmember Peppes asked where the funds would come from since it wasn't a budgeted item. Mr. Lambers stated it would require a budget amendment showing the increased cost over the life of the lease.

Mr. Lambers deferred to Mr. Gardner regarding Mayor Dunn's suggestion of delaying and indicated they could return in September, 2009, with an evaluation on the condition of the cars.

Councilmember Bussing thought controlling the pace of play and being able to keep the cars off of the greens was appealing; however, concurred with Mr. Lambers comments that it wasn't the appropriate time.

Mr. Gardner concurred that they could continue to use the cars and return in September with an evaluation.

Councilmember Gill also concurred and thought Mr. Gardner should seek competitive bidding.

A motion to defer this decision and have the Golf Course Committee return in September, 2009, with a report on the condition of the cars was made by Councilmember Bussing; seconded by Councilmember Rawlings.

Mr. Gardner confirmed he would consider Mr. Gill's remarks regarding competitive bidding.

Councilmember Peppes asked when their current cars needed to be returned and if it allowed enough time for them. Mr. Gardner indicated the cars weren't required to be returned until April, 2010; however, they could take delivery of the new cars the first of the year.

Councilmember Rasmussen confirmed with Mayor Dunn that the motion was to defer the leasing on the new cars as well as purchasing the GPS system.

Mr. Lambers noted they would review the evaluation in September to consider whether to lease the cars another year, depending upon estimated maintenance costs. If the decision is to lease them another year and Council wants to proceed with their request, it would allow time to add this to the 2011 budget.

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. 2009-19, 2009-20, 2009-21, and 2009-22
- B. Accept Minutes of the May 18, 2009 Governing Body meeting
- C. Accept Minutes of the April 23, 2009 IRONHORSE Advisory Board meeting
- D. Accept Minutes of the April 10, 2009 Stormwater Management Committee meeting

- E. Accept Minutes of the March 10, 2009 Historic Commission meeting
- F. Accept Minutes of the February 11, 2009 Leawood Foundation meeting
- G. Accept Minutes of the November 12, 2008 Leawood Foundation meeting
- H. Approve Renewal of Cereal Malt Beverage [CMB] License for Price Chopper #500, located at 13351 Mission Road
- I. Approve Change Order No. 1 in the amount of \$135,701.71 to O'Donnell & Sons Construction Company, pertaining to the 2009 Residential Mill & Overlay Project [Project # 70006]
- J. Approve Change Order No. 2 in the amount of \$1,637.70, to Teague Electric, pertaining to 128<sup>th</sup> Street and State Line Road Traffic Signal Project # 80400
- K. Approve 6<sup>th</sup> and Final Payment in the amount of \$2,637.70 to Teague Electric, pertaining to 128<sup>th</sup> Street and State Line Road Traffic Signal Project # 80400
- L. Approve 4<sup>th</sup> and Final Pay request in the amount of \$1,060.00, to Uhl Engineering, pertaining to the 2009 Residential Street Mill & Overlay Project [Project # 70006]
- M. Approve Recommendation from Orion Management Solutions for Sale of Inventory at Ironhorse Golf Course
- N. **Resolution No. 3219** calling for a Public Hearing to be heard on Monday, August 3, 2009, to consider the 2010 Fiscal Budget for the City of Leawood, Kansas
- O. **Resolution No. 3220** accepting Public Infrastructure Improvements, 123<sup>rd</sup> & Mission Road traffic signals and 128<sup>th</sup> & State Line Road traffic signals, in accordance with the GASB-34 Guidelines of reporting inventory of assets
- P. **Resolution No. 3221** exercising the City's option to purchase real property from Merlyn P. McMorris, Trustee and Larry D. Parsons, pursuant to that certain Lease Agreement dated April 1, 1995, as amended, for real property located at 14701 Mission Road known as Ironwoods Park, [f/n/a South Park]
- Q. **Resolution No. 3222** approving and authorizing the Mayor to execute a Community Service Agreement between the City and Blue Valley Unified School District No., 229, pertaining to the assignment of School Resource Officers [SRO]
- R. **Resolution No. 3223** approving and authorizing the Mayor execute a Service Agreement between the City and Tom Burge Fence and Iron, in the amount of \$56,929.00, pertaining to the perimeter fence at Ironhorse Golf Course, located at 15400 Mission Road
- S. **Resolution No. 3224** approving and authorizing the Mayor to execute a Service Agreement between the City and Riggs Recreation Equipment, Inc., in the amount of \$15,980.00 pertaining to the resurfacing of tennis course at City Park, located at 10601 Lee Boulevard
- T. **Resolution No. 3225** approving a Revised Final Site Plan for Park Place – Aloft Hotel Sign Plan, located at the northeast corner of Nall Avenue and 117<sup>th</sup> Street (PC Case # 25-09) [*from the May 26, 2009 Planning Commission meeting*]
- U. **Resolution No. 3226** approving a Revised Final Site Plan for Nall Valley Shops - Capitol Federal Utility Screening Plan, located at the northeast corner of 151st Street and Nall Avenue (PC Case # 23-09) [*from the May 26, 2009 Planning Commission meeting*]
- V. Police Department Monthly Report
- W. Fire Department Monthly Report

X. Municipal Court Monthly Report

Councilmember Cain requested to pull Item No. 7P and Councilmember Azeltine pulled Item No. 7I for discussion.

Mayor Dunn noted Item Nos. 7K and 7L; Teague Electric and UHL Engineering both received perfect scores on their performance evaluations.

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

- 7I. Approve Change Order No. 1 in the amount of \$135,701.71 to O'Donnell & Sons Construction Company, pertaining to the 2009 Residential Mill & Overlay Project [Project # 70006]

Councilmember Azeltine asked for clarification of the additional expenses. Public Works Director Joe Johnson stated based upon last years cost, they thought there wasn't going to be enough funds to complete all the streets originally planned and removed some of them from the bid; however, the bids were favorable and they were able to add them back in.

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

- 7P. **Resolution No. 3221** exercising the City's option to purchase real property from Merlyn P. McMorris, Trustee and Larry D. Parsons, pursuant to that certain Lease Agreement dated April 1, 1995, as amended, for real property located at 14701 Mission Road known as Ironwoods Park, [f/n/a South Park]

Finance Director Kathy Rogers confirmed for Councilmember Cain that the total overall cost for Ironwoods Park was approximately \$980,000.

Councilmember Azeltine clarified that the term "purchase/option" was a formality and that they have no discretion as a Governing Body. Mr. Lambers stated it was negotiated in this manner in order for them to achieve the maximum tax benefits.

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

**8. MAYOR'S REPORT**

- A. Mayor Dunn expressed her sincere sympathy on behalf of the City of Leawood to the family of Mission Woods Mayor David Patzman, who passed away on Monday, June 1, 2009.

- B. The Leawood employee campaign for Harvester's drive to "Feed the Kids" was a success. The campaign was sponsored by the Employee Activity Committee, led by Human Resources Assistant Debbi Naster. In total, they collected 406 pounds of food and \$177.70. This equates to 1,200 meals. Mayor Dunn noted appreciation to all employees who participated.
- C. Mayor Dunn displayed exquisite gifts made by hand and entitled "Newlyweds," from the Ho Lo Fang Classic Hand Puppet Workshop. These were gifts to the City of Leawood from I-Lan County Magistrate Lu, former Mayor of I-Lan City. They will be displayed on the lower level of City Hall.
- D. Mayor Dunn was joined by Councilmembers Filla, Rawlings and Cain at the Public Art Dedication of "Porch Lights," by Dennis Reynolds, located at Somerset and Lee Boulevard. Mayor Dunn thanked Chair Mary Tearney and Dr. Ann Kenney of the Leawood Arts Council, the Art in Public Places Initiative [APPI], Parks and Recreation Director Chris Claxton and the Parks Department for their efforts.
- E. Attended a luncheon, hosted by the Leawood Woman's Club with Fire Chief Ben Florance and Police Chief John Meier. Philanthropic donations were distributed, which is tradition in the month of May. Once again, they gave very nice gifts to the Public Safety Departments for services rendered and expressed their affection for the Leawood Police and Fire Departments.
- F. Mayor Dunn was joined by City Administrator Scott Lambers and Councilmember James Azeltine at a Retirement Reception for Johnson County Manager Mike Press, sponsored by the Johnson County Board of Commissioners.
- G. Mayor Dunn was joined by City Administrator Scott Lambers, Councilmember Jim Rawlings, Finance Director Kathy Rogers and Finance Department Intern Alex Vezendan at the 2009 Kansas Legislative Overview Lunch, presented by Senator John Vratil and sponsored by Lathrop & Gage.
- H. Attended a ribbon cutting ceremony for the Monarch Plastic Surgery Center with Councilmember Azeltine, located at 135<sup>th</sup> and Roe in Plaza Point, sponsored by the Leawood Chamber of Commerce. They moved to Leawood from Overland Park and are one of the largest plastic surgery and skin rejuvenation centers in the metro region.
- I. Mayor Dunn was joined by Councilmembers Rasmussen, Rawlings and Azeltine at a Leawood Art Exhibit and Reception, co-sponsored by the Leawood Arts Council and M&I Bank. Featured artists included; Ric Cummings, Barbara Neth, Roy Raymer and Dierk Van Keppel.
- J. Attended the Mass of Dedication for St. Michael the Archangel Catholic Church, located at 143<sup>rd</sup> and Nall with Councilmember Azeltine and Deputy Fire Chief Randy Hill. Archbishop Joseph Naumann presided over the celebration.
- K. Mayor Dunn was joined by almost all City Council members for the Taste of Leawood celebration, sponsored by the Leawood Chamber of Commerce. There were 22 restaurateur's participating with a sold out crowd of 600 in attendance. Mayor Dunn expressed appreciation to Chamber President Kevin Jeffries, staff and volunteers for their efforts.

- L. Mayor Dunn expressed her appreciation to Councilmember Lou Rasmussen for representing her at the Brookwood Elementary School D.A.R.E. [Drug Abuse Resistance Education] Graduation and the Special Olympics Torch Run, sponsored by the Leawood Police Department.

**9. COUNCILMEMBERS' REPORT**

- A. Request to refer traffic issue on 132<sup>nd</sup> Street & Mission Road [Waterford Subdivision] to the Public Works Committee for review

A motion to refer this traffic issue to the Public Works Committee for review as soon as possible was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 8-0.

- B. Councilmember Filla

Ms. Filla expressed her appreciation to the Parks and Recreation Department and to all who were involved in planting the rain garden last weekend.

**10. STAFF REPORT – None.**

***COMMITTEE RECOMMENDATIONS***

**11. ARTS COUNCIL**

***[From the February 24, 2009 Arts Council meeting]***

**Resolution No. 3227** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and John Northington in the amount of \$1,700.00 for the purchase of the Art-on-Loan Piece “X”

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

Councilmember Rasmussen supported the program to provide citizens a continual look at new forms of art; however, felt the City shouldn't purchase it. He stated he would be voting against this resolution and felt in time this could hurt their efforts of public art.

Councilmember Gill expressed his support of the art and noted the Leawood Arts Council was an exceptional group who contribute greatly to the City. He felt one of the things that distinguished Leawood from other municipalities was public art.

Dr. Ann Kenney, 9814 Overbrook Court, stated that as the City continues to grow, they would be moving the art pieces to different locations. John Northington is a well established artist and this piece is of high quality for a minimal price. It was not their policy to automatically purchase all of the art on loan. This purchase was recommended by staff and Mayor Dunn and the response has been remarkable.

Dr. Kenney clarified for Councilmember Azeltine that the funds to purchase the art came from cultural art and public art reserves.

The motion carried following a vote of 7-1. Nay: Councilmember Rasmussen.

## 12. PLANNING COMMISSION

### [From the May 26, 2009 Planning Commission meeting]

- A. **Resolution No. 3228** approving Planning Commission recommendation of denial of a Revised Final Site Plan for Park Place – Building D, located at 11652 Ash Street. (PC Case # 29-09) [**SEE REVISED LANGUAGE BELOW**]

*Staff Comment: The City Administrator concurs with the Planning Staff and Planning Commission's recommendation of denial.*

Resolution approving a revised final site for Park Place – Building D, Located at 11652 Ash Street, Leawood, Johnson County, Kansas

Jeffrey Alpert, Park Place Developers, stated Building D was where Morton's Restaurant was supposed to be located in the Aloft Hotel. It's a one-story building with approximately 8,400 square feet. They obtained a lease with Morton Steakhouse of Chicago over two years ago. Morton's had asked last fall to delay opening the restaurant due to the economy for 9-18 months. They felt they weren't in a position to grant their request due to the needed revenue and noted Morton's had the responsibility for finishing the facade of the building exterior, as well as finishing the interior.

Morton's had informed Park Place Developers on February 1, 2009, they were terminating the lease because they felt they had not fulfilled their responsibilities. Mr. Alpert indicated they had done everything they were supposed to and have since filed suit against them for performance under their guarantee of the lease.

They are searching for a new tenant for the premises and hoped to find a great restaurant to fill its place. In the meantime, they have an obligation to the hotel developers to have the façade of the building completed by the time the hotel opens, which is projected to be the first week of August. Their agreement with the hotel states they can finish the building unoccupied and construct something temporary; similar to other stores not yet leased in Park Place. They designed a building finish they felt was consistent with the architecture of Park Place. It presents a "finished" appearance to the public at the main entrance to Park Place, which was an important consideration for them. The building is designed with brick, stucco, cast stone and metal accents. The large openings of the diagram on the south elevation are store front areas and they will return to Council with a final design when they have a tenant. The east elevation has been left almost completely unfinished. The north elevation faces the entrance to the hotel. There is an open drive-thru to access the parking lot on the southwest corner of the site, which is used for service access.

The Planning Commission and staff were not in favor of approving this application. They liked the design the way it was and wanted them to build it without the signage. This wasn't an option because they don't own the plans and its Morton's proprietary finish.

The following are material percentage comparisons:

	<u>Amended Building</u>	<u>Morton's</u>
Brick	34.77%	57%
Glass Storefront	30.40%	6.4%
Stucco	26%	17%
Other Materials	8.83%	19.6%

Mr. Alpert noted the Morton's design was contrary to most of the design they see in their stores and restaurants and preferred more glass. He displayed illustrations of how the building could look completed, dependant upon the tenant.

Another issue was they had suggested this could be a multi-tenant building. Mr. Alpert preferred to have only one tenant in the building; however, noted 8,400 square feet was considered high-end for most restaurants. Most of the restaurants they had spoken with were approximately 6,000 square feet. They wanted to reserve the right to have a second restaurant or retail store.

Mr. Alpert referred to the stipulation regarding screening the rooftop mechanical equipment and indicated the proposed parapets should effectively screen it. If not, they agreed to provide the correct screening. They are unable to finish the sidewalks along Ash Street until the façade was complete. This should help make it more attractive and marketable to perspective tenants.

Mayor Dunn asked how they complete a basic façade without a tenant. Mr. Alpert stated they would construct a temporary storefront and once the tenant was secure, they would design it to meet their identity.

Councilmember Rasmussen asked if there were any staff recommendations they didn't agree with. Mr. Alpert felt the revised traffic study wasn't necessary and was added expense that could be better spent elsewhere.

Mr. Alpert clarified for Councilmember Rawlings they hoped to have only one tenant; two at the most.

Councilmember Peppes asked for clarification of the entrances. Mr. Alpert stated their intent was to restrict entry to the north and the northeast corner.

Councilmember Peppes wanted further clarification for the recommendation of denial.

Community Development Director Richard Coleman stated part of staff's reasoning for denial was because this prominent corner was supposed to house a "star" restaurant and that was no longer the case. Most of the retail shops want on-street parking and staff was concerned they could have several tenants. Staff was also concerned that it's become more of a glass store front and felt it would have less of a presence on this key corner entry to the development.

Councilmember Cain wanted clarification of what they were being asked to override regarding the architecture.

Mr. Alpert wanted the building to have a more finished look and felt they could do this with the amount of finish they were proposing. With the new tenant's assistance, they could create the balance of the storefront to complete the building. Ms. Cain confirmed with Mr. Alpert that the hotel was in agreement with the amount of finish they were proposing for their opening date.

Mr. Alpert noted they were never pleased with the Morton's design due to it having a closed feeling; only 6% glass. They preferred that the building be open and more inviting.

Councilmember Rasmussen was concerned they were second guessing the developer of what they felt was marketable in the development and he didn't want another unfinished building in Leawood. The only stipulation the applicant disagreed with was No. 17 and felt the applicant should be allowed to proceed.

Mayor Dunn noted there were three options Council could take this evening; remand to the Planning Commission, override and approval, or an approval of the Planning Commissions recommendation of denial.

Councilmember Filla asked if they would consider a green rooftop for economic reasons and thought it would be pleasant for the Aloft Hotel customers to look down upon. Mr. Alpert thought they could look into this.

Councilmember Gill confirmed with Mr. Alpert that their goal was to have a "star" restaurant locate to this building. Mr. Gill didn't want the potential of the hotel not opening by its deadline by not granting this approval and felt the Planning Commission was more concerned with the architectural materials. He confirmed with Mr. Alpert when they receive their tenant, they would return before Council with final material plans. Mr. Gill expressed his support for approval.

Councilmember Bussing confirmed with Assistant Planning Director Mark Klein they've had other applicants return before Council with their tenant finish plans after final plan approval.

Mayor Dunn clarified that normally they wouldn't return with their tenant finish; however, the Governing Body had requested it

Councilmember Bussing was concerned with multiple tenants and felt this corner was a key element to the overall development. He wanted assurance it would be finished in an architectural consistent manner and reserved for a "star" restaurant consistent with the original proposed plan.

Mr. Alpert stated they were willing to restrict this to a maximum of two tenants with one reserved for a restaurant. The fine dining business is scaling back and it could be 3-4 years before they find the type of restaurant they all want.

Mr. Bussing didn't want a decision based on the current economic situation that would prevent both the Governing Body and the applicant from achieving their original vision.

Mayor Dunn felt the Planning Commission had viewed the elevations and material percentages as a permanent construction and architectural feature and didn't realize Mr. Alpert intended on a "basic" façade. The staff and Governing Body were concerned of the use.

Mayor Dunn concurred with Councilmember Bussing's comments regarding a quality restaurant and was delighted to hear Mr. Alpert state they would restrict it to two tenants.

Mr. Alpert noted when deciding the number of restaurants, they have to be careful not to "over restaurant" Park Place because retail shops need other shops in order to be successful as well. He stated their visions and commitment for Park Place have remained the same.

Mayor Dunn referred to the building west of the Aloft Hotel and asked if they planned to soften the look of the solid stucco walls. Mr. Alpert indicated this was the service area and hotel offices. He thought there was going to be additional landscaping once the hotel opened and noted what was already planted should grow and fill in as well.

A motion to approve the resolution with Stipulation Nos. 1 through 25, excluding No. 17, with an additional stipulation for a maximum of two tenants; with at least one being restricted to a restaurant was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Councilmember Gill confirmed that the proposed architectural materials for the tenants would return before the Planning Commission and Council for review.

Mayor Dunn noted this motion would override the Planning Commissions recommendation for denial and would need six votes for approval.

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

**13. OLD BUSINESS** – None.

**14. OTHER BUSINESS** – None.

**15. NEW BUSINESS**

- A. **Ordinance No. 2397** amending Chapter 1, Article 8 of the Code of the City of Leawood, 2000, by adding Sections 1-843 through 1-846, establishing a new Leawood Transient Guest Tax Fund [Roll Call Vote]

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

Councilmember Cain asked if 7% was consistent with the area and if the City of Leawood kept all of the tax. Mr. Lambers stated 7% was low for the metropolitan area and even lower for Kansas City, Missouri. The City will keep all of it for now; however, per the development agreement, once the second parking structure is complete, 5.5% will pay for the debt service of the parking structures and the City will retain the balance. The State retains 2% of the total proceeds for administration.

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

- B. **Resolution No. 3229** determining it necessary and advisable and ordering the resurfacing and repair of certain residential streets or portions thereof within the City of Leawood, Kansas pursuant to K.S.A. § 12-614 et seq. [80210]

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.

Councilmember Bussing asked if the cost estimates per linear foot were based on an average. Mr. Johnson stated they review the cost of each year's program and consider costs for each street separately. The estimated costs reflect any variations.

- C. Schedule an Executive Session immediately following the regular Governing Body meeting on Monday, June 15, 2009, to discuss matters related to attorney-client privilege

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

- D. Schedule a Governing Body Work Session on Monday, July 6, 2009, at 6:00 P.M., to discuss Front Yard Accessory Uses

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

Mayor Dunn noted this was a referral from Councilmember Bussing.

Mr. Lambers clarified that Front Yard Accessory Uses referred to garden structures in front yards.

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

- E. Schedule a Governing Body Work Session on Monday, July 13, 2009, at 6:30 P.M., to discuss Transportation Development District [TDD] for One Nineteen Development Project, located at 119<sup>th</sup> & Roe Avenue

A motion to approve the Work Session was made by Councilmember Peppes; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- F. Schedule a Governing Body Work Session on Monday, July 20, 2009, at 6:00 P.M., to discuss Proposed Amphitheatre Project

A motion to approve the Work Session was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a vote of 7-1. Nay: Councilmember Gill.

- G. Schedule a Governing Body Work Session on Monday, August 3, 2009, at 6:00 P.M., to discuss a request for Discuss Land Use of State Line Business Park

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

- H. Schedule a Governing Body Work Session on Monday, August 17, 2009, at 6:00 P.M., to discuss a request for Transportation Development District [TDD] for Village of Seville [133<sup>rd</sup> & State Line]

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

A motion to recess into Executive Session at 9:45 P.M. for a period of 20 minutes was made by Councilmember Azeltine; seconded by Councilmember Rasmussen.

A motion to extend the Executive Session for a period of 10 minutes was made by Councilmember Gill; seconded by Councilmember Azeltine.

The Governing Body reconvened into regular session at 10:15 P.M.

A motion to adjourn the regular session at 10:15 P.M. was made by Councilmember Gill; seconded by Councilmember Azeltine.

## **ADJOURN**

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Deputy City Clerk