

Minutes

DVD No. 216

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, July 6, 2009. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Lou Rasmussen and Gary Bussing

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Scott Smith, Web Master
Deb Harper, City Clerk

Patty Bennett, City Attorney
Joe Johnson, PW Director
Chris Claxton, P&R Director

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

A motion to approve the Agenda was made by Councilmember Rawlings; seconded by Councilmember Gill. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

- 4. PROCLAMATIONS - None.**
- 5. PRESENTATIONS/RECOGNITION – None.**
- 6. SPECIAL BUSINESS – None.**

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. 2009-23, 2009-24, and 2009-25
- B. Accept Minutes of the June 8, 2009 Governing Body meeting
- C. Accept Minutes of the June 15, 2009 Governing Body meeting
- D. Accept Minutes of the June 15, 2009 Governing Body Work Session
- E. Accept Minutes of the February 17, 2009 Public Works Committee meeting
- F. Approve Change Order No. 2 in the amount of \$4,255.00 to O'Donnell & Sons Construction Company, pertaining to the 2009 Residential Mill & Overlay Program, [Project # 70006]
- G. Approve 3rd and Final Pay Request in the amount of \$12,470.33 to Miller Paving & Construction, LLC, pertaining to Gezer Park, located at located at 133rd and Mission Road [# 76006]
- H. Approve 3rd and Final Pay Request in the amount of \$1,000 to The Peridian Group, pertaining to the 103rd Street [between State Line and Mission Road] Mill & Overlay Survey [American Recovery and Reinvestment Act of 2009]
- I. **Resolution No. 3230** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$66,242.00 to C.V. Anderson, pertaining to painting services at Public Works Facility and handrails at College Boulevard and State Line Road
- J. **Resolution No. 3231** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$25,223.00 to C.V. Anderson, pertaining to interior painting services at Ironwoods Park
- K. **Resolution No. 3232** approving and authorizing the Mayor to renew the Service Agreement between the City and Securitas Security Services USA, to provide School Crossing Guard Services
- L. **Resolution No. 3233** approving and authorizing the Mayor to execute a Participating Addendum to an Inter-local Cooperation Agreement between the City and the Board of County Commissioners of Johnson County pertaining to the coordinated delivery of emergency medical services within the boundaries of Johnson County, Kansas, for Dr. Lester Richardson to serve as a medical adviser
- M. **Resolution No. 3234** granting a Quit Claim Deed to Lawrence D. and Janet L. Moran for real property located at 5100 W. 153rd Street, in connection with Ironhorse Golf Course
- N. **Resolution No. 3235** approving a Revised Final Plat for Gardens of Villaggio-Lot 3, located north of 137th Street and east of Roe Avenue [PC Case # 01-09] [from the June 9, 2009 Planning Commission meeting]

Mayor Dunn requested to pull Item No. 7G and Councilmember Filla pulled Item No. 7K for discussion.

A motion to approve the remaining Consent Agenda items was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- 7G. Approve 3rd and Final Pay Request in the amount of \$12,470.33 to Miller Paving & Construction, LLC, pertaining to Gezer Park, located at located at 133rd and Mission Road [# 76006]

Mayor Dunn asked for an update regarding the timeline and completion date for Gezer Park.

Parks and Recreation Director Chris Claxton stated the park was nearing completion and thought the only things remaining were landscaping and sod and should be finished over the next few weeks.

Mayor Dunn asked why large stones were placed on the corner of 133rd and Mission Road.

Ms. Claxton stated the Parks Department was planning to build a retaining wall. She also indicated they want the sod in place to ensure the pond supporting the sculpture didn't receive any more silt. Once this is finished, it will be complete. The under drain has been placed in the wadie and is functioning well with all of the heavy rains. The park should be completed by the second week of August and they can then decide when to open to the public.

A motion to approve Item No. 7G was made by Councilmember Filla; seconded by Councilmember Gill. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- 7K. **Resolution No. 3232** approving and authorizing the Mayor to renew the Service Agreement between the City and Securitas Security Services USA, to provide School Crossing Guard Services

Councilmember Filla asked how many crossing guards would be under this contract and thought it was one of the most valuable services they could provide the citizens. She asked if the Police Department had received comments from parents regarding the service.

Police Chief John Meier stated the parents know they provide the service because if there's a problem they let the Police Department know. It's difficult to find and keep guards and Securitas Services does a good job. He thought most of the parents were pleased.

A motion to approve Item No. 7K was made by Councilmember Filla; seconded by Councilmember Azeltine.

Mayor Dunn confirmed with Chief Meier that if the parochial schools requested crossing guards, the department would provide and pay for them as well.

Councilmember Azeltine confirmed with Chief Meier that the crossing guards wear a Securitas uniform with a traffic vest.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

8. MAYOR'S REPORT

Annual Report: American Revolution Tricentennial CD Fund

Mayor Dunn stated this fund was put in place as a CD in the amount of \$1,000 on July 6, 1976, by the Leawood American Revolution Bicentennial Committee. It earned \$172.33 in interest last year, bringing the current balance to \$8,183.29. It yields an interest rate of 1.637%, which will mature on April 14, 2010. Mayor Dunn read a letter from Mayor William Eddy, who was Mayor at that time. He had requested this be read around July 4th every year.

- A. Attended the 8th Annual *All-American Celebration*, honoring firefighters, police officers and veterans, along with City Administrator Scott Lambers, Police Chief John Meier and Fire Chief Ben Florance. There were several Police and Fire Departments in attendance along with many people from Johnson County. The event has been organized and orchestrated by Leawood resident Anne Hull for the last 8 years. This event is a gift to the community from the men and women of Heartstrings Community Foundation. This organization assists adults with developmental disabilities to live meaningful, productive and independent lives through employment in the business community. Mayor Dunn noted they have had much success and it was always a very moving celebration. She thanked Chief Meier and Chief Florance for the representation they bring.
- B. Mayor Dunn congratulated Police Chief John Meier for receiving the 12th Clarence M. Kelley Meritorious Service Award in April, in recognition of his service to the FBI National Academy Associates [FBINAA] and law enforcement. Chief Meier also received the "Hero's Award" from Special Olympics to recognize his outstanding work with the Law Enforcement Torch Run in making it a success locally and statewide.
- C. Mayor Dunn expressed congratulations to parents Rob Tanenbaum, member of the Gezer Region Sister City Committee, and Kelly Jackson, member of the Planning Commission, for their son, Jake Tanenbaum, who made "Team USA" to attend the Maccabi Games in Israel on July 13th. The games are held every four years and Israel hosts athletes from sixty nations. This is the third largest sporting event in the world. Jake is on the wrestling team and won the 60-kilograms bracket with three wins during team trials in Cleveland, Ohio, and was declared the "Most Outstanding Wrestler" of the tournament. There were only 8 wrestlers that made the team.
- D. Mayor Dunn expressed appreciation to Parks and Recreation Director Chris Claxton and the Parks, Police, Fire and Public Works Departments for orchestrating a wonderful July 4th celebration and noted there were several thousand people in attendance.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. **PLANNING COMMISSION** - None.

12. **OLD BUSINESS** – None.

13. **OTHER BUSINESS** – None.

14. **NEW BUSINESS**

- A. **Ordinance No. 2398** amending § 14-107 of the Code of the City of Leawood, 2000, pertaining to the use of coasters, roller skates and similar devices, and repealing existing Section 14-107 and other sections in conflict herewith

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

Councilmember Azeltine asked for clarification of the ordinance.

City Attorney Patty Bennett stated it was the City's existing ordinance and was being corrected because of a typing error.

The motion carried following a unanimous roll call vote of 6-0. Yea: Councilmembers Gill, Rawlings, Cain, Filla, Azeltine, and Gill. Nay: None. (Councilmembers Rasmussen and Bussing absent).

- B. Schedule an Executive Session immediately following the regular Governing Body meeting on Monday, July 6, 2009, to discuss matters related to attorney-client privilege

A motion to approve the Executive Session for a period of 20 minutes was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- C. Schedule a Governing Body Work Session on Tuesday, September 8, 2009, at 6:15 P.M., to discuss Recycle Bins in area schools

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

Councilmember Azeltine thought this wouldn't be very involved and asked if they could just have a staff report and not need a work session.

Mr. Lambers stated it wouldn't be that involved; however, staff has a strong recommendation that they need to closely adhere to the same requirements imposed on private businesses in the City. He didn't feel the school districts were going to be pleased with this and wanted Council behind them before they went public.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- D. Schedule a Governing Body Executive Session on Monday, September 21, 2009, at 6:30 P.M., to discuss Personnel Matter; City Administrator's 6-month review

A motion to approve the Executive Session was made by Councilmember Gill; seconded by Councilmember Azeltine.

Mayor Dunn reminded Council this was an informal review and was the reason they could have the meeting prior to a Governing Body meeting, versus a separate night.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- E. Schedule a Governing Body Work Session on Monday, October 5, 2009, at 6:00 P.M., to Discuss Informational Signs

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

Mr. Lambers stated Council had recommended having this work session prior to the next election for discussion as it relates to the City's political sign ordinance.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

- F. Cancellation of the July 13, 2009 Work Session regarding discussion of the Transportation Development District [TDD] for One Nineteen Development Project, located at 119th and Roe Avenue [Project \$ 80456]

A motion to approve the cancellation of the July 13, 2009, work session was made by Councilmember Azeltine; seconded by Councilmember Gill.

Mr. Lambers informed the Council that he was recommending they take this action because he learned on June 17th that RED Development Company had not paid their property taxes in certain developments, one of which was the Legends Development in Wyandotte County. He confirmed this was correct with a representative from RED and they intended to use their non-payment as leverage to negotiate more concessions from Wyandotte County. Staff had contacted the County to confirm non-payment of the taxes. Mr. Lambers advised a senior representative at RED that he wouldn't recommend the July 13th work session to proceed as long as the property taxes (due May 10th) had not been paid. The representative assured him they intended on paying them. In response to this conversation, he received an e-mail from RED Vice President Julie Jurden indicating she had requested a draw of the taxes. Mr. Lambers intended to re-schedule the work session if the taxes get paid.

Councilmember Azeltine confirmed with Mr. Lambers that it was relayed to him that RED was using their non-payment of taxes as a negotiating ploy to receive more concessions from the Legends. Mr. Lambers noted they claimed they are no longer the majority partner, but only the minority. Mr. Azeltine felt this was completely unacceptable. Mr. Lambers indicated when the City of Merriam was presented with the same situation, they directed staff to meet with the developer and return to them. In that circumstance, the newspaper stated the developer was demanding a three-year extension of their TIF in order to pay the taxes and unless they received the extension they weren't going to pay them. They can't make a partial payment; they have to pay their property taxes and specials for the County.

Mayor Dunn confirmed with Mr. Lambers he would be informing Red Development of the cancellation. He had informed them in mid-June this would be the consequence; however, the person he had spoken with and Ms. Jurden thought the taxes would be paid. Once the payment has been made, staff will confirm it and reschedule the work session to proceed.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

A motion to recess into Executive Session at 8:05 P.M. for a period of 20 minutes was made by Councilmember Azeltine; seconded by Councilmember Cain. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Bussing absent).

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

The Governing Body reconvened into regular session at 8:35 P.M.

A motion to adjourn the regular session at 8:35 P.M. was made by Councilmember Filla; seconded by Councilmember Peppes.

ADJOURN

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk