

**Minutes**

DVD No. 232

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 5, 2010. Mayor Peggy Dunn presided.

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

**Mayor/Councilmembers absent:** None

<b>Staff present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, Public Works Director
Chief Ben Florance, Fire Department	Chris Claxton, P&R Director
Mark Andrasik, Info Systems Director	Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director	Deb Harper, City Clerk
Mark Klein, Assistant Planning Director	Pam Gregory, Assistant City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the following modifications to the agenda:

- \*Item No. 7CC – Continued to the April 19, 2010, Governing Body meeting
- \*Addition of Councilmembers Report – Councilmember Mike Gill

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Cain. 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.**

Wayne Dillard, 12020 Wenonga Lane, Field Operations Supervisor for the United States Census Bureau, asked the Council to waive any fees associated with conducting a training session at City Hall for field crews collecting census information. The training will take place during the week of April 26<sup>th</sup> through 30<sup>th</sup>.

A motion to waive fees for the use of the Maple Room at City Hall for Census Bureau training from April 26<sup>th</sup> through April 30<sup>th</sup> was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Mayor Dunn noted thus far, 65% of Leawood residents had turned in their census questionnaire and congratulated the citizenry for their response.

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

Larry Young, 15018 Ash, a Leawood licensed window installation contractor, wanted to see a better quality of work performed within the City of Leawood. He asked the Council to require that all contractors obtain a permit and to send inspectors out to assure work is being done correctly. Some contractors are not applying the necessary taping and flashing when doing window installation. Mr. Young had spoken with the City's Chief Inspector and she agreed they needed to develop some requirements.

Mayor Dunn stated they would request a report on this from the Chief Inspector.

Mr. Young indicated the City has a code requirement; however, it doesn't require inspection for window installation if the existing opening is not changed.

Councilmember Cain indicated Mr. Young had previously worked at her home and noted he does excellent work and is well recommended.

Mayor Dunn confirmed that annual reviews of permits are conducted in the fall. They may want a report sooner for further discussion on this.

**4. PROCLAMATIONS** **Public Safety Telecommunicators' Week,  
April 11-17, 2010**

Mayor Dunn read the proclamation into the record.

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS**

**Resolution No. 3355** approving and authorizing the Mayor to execute a Professional Planning Service Agreement in the amount of \$33,135.00, [base contract \$22,000; with alternate A at \$5,250.00; and alternate B at \$5,885.00] between the City and Hoefler Wysocki Architects, LLC [HWA], for planning services for specific City-owned property

City Administrator Scott Lambers stated the attached contract represented previous discussion to prepare a Preliminary Site Plan for the future Justice Center, located at 117<sup>th</sup> Street and Tomahawk Creek Parkway. Alternate A is for the consultant to confer with the Council regarding a re-use plan for the north property where the existing police station is located. Alternate B is to complete a Master Plan for the balance of the site at 117<sup>th</sup> Street and Tomahawk Creek Parkway for possible alternate additional uses that include the Preliminary Site for the Justice Center.

Mayor Dunn confirmed that completion of the base contract should be in early June. Mr. Lambers noted it was more difficult to determine the timetable of the re-use plan because of work sessions involving Council input.

A motion was made by Councilmember Filla to approve the resolution authorizing a Professional Planning Service Agreement in the amount of \$33,135.00 base contract with alternates A and B, to consider allowing citizen suggestions, and to include evaluating the amphitheatre as an additional use [alternate B] as part of this study; seconded by Councilmember Peppes.

Mr. Lambers noted there would be a work session regarding the Preliminary Site Plan to give the consultant direction to proceed. There is also a work session currently scheduled for the re-use plan for the north property.

Councilmember Rasmussen asked if alternate B included possible commercial use of the space not planning to be occupied by the Justice Center. Mr. Lambers stated the current concept is that the entire site will be used for public, not private use.

The motion carried following a vote of 7-1. Nay: Councilmember Rasmussen. Mr. Rasmussen felt this should only include the Justice Center and commercial development should be considered as an alternate use to the balance of the site. The proposed plan includes property at 117<sup>th</sup> and Roe and he felt the position of the City Council was untenable. To include this in the planning process would undercut his position.

## 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. 2010-7, 2010-8, 2010-9, 2010-10, and 2010-11
- B. Accept minutes of the March 1, 2010 Governing Body meeting
- C. Accept minutes of the March 1, 2010 Governing Body Work Session
- D. Accept minutes of the February 9, 2010 Parks and Recreation Advisory Board meeting
- E. Accept minutes of the February 4, 2010 Leawood Foundation Annual Board meeting
- F. Accept minutes of the January 27, 2010 Stormwater Management Committee meeting
- G. Accept minutes of the January 26, 2010 Arts Council meeting
- H. Accept minutes of the January 19, 2010 Public Works Committee meeting
- I. Accept minutes of the January 14, 2010 Ironhorse Advisory Board meeting
- J. Accept minutes of the October 14, 2009 Historic Commission meeting
- K. Approval of 2010 Governing Body Goals & Objectives [*Continued from the March 1, 2010 Governing Body meeting*]
- L. Approve renewal of Cereal Malt Beverage [CMB] license for Hallbrook Country Club, located at 11300 Overbrook Road

- M. Sixth and Final Pay Request in the amount of \$2,382.00 to Phelps Engineering, Inc., pertaining to the 2010 Residential Street Reconstruction Project [Project # 70008]
- N. Approve purchase in the amount of \$45,793 from Commenco, Inc., for 700 MHz portable fire radios for the Fire Department
- O. Approve purchase in the amount of \$44,000 from Blue Valley Public Safety, Inc., for the purchase and installation of two [2] Emergency Preparedness storm warning sirens
- P. Approve purchase in the amount of \$49,031.66 from Professional Turf Products, for the purchase of maintenance equipment for Ironhorse Golf Course
- Q. Approve purchase in the amount of \$56,218.20 from Van Wall Equipment, for the purchase of maintenance equipment for Ironhorse Golf Course
- R. **Resolution No. 3353** ordering a Public Hearing to be held on May 3, 2010, at 7:30 P.M., or as soon thereafter as may be heard on proposed assessments for the 135<sup>th</sup> Street and Fontana Intersection Traffic Signalization Project [Project # 80403]
- S. **Resolution No. 3354** ordering a Public Hearing to be held on May 3, 2010, at 7:30 P.M., or as soon thereafter as may be heard on proposed assessments for the Villaggio Improvement District Project [Project # 83197]
- T. **Resolution No. 3356** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,960,103.75, between the City and Linaweaver Construction Company, pertaining to the 2010 Residential Street Reconstruction Project [Project # 80210 & 77005]
- U. **Resolution No. 3357** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$939,270.50, between the City and O'Donnell & Sons Construction Co., Inc., pertaining to the 2010 Residential Street Mill & Overlay Program [Project # 70008]
- V. **Resolution No. 3358** approving and authorizing the Mayor to execute an Interlocal Agreement between the City and the Board of Johnson County Commissioners [BOCC] pertaining to the State Line Road Improvement Project [between I-435 to 119<sup>th</sup> Street] [Project # 72028]
- W. **Resolution No. 3359** approving and authorizing the Mayor to execute an Interlocal Agreement between the City of Leawood and the City of Kansas City, Missouri pertaining to the State Line Road Improvement Project [between Carondelet to College Boulevard] [Project # 72028]
- X. **Resolution No. 3360** approving and authorizing the Mayor to execute Supplemental Agreement No. 2 to that certain Inter-local Agreement dated August 26, 2009, between the City and Secretary of Transportation of the State of Kansas, [KDOT] for American Recovery and Reinvestment Act of 2009 Project [ARRA – Agreement No. 181-09] [46N-0449-01] for the grading and surfacing of 103<sup>rd</sup> Street between State Line Road and Mission Road
- Y. **Resolution No. 3361** approving and authorizing the Mayor to execute Amendment No. 1 to that certain an Inter-local Agreement dated December 7, 2009, between the City and WaterOne, pertaining to the construction of facilities located at 146th & Nall Avenue

- Z. **Resolution No. 3362** approving and authorizing the Mayor to execute a Consent Letter for T-Mobile Central LLC, pertaining to a fiber upgrade to the Cell tower, located at 9617 Lee Boulevard
- AA. **Resolution No. 3363** approving a Sign Plan for Pinnacle Corporate Center – Union Bank & Trust, located at 11460 Tomahawk Creek Parkway [PC Case # 06-10] *[From the February 23, 2010 Planning Commission meeting]*
- BB. **Resolution No. 3364** approving a Revised Final Site Plan for The Woods At Ironhorse, located at 153<sup>rd</sup> Street and Nall Avenue [PC Case # 15-10] *[From the February 23, 2010 Planning Commission meeting]*
- \*CC. **Resolution approving a Final Site Plan for a Tenant Finish for Camelot Court – Jimmy John’s Gourmet Sandwiches, located at 4302 W. 119<sup>th</sup> Street [Case 16-10] [From the February 23, 2010 Planning Commission meeting] – CONTINUED TO THE APRIL 19, 2010, GOVERNING BODY MEETING**
- DD. **Resolution No. 3365** approving a Sign Plan for Sign Criteria for Pinnacle Corporate Centre, located northwest of 115<sup>th</sup> Street and Tomahawk Creek Parkway [PC Case # 20-10] *[From the February 23, 2010 Planning Commission meeting]*
- EE. **Resolution No. 3366** approving a Final Sign Plan for Root Dental, located at 5201 College Boulevard [PC Case # 77-09] *[From the March 23, 2010 Planning Commission meeting]*
- FF. **Resolution No. 3367** approving a Final Sign Plan for Plaza Pointe – Monarch Plastic Surgery, located at 4801 W. 135<sup>th</sup> Street [PC Case # 02-10] *[From the March 23, 2010 Planning Commission meeting]*
- GG. **Resolution No. 3368** approving a Final Site Plan for a Tenant Finish for Town Center Plaza – Bath & Body Works, located at 5012 West 119<sup>th</sup> Street [PC Case # 14-10] *[From the March 23, 2010 Planning Commission meeting]*
- HH. **Resolution No. 3369** approving a Final Sign Plan for Parkway Plaza – NU 2 You, located at 4870 W. 135<sup>th</sup> Street [PC Case # 23-10] *[From the March 23, 2010 Planning Commission meeting]*
- II. **Resolution No. 3370** approving a Final Sign Plan for Leawood Plaza – Jia Restaurant, located at 12248 State Line Road [PC Case # 24-10] *[From the March 23, 2010 Planning Commission meeting]*
- JJ. **Resolution No. 3371** approving a Final Sign Plan for Leawood Plaza – Nails Diva, located at 12250 State Line Road [PC Case # 25-10] *[From the March 23, 2010 Planning Commission meeting]*
- KK. **Resolution No. 3372** approving a Revised Final Plat for Villas of Leawood 8<sup>th</sup> Plat, located at 1949, 1953, and 1955 W. 139<sup>th</sup> Terrace [PC Case # 27-10] *[From the March 23, 2010 Planning Commission meeting]*
- LL. **Resolution No. 3373** approving a Final Sign Plan for Market Square – Auburn Pharmacy, located at 13351 Mission Road [PC Case # 30-10] *[From the March 23, 2010 Planning Commission meeting]*
- MM. **Resolution No. 3374** approving a Final Sign Plan for revised sign criteria for Parkway Plaza, located at the northwest corner of Roe Avenue and 135<sup>th</sup> Street [PC Case # 33-10] *[From the March 23, 2010 Planning Commission meeting]*

- NN. **Resolution No. 3375** approving a Final Sign Plan for Parkway Plaza Offices – Mohn & Smiley Dental, located at 13430 Briar [PC Case # 28-10] [*From the March 23, 2010 Planning Commission meeting*]
- OO. **Resolution No. 3376** approving a Final Sign Plan for revised sign criteria for One Nineteen, located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue [PC Case # 35-10] [*From the March 23, 2010 Planning Commission meeting*]
- PP. Declaration of Ironhorse Golf Course maintenance equipment as surplus property
- QQ. Fire Department Monthly Reports February 2010
- RR. Municipal Court Monthly Reports February 2010
- SS. Police Department Monthly Reports February 2010

Mayor Dunn requested to pull Item No. 7X and Councilmember Rasmussen pulled Item No. 7K for discussion.

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

- 7K. Approval of 2010 Governing Body Goals & Objectives [*Continued from the March 1, 2010 Governing Body meeting*]

Councilmember Rasmussen felt the language under Long-Term Goal Nos. 6 and 7 should be changed to read “Investigate” pay as you go [PAYG], instead of “Establish;” as it inferred that part of the overall mill levy was dedicated to two distinct items and was not proper policy.

Mayor Dunn noted there was consensus for this language when they had met for goal setting.

A motion to change the language under Long-Term Goal Nos. 6 and 7 to read “Investigate” PAYG, instead of “Establish” PAYG was made by Councilmember Rasmussen.

The motion died for lack of a second.

Mayor Dunn stated the language would remain as written and since it is a long-term goal, they had intentionally done this knowing it probably wouldn't be funded for a few years.

A motion to approve Item No. 7K was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a vote of 7-1. Nay: Councilmember Rasmussen.

- 7X. **Resolution No. 3360** approving and authorizing the Mayor to execute Supplemental Agreement No. 2 to that certain Inter-local Agreement dated August 26, 2009, between the City and Secretary of Transportation of the State of Kansas, [KDOT] for American Recovery and Reinvestment Act of 2009 Project [ARRA – Agreement No. 181-09] [46N-0449-01] for the grading and surfacing of 103<sup>rd</sup> Street between State Line Road and Mission Road

Public Works Director Joe Johnson clarified that originally the State was awarded \$20 Million for ARRA projects in Johnson County; however, there is a shortfall due to the projects totaling over \$21 Million. The new Inter-Local Agreement specifies the City will receive \$925,305.00 in ARRA funding. The difference consists of Federal STP funding of \$390,527.00, which has an 80% - 20% match. The City's obligation is 20%, totaling \$78,105.40.

A motion to approve Item No. 7X was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Councilmember Rasmussen confirmed with Mr. Johnson that this change wouldn't adversely affect their efforts of improving the stormwater inlet problem along 103<sup>rd</sup> Street.

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

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

- A. Mayor Dunn recognized Marica Putman of the Parks and Recreation Department for the terrific scrapbook she compiled for their friends in the Gezer Region of Israel, Leawood's Sister City, on the delegation visit last fall.
- B. Participated on a panel discussion with Kansas City Mayor Mark Funkhouser and Overland Park Mayor Carl Gerlach for the Jewish Federation's Business and Professionals Series, held at Sullivan's Steakhouse in the One Nineteen Development. This was a nice affair with over 100 people in attendance.
- C. Attended the United Way of Greater Kansas City's Annual Meeting with City Administrator Scott Lambers. Discussion was focused on community needs.
- D. The Johnson & Wyandotte Counties Council of Mayors meeting, hosted by Olathe Mayor Michael Copeland, was held in the Olathe Municipal Court Building. Tours were given of the beautiful new facility.
- E. Attended the Leawood Pioneer Library's Storybook Character Tile Mural dedication and unveiling. It is an impressive piece of art done by area students, teachers and parents, located in the Youth Services area. Mayor Dunn encouraged everyone to view it if they hadn't had the opportunity to do so.
- F. Attended the Leawood Patriotic Assembly, organized by Police Officer Mark Chudik at the Leawood Elementary School. Police Chief John Meier, Fire Chief Ben Florance and others from their ranks, were also in attendance. The assembly honored veterans and those currently serving in the military.
- G. Attended the Leawood Arts Show, co-sponsored by the Leawood Arts Council and M&I Bank. Councilmembers Rasmussen, Rawlings and Bussing were also in attendance. Featured artists included Venus Auxier, Jim Hamil, Susan Hill, Belinda Riley and Rick Stone.
- H. Attended the State of the County Address, presented by Commission Chairwoman Annabeth Surbaugh. Councilmembers Rasmussen, Rawlings and Azeltine were among those in attendance.
- I. Mayor Dunn congratulated former Senator David Wysong for being selected as the 2010 Johnson Countian of the Year by the Johnson County Community College Foundation. There will be a dinner in November honoring Mr. Wysong.

**9. COUNCILMEMBERS' REPORT – Councilmember Gill**

Referral to the Public Works Committee – “Water ponding” at 2233 Condolea Terrace

A motion to refer a “water ponding” problem at 2233 Condolea Terrace to the Public Works Committee for review was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 8-0.

**10. STAFF REPORT – None**

**COMMITTEE RECOMMENDATIONS**

**11. PARKS AND RECREATION ADVISORY BOARD**

***[From the March 9, 2010 Planning Commission meeting]***

Accept recommendation to utilize funds for construction of a shelter in Gezer Park, located at 13300 Mission Road, originally planned for Ironwoods Park

A motion to accept the recommendation to utilize funds for construction of a shelter in Gezer Park was made by Councilmember Rasmussen; seconded by Councilmember Rawlings.

Councilmember Azeltine asked for clarification between the amount of funds raised and the actual cost of the shelter.

Parks and Recreation Director Chris Claxton stated the shelter had not yet gone to bid; however, there is other funding still available that could be used. Donors agreed that these funds did not need to be earmarked for something specific.

Mayor Dunn clarified that the \$60,000 budgeted for a shelter at Ironwoods Park would be transferred to construct a shelter at Gezer Park. Ms. Claxton noted in addition, some of the \$35,665 that was privately raised had been designated for specific items. Construction will not begin until there is a firm bid on the project in order to evaluate funding.

Councilmember Gill noted thus far, Gezer Park had been enormously successful and they would need the shelter.

Mayor Dunn thanked the Leawood Foundation and all of the other groups for their efforts in seeking fundraising.

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

**12. PLANNING COMMISSION**

***[From the March 24, 2009 Planning Commission meeting]***

A. Ordinance approving a Revised Preliminary Site Plan for Town Center Business Park, Lots 4, 5 and 6, located on the northeast corner of 117<sup>th</sup> Street and Roe Avenue [MD ASSOCIATE #4, Inc., - Case # 04-09] [Roll Call Vote] ***CONTINUED FROM THE SEPTEMBER 8, 2009 AND MARCH 1, 2010 GOVERNING BODY MEETINGS***



**Staff Comment:** *Staff recommends a 3-month continuation; to be heard on Tuesday, July 6, 2010*

A motion to continue Item No. 12A to the July 6, 2010, Governing Body meeting was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 8-0.

**[From the February 23, 2010 Planning Commission meeting]**

B. **Resolution No. 3377** approving a Sign Plan for Cornerstone Gaslight Grill, located at 5020 W. 137<sup>th</sup> Street [PC Case #12-10]

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

C. **Ordinance No. 2436** approving a Special Use Permit for a Wireless Antenna for Leawood South Country Club – Clearwire Wireless Broadband, located at 3891 W. 123<sup>rd</sup> Street [PC Case # 18-10] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Rasmussen. The motion carried following a unanimous roll call vote of 8-0. Nay: None.

D. **Resolution No. 3378** approving a Final Site Plan for a Tenant Finish for Town Center Plaza – Over The Top Cupcake and Yogurt Shoppe, located at 4825 W. 117<sup>th</sup> Street [PC Case # 19-10]

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

E. **Ordinance No. 2438** amending Section 16-4-9.4 of the Leawood Development Ordinance [LDO] entitled, ‘Height and Location Requirements’ pertaining to fences and gates for utility and service facilities [PC Case # 09-10] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous roll call vote of 8-0. Nay: None.

F. **Ordinance No. 2439** amending Section 16-1-4.2 of the Leawood Development Ordinance, [LDO] entitled ‘Minimum Standards’ pertaining to fences and gates for utility and service facilities [PC Case # 04-10] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Gill. The motion carried following a unanimous roll call vote of 8-0. Nay: None.

**13. OLD BUSINESS** – None.

**14. OTHER BUSINESS – None.**

**15. NEW BUSINESS**

Schedule a Governing Body Executive Session on Monday, April 5, 2010, immediately following the regular meeting to discuss matters related to attorney-client privilege

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

A motion to recess into Executive Session at 8:30 P.M. for a period of 30 minutes was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

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

A motion to extend the Executive Session at 9:00 P.M. for a period of 15 minutes was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

The Governing Body reconvened into regular session at 9:15 P.M.

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

**ADJOURN**

There being no further business, the meeting was adjourned at 9:15 P.M.

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Deputy City Clerk