

Minutes

DVD No. 233

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 19, 2010. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

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| Staff present: Scott Lambers, City Administrator | Patty Bennett, City Attorney |
| Chief John Meier, Police Department | Joe Johnson, PW Director |
| Chief Ben Florance, Fire Department | Jack Reece, Info. Systems Specialist |
| Richard Coleman, Comm. Dev. Director | Lovina Freeman, HR Director |
| Mark Klein, Assistant Planning Director | Deb Harper, City Clerk |
| Chris Claxton, P&R Director | Pam Gregory, Assistant City Clerk |
| Brian Anderson, Parks Superintendent | |

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Item No. 10F – Approval for Expenditure of \$25,000 instead of a resolution authorizing execution of an agreement
- Addition of Item No. 12 – Councilmembers Report from Councilmember Filla

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

3. CITIZEN COMMENTS

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

Richard [Dick] Fuller, 10309 Sagamore, Chair of the Ironhorse Advisory Board, recognized Councilmember Peppes for his professional service and exemplary active duty within the City of Leawood.

4. PROCLAMATIONS

▶ **National Crime Victims' Rights Week,
April 18-24, 2010**

Mayor Dunn proclaimed the week of April 18-24, 2010, as National Crime Victims' Rights Week.

▶ **National Volunteer Week, April 18-24,
2010**

Mayor Dunn read the proclamation into the record and thanked all of the outstanding volunteers that help make the City of Leawood a community.

▶ **Arbor Day, April, 30, 2010**

Mayor Dunn read and presented the proclamation to Parks Superintendent Brian Anderson.

▶ **National Bike to Work Week, May 2-
8, 2010**

Mayor Dunn read and presented the proclamation to Parks Superintendent Brian Anderson.

**5. RESOLUTION NO. 3379 – RESOLUTION OF RECOGNITION TO
COUNCILMEMBER GREGORY PEPPE**

Mayor Dunn presented Councilmember Peppes with a Resolution of Recognition and key to the City. She also presented Dr. Peppes with an Outstanding Service award in recognition of his dedicated service to the community as a member of the Leawood City Council from 2004-2010. Mayor Dunn added that he had not only been an outstanding servant, but also a very good friend.

Councilmember Peppes thanked the citizens of Leawood for allowing him to serve as a Councilman for the past several years. He recognized the staff and City Administrator Scott Lambers for their guidance and keeping him informed to make the right decisions. He thanked his fellow Councilmembers for their friendship and camaraderie and recognized Mayor Dunn for leading this City to grow with distinction. He thanked his family for allowing him to serve and help make Leawood a first class city.

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes left the meeting).

**6. OATHS OF OFFICE ADMINISTERED TO MAYOR-ELECT PEGGY DUNN
AND COUNCILMEMBERS-ELECT JIM RAWLINGS, MIKE GILL, JAMES
AZELTINE, AND ANDREW OSMAN [TERMS EXPIRE 2014]**

City Clerk Deb Harper administered the Oaths of Office to Mayor Dunn and Councilmembers Jim Rawlings, Mike Gill, James Azeltine, and Andrew Osman.

New Councilmember Andrew Osman introduced his family and recognized Dr. Peppes, and supporters for a wonderful campaign. Dr. Peppes was a valuable asset and Mr. Osman hoped to live up to expectations and work with the Mayor and City Council. He thanked the constituents in Ward 1 for giving him the opportunity to represent them.

7. ROLL CALL OF NEW COUNCIL

Ms. Harper read the roll call of the new Council.

8. PRESENTATIONS/RECOGNITIONS Annual County update from County Commissioner Ed Peterson

Johnson County Commissioner Ed Peterson reported the County planned to reduce the expenditure budget in 2011 by \$12 Million; for 2010 it was reduced by \$8 Million. The County only controls \$275 Million out of the \$750 Million budget. A lot of the money in the budget is passed through in Federal and State ran programs. Looking forward to next year, they plan to reduce the budget another \$15 Million, assuming there are no increases in revenues. They are currently operating with 200 fewer Full-Time Equivalent [FTE] employees and are planning to reduce some of these positions on a permanent basis because of low demand. Despite this, Johnson County is financially sound with 35% in reserves and has the lowest mill levy with the highest level of service out of the 105 counties in Kansas.

Commissioner Peterson also reported they have begun implementing the County Sustainability Program. A study of Greenhouse Gas Emissions [GHG] was done by municipality based upon 2005 figures. The annual total for the County was 11 Million electric tons of GHG, with Leawood's share being 623,000 tons. Approximately 30% of usage was from transportation; 40% from facilities; and the other 30% was a combination of usage, such as industrial. Moving forward, the County plans to target two sectors; transportation and buildings. New construction is LEED Certified [Leadership in Energy and Environmental Design]. By doing this, construction costs were equivalent; however, they were able to reduce operating costs by 40%. They also plan to implement a Transit Program in the northeast section of the County in July with the hope to expand in the future.

Mayor Dunn thanked Commissioner Peterson for his leadership and for representing the City of Leawood.

9. SPECIAL BUSINESS

- A. Pre-Budget Public Hearing on 2011 Fiscal Budget for the City of Leawood, Kansas

Mayor Dunn opened the public hearing for comments. There being no one present to speak, a motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

10. 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. 2010-12 and 2010-13
- B. Accept minutes of the April 5, 2010 Governing Body meeting
- C. Accept minutes of the April 5, Governing Body Work Session
- D. Approve issuance of Temporary Alcohol Permit to conduct The Taste of Leawood Fundraising Event on Saturday, June 12, 2010, in accordance with Code § 3-216
- E. **Resolution No. 3380** approving and authorizing the Mayor to renew a Maintenance Agreement between the City and Intergraph Public Safety, Inc., in the amount of \$24,672.00, pertaining to the Intergraph Software System for the Police Department
- F. Approve expenditure in the amount of \$25,000 to Western Enterprises, Inc., pertaining to the fireworks display for 4th of July celebration
- G. **Resolution No. 3381** revising the 2010 Fee Schedule, not provided for in the Code of the City of Leawood, 2000, specifically for the SuperPass Program for the Aquatic Center, in accordance with § 1-701 of the Code of the City of Leawood, 2000
- H. **Resolution No. 3382** approving and authorizing the Mayor to execute a Professional Architectural Service Agreement in the amount of \$19,200.00, between the City and Indigo Design, Inc., pertaining to Shelter No. 2 and playground area located at Gezer Park, 13300 Mission Road
- I. **Resolution No. 3383** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$273,480, between the City and Musselman & Hall Contractors, pertaining to the 2010 Slurry Seal Program [Project # 70007]
- J. **Resolution No. 3384** approving and authorizing the Mayor to execute Supplemental Agreement No. 3 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 103rd Street between State Line Road and Mission Road
- K. **Resolution No. 3385** approving and authorizing Mayor to execute an Agreement to Stay Litigation and For Consideration of Amended Development Plan by and Between the City, Oddo Development Company, Inc., Diane Binckley, and Ochsner, Hare & Hare LLC.
- L. **Resolution No. 3386** approving a Final Site Plan for a Tenant Finish for Camelot Court – Jimmy John’s Gourmet Sandwiches, located at 4302 W. 119th Street [Case 16-10] [**From the February 23, 2010 Planning Commission meeting**] – ***CONTINUED FROM THE APRIL 5, 2010, GOVERNING BODY MEETING***

- M. **Resolution No. 3387** approving Revised Sign Criteria for Camelot Court, located at the northeast corner of 119th Street and Roe Avenue. [PC Case # 22-10] **[From the February 23, 2010 Planning Commission meeting]**
- N. **Resolution No. 3388** approving a Final Site Plan for a Tenant Finish for Town Center Plaza – Victoria’s Secret, located at 5000 W. 119th Street. [PC Case 26-10] **[From the March 23, 2010 Planning Commission meeting]**
- O. Fire Department Monthly Reports
- P. Police Department Monthly Reports
- Q. Municipal Court Monthly Reports

Councilmember Rasmussen requested to pull Item No. 10H and Councilmember Bussing pulled Item No. 10K for discussion.

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

- 10H. **Resolution No. 3382** approving and authorizing the Mayor to execute a Professional Architectural Service Agreement in the amount of \$19,200.00, between the City and Indigo Design, Inc., pertaining to Shelter No. 2 and playground area located at Gezer Park, 13300 Mission Road

Councilmember Rasmussen thought because of the over-run in the budget for the construction of Gezer Park, they had agreed to no longer use taxpayer money for any additions to the park; the money would come from donations. He previously voted to transfer \$60,000 from Ironwoods Park because he felt they needed a plan in order to solicit funds. In general, the architect fee is a percentage of the construction cost and he was concerned that the \$19,200 could turn into a much larger project. He was in favor of this resolution; however, wanted clarification they were limiting the use of the previously approved \$60,000. He felt there were also needs at the City’s other parks.

A motion to remove this item from the Consent Agenda and place it on a future agenda for further discussion was made by Councilmember Rasmussen; seconded by Councilmember Bussing.

Parks and Recreation Director Chris Claxton noted this wasn’t under a specific time-line; however, they wanted to move forward to bring the amenities to the park. Staff asked the architect for an estimate in finishing the design of the shelter. The \$18,400 noted on the Staff Report represents an 8% architect fee, which staff had estimated for the playground and shelter. The playground area is estimated at \$150,000, with the shelter \$60,000-\$80,000.

Mayor Dunn confirmed there was \$60,000 previously approved for Ironwoods Park, which would be transferred to Gezer with an additional \$35,000 received in private donations, some of which is specifically designated. The fundraising group will continue to seek private donations; however, she couldn’t recall the Governing Body ever stating they would never spend additional public dollars on Gezer Park.

Councilmember Gill didn't want to delay a decision on this resolution and felt the shelter was desperately needed for the citizens.

Councilmember Azeltine confirmed other than the money transferred from Ironwoods Park; their intention was to fund the remainder through private donations. Ms. Claxton clarified that money would not be taken from the General Fund; there is \$150,000 in the Special Park Fund for the playground. This was not; however, in the original budget for the park. Mr. Azeltine felt they should make every effort to seek additional private funding. He was in favor of having a plan; however, did not approve of additional public funding that was not previously allocated.

Ms. Claxton noted the fundraising group was actively seeking donations and had been successful so far. The Special Park Fund is designated to be used for any park. Councilmember Azeltine confirmed there is currently over \$200,000 in public funds. The subsequent allocation of funds will require Council approval.

Mr. Lambers confirmed there was approximately \$100,000 of reserves in the Special Park Fund. They strive to maintain a reserve of 15% as allowed by the State Statute because of the possibility it could decline as the State balances their budget.

Mr. Lambers clarified the money was originally assigned for a shelter at Ironwoods Park. They were seeking fundraising for a second shelter at Gezer Park. A private donation of \$4,000 was received for the Havdalah Garden, which needs to be installed with the shelter. They wanted to move forward with the shelter and garden to take advantage of donations. If they receive additional donations, this money would be returned for the shelter at Ironwoods.

Mayor Dunn clarified that the playground was adopted by the Leawood Foundation as their focal point for fundraising. She recognized Chair Alice Hawk and thanked her and the committee for their fundraising efforts.

Councilmember Cain urged the Council to deny the current motion and move forward in approving the resolution.

The motion to remove this item from the Consent Agenda and place it on a future agenda for further discussion failed with a vote of 3-5. Yea: Councilmembers Rasmussen, Bussing and Osman. Nay: Councilmembers Azeltine, Gill, Rawlings, Filla, and Cain.

A motion to approve Item No. 10H was made by Councilmember Filla; seconded by Councilmember Gill. The motion carried following a unanimous vote of 8-0.

- 10K. **Resolution No. 3385** approving and authorizing Mayor to execute an Agreement to Stay Litigation and For Consideration of Amended Development Plan by and Between the City, Oddo Development Company, Inc., Diane Binckley, and Ochsner, Hare & Hare LLC.

Councilmember Bussing preferred to address this with City Attorney Patty Bennett at a later time.

A motion to approve Item No. 10K was made by Councilmember Bussing; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

11. MAYOR'S REPORT

- A. Attended a D.A.R.E. [Drug Awareness Resistance Education] Graduation at The Church of the Nativity School, presented by Officer Mark Chudik. Major Troy Rettig and Captain Dale Finger were also in attendance.
- B. Mayor Dunn thanked Councilmember Azeltine for attending a D.A.R.E. Graduation at St. Michael The Arch Angel Catholic School in her absence.
- C. Attended a luncheon of the Advocacy Council for Arts KC, held in the Oak Room at City Hall. Johnson County Chairwoman Annabeth Surbaugh was the guest speaker with discussion regarding the importance of art for our communities, using the City of Leawood for an example of outstanding arts programming.
- D. Attended a forum, hosted by St. Luke's South Hospital with Johnson County legislators in collaboration with the March of Dimes, regarding the Kansas Birth Defects Registry. Discussion highlighted opportunities that could positively impact the health of women and children in Kansas, and developing the systems and resources that would reduce premature birth rates and improve health outcomes. Kansas is one of only eight states that do not have a birth defect surveillance system. In 2007, Kansas rate of 7.9 infant deaths per 1,000 live births was 20% higher than the national rate of 6.4 per 1,000 live births. They stressed the importance of awareness and appropriating a fee structure to begin funding for a surveillance system. This was approved by the Governor in April, 2004; however, it has never been funded.
- E. Attended a forum on The Aging Challenge, hosted by Nonprofit Connect for nonprofit community leadership. The main point emphasized when baby boomers begin turning 65 in January, 2011, there will be approximately 10,000 people every day that will turn 65, and that will continue over the next 20 years. The emphasis of the forum was to raise awareness and try to prepare.
- F. The Johnson & Wyandotte Counties Council of Mayors met in Spring Hill, hosted by Mayor Mark Squire. There was a great deal of discussion with the lobbyist from Overland Park regarding the House and Senate versions of the proposed budgets to fill the funding gap. At the end of the meeting, they elected to write a letter on behalf of the Johnson & Wyandotte Counties Council of Mayors to their delegations to express their hopes and desires that there will be no additional monies taken from the cities to help balance their budgets. Since 2002, they have taken \$750 million that statutorily was due back to the cities.
- G. Attended the Overland Park Mayor's Prayer Breakfast, sponsored by The Christian Businessmen's Committee. The keynote speaker was Karen Kornacki, Sportscaster for KMBC-TV.
- H. Attended a ribbon cutting ceremony, sponsored by the Leawood Chamber of Commerce, for retailer Moda Domani, located in Hawthorne Plaza. They are a custom tailor for men and women and have relocated from Briarcliff to Leawood. Mayor Dunn wished them much success.

- I. Attended the Amphitheatre of Dreams Gala, co-sponsored by the Leawood Stage Company, Amphitheatre Steering Committee, Leawood Arts Council and Leawood Foundation, held at the Lodge at Ironwoods Park. Councilmembers Filla, Rasmussen, Azeltine and Cain were also in attendance. Mayor Dunn thanked Leawood Stage Company Chairman Paul Anderson, Parks and Recreation Director Chris Claxton and the Parks Department for all of their assistance.
- J. Mayor Dunn congratulated Greg Damron of the Leawood Police Department [LWPD], for receiving an award at the 13th Annual Telecommunicators Appreciation Celebration, hosted by the Mid-America Regional Council [MARC]. Mr. Damron was recognized for his exceptional work during the past year, not only for the LWPD, but also for the assistance he provided to other police departments in the area, particularly with their CAD systems. He was also the LWPD's Civilian Employee of the Year in 2009.
- K. Mayor Dunn congratulated Milla Tov, an Engineering Technician for the City of Leawood, for running the Boston Marathon with an official time of 4:41:28. Her daughter and husband also ran, completing it in 3:49:01 and 3:59:19, respectively.

12. COUNCILMEMBERS' REPORT – Councilmember Filla

Councilmember Filla distributed updated recycling flyers and noted they now have Ripple Glass recycling locations throughout the community. The electronics recycling day is Saturday, April 24th, at Waddell & Reed. There is still an opportunity to volunteer if anyone would like to do so.

13. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

14. PUBLIC WORKS COMMITTEE

[From the February 16, 2010 Public Works Committee meeting]

Accept recommendation regarding accommodations for bike friendly mechanisms

Councilmember Cain stated the City of Leawood had been working toward becoming a more bicycle friendly community. The Public Works Committee recommended that the Council consider improving existing streets and future streets using Bicycle ASHTO Standards to accommodate bike lanes.

Public Works Director Joe Johnson indicated on a four-lane road, the two inside lanes would be 11' feet, with the outside lanes 16' feet. The outside 4' feet would be used for cyclists. This could be done during street reconstruction or when they construct new streets.

A motion to accept the recommendation regarding bike friendly mechanisms was made by Councilmember Gill; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

15. PLANNING COMMISSION

[From the March 23, 2010 Planning Commission meeting]

- A. **Ordinance No. 2440** approving a Special Use Permit wireless communication antennas on an existing tower for Clearwire Wireless Broadband, located at 13401 Nall Avenue [PC Case # 64-09] [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.

- B. **Ordinance No. 2441** approving a Special Use Permit for wireless communication antennas for Bank of Blue Valley - Clearwire Wireless Broadband, located at 13401 Mission Road [PC Case # 31-10] [Roll Call Vote]

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

Mayor Dunn confirmed this included four antennas.

Councilmember Rasmussen confirmed the screening of the rooftop mechanical equipment would not be expanded.

The motion carried following a unanimous roll call vote of 8-0. Nay: None.

- C. **Resolution No. 3389** approving a Final Site Plan for a Tenant Finish for One Nineteen – La Bodega, located at the southeast corner of 119th Street and Roe Avenue [PC Case # 29-10]

Mayor Dunn was concerned with the “Jockey Red” color of the awnings.

James Taylor, Taylor Design Group, emphasized this was part of their restaurant color scheme. He confirmed this would be their second location.

Mayor Dunn confirmed with staff that the sign criteria was previously approved and had been amended for the overall development. She suggested they include an additional stipulation for RED Development to work with staff for guidelines regarding approved awning colors.

Jeff McMann, RED Development, shared the Mayor’s color concerns; however, they supported this application. They wanted their tenants to have an image; however, still be in general context with the development. Mr. McMann was willing to work with staff to incorporate a color solution for everyone involved.

Councilmember Cain liked the mosaic tile; however, was concerned with the magnitude of color. Mr. Taylor thought the range of color panels would not be visible from the street at one time.

Councilmember Osman confirmed with Mr. Taylor that the mosaic tile was included in their color scheme design concept.

A motion to approve the resolution with an additional stipulation for RED Development to work with staff for future guidelines regarding approved awning colors for the Development was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Mayor Dunn noted this change would be an override of the Planning Commission's recommendation and would require six votes for approval.

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

16. OLD BUSINESS – None.

17. OTHER BUSINESS – None.

18. NEW BUSINESS – None.

ADJOURN

There being no further business, the meeting was adjourned at 9:23 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk