

Minutes

DVD No. 236

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 21, 2010. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, James Azeltine, Lou Rasmussen, Julie Cain, Andrew Osman, Debra Filla, and Mike Gill

Mayor/Councilmembers absent: Councilmember Gary Bussing

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, PW Director
Chief Ben Florance, Fire Department	Chris Claxton, P&R Director
Richard Coleman, Comm. Dev. Director	Kathy Rogers, Finance Director
Mark Klein, Assistant Planning Director	Deb Harper, City Clerk
Mark Andrasik, Info. Systems Director	Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Addition of Item No. 6 – Special Business - Consideration of Owner’s Representative for the Justice Center Project
- Addition of Item No. 9 – Councilmembers Report from Debra Filla
- Addition of Item No.10 – Staff Report from P&R Director Chris Claxton

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember 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.**

Mike Mulich, 2012 W. 104th, was concerned with the recent flooding that affected several businesses at 103rd Street and State Line Road. The infrastructure is extremely old and the stormwater systems can no longer handle the runoff due to upstream developments. Mr. Mulich owns a water and restoration company, which received 4' feet of water in the basement. He lost all of his computers, office furniture and paperwork, which dramatically affected his business. In 2005, his basement flooded with 8" of water due to stormwater surging back through the sewer system and coming up through the floor drains. At that time, he contacted the City and staff had forwarded him to Johnson County Wastewater. They installed a backflow prevention system and he hadn't had any problems until now. He wanted to know where the Councilmembers were that represent their area because the business owners had not received any City assistance. Only Councilmember Osman of Ward One went door-to-door checking to see how everyone had been affected by the flooding. He asked the Governing Body to consider what could be done to help the Business Park.

Mark Brummel, 10330 State Line Road, stated his retail store was also flooded. The entire store was ruined, including sheetrock, carpet, merchandise, inventory, and the warehouse. Mr. Brummel has occupied this location since 2004, with previous retailers over the past 40 years. As far as he knew, there had never been any water issues. Because of the changes in the land topography, water will continue to flow to this area unless they receive assistance from the City and Johnson County.

Mayor Dunn thanked them for voicing their concerns and noted the City sympathized and empathized with their situations. She also recognized Johnson County Commission Chairwoman Annabeth Surbaugh in the audience to hear their concerns as well.

Jay Cook, 10346 State Line Road, stated his dental practice had occupied this space since 1981 and they had never previously had any water issues. With 4' feet of water in the parking lot, he will need to replace sheetrock, carpet, and other items. This is a major issue for these businesses and they were all very concerned of future flooding.

Seth Freiden, U.S. Toy, 103rd & State Line, stated they had to close the store for a few days and had lost customers and revenue. This was a major impact on their business and they will need to replace carpeting and several other items. He too, was asking for City assistance.

Mayor Dunn apologized for their loss and noted there was 13"-15" inches of rain that fell during the week that caused flooding in other areas of the City as well. She noted there would be a staff report later in the agenda regarding other stormwater issues as well.

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS Exchange of County and City Flags

Johnson County Commission Chairwoman Annabeth Surbaugh and Mayor Dunn exchanged a Johnson County flag and City of Leawood flag, recognizing the spirit of the community and County Government Month.

6. SPECIAL BUSINESS

Authorize staff to proceed with process of selection of Owner/Representative for the construction of the Justice Center, to be located at 117th & Tomahawk Creek Parkway, and to forward recommendation to Council as soon as possible

A motion was made by Councilmember Gill to approve staff's request to proceed with the selection process for an owner's representative for purposes of the Justice Center construction project with a recommendation returned to the Governing Body as soon as possible; seconded by Councilmember Azeltine.

Mayor Dunn noted Councilmember Bussing was not able to attend this evening; however, he was in full support of hiring an owner's representative.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

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. 2010-22, and 2010-23
- B. Accept minutes of the June 7, 2010 Governing Body meeting
- C. Accept minutes of the May 11, 2010 Parks and Recreation Advisory Board
- D. Accept minutes of the January 14, 2010 Green Initiative Citizens Task Force meeting
- E. Accept minutes of the February 4, 2010 Green Initiative Citizens Task Force meeting
- F. Accept minutes of the March 4, 2010 Green Initiative Citizens Task Force meeting
- G. Accept minutes of the April 1, 2010 Green Initiative Citizens Task Force meeting
- H. Accept minutes of the January 27, 2010 Bicycle Friendly Committee [BFC] meeting
- I. Accept minutes of the March 4, 2010 Bicycle Friendly Committee [BFC] meeting
- J. Approve purchase in the amount of \$177,380.00 from Independent Salt Company for 3,500 tons of road salt [\$50.68/ton]
- K. Resolution No. 3405 adopting the 2011-2015 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas
- L. Approve waiving of septic systems requirements for property owned by Bernard J. Russ & Elizabeth Fox-Russ, located at 3100 W. 143rd Street
- M. Approve waiving of septic systems requirements for property owned by Deborah A. Brenner, located at 3912 W. 143rd Street
- N. **Resolution No. 3406** calling for a Public Hearing to consider the 2011 Fiscal Budget for the City of Leawood, Kansas
- O. **Resolution No. 3407** accepting Permanent Storm Sewer Easement from Jean J. Harvell Trustee, for real property in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Heritage, Lot 7, 8730 Cherokee Court

- P. **Resolution No. 3408** accepting Permanent Storm Sewer Easement from Jean J. Harvell Trustee and Jean J. Harvell Trust, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Heritage, Lot 7, 8730 Cherokee Court
- Q. **Resolution No. 3409** accepting Permanent Storm Sewer Easement from Megan Grossman, Trustee and Roger Morrison, Trustee, for real property in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Somerset Acres, Lot 9 , 3731 W. 87 Street
- R. **Resolution No. 3410** accepting Permanent Storm Sewer Easement from Ron B. & Millie R. Felkner, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Lanes, Lot 8
- S. **Resolution No. 3411** accepting Permanent Storm Sewer Easement from Suzanne Haynes Sword, Co-Trustee, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Heritage, Lot 1, 3411 W. 87 Street
- T. **Resolution No. 3412** accepting Permanent Storm Sewer Easement from Rosemary D. Miller, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Lanes, Lot 1, 3604 W. 87 Street
- U. **Resolution No. 3413** accepting Permanent Storm Sewer Easement from William A. & Susan A.S. Curp, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Heritage, Lot 8, 8732 Cherokee Court
- V. **Resolution No. 3414** accepting Permanent Storm Sewer Easement from Rosemary Cuni Trustee and Rosemary Cuni Trust, for property located in conjunction with the 87th & Cherokee Storm Sewer Project, specifically, Leawood Heritage, Lot 53, 8731 Cherokee Lane
- W. **Resolution No. 3415** approving a Final Sign Plan for Market Square – China King, located at 3634 W. 135th Street *[from the May 25, 2010 Planning Commission meeting]*
- X. **Resolution No. 3416** approving a Final Sign Plan for Camelot Court – Wild Birds Unlimited, located at 11711 Roe Avenue *[from the May 25, 2010 Planning Commission meeting]*
- Y. Declaration of surplus Parks & Recreation property; Portable PA System
- Z. Revised Certification of Cost Summary in the amount of \$2,850,804.55 for Project # 80197; Villaggio
- AA. Revised Certification of Cost Summary in the amount of \$540,000 for Project # 80403; 135th & Fontana Intersection Signalization Project
- BB. Revised Certification of Cost Summary in the amount of \$3,854,195.45 for Project # 80143; Nall Avenue, from 143rd to 159 Street
- CC. Revised Certification of Cost Summary in the amount of \$1,965,000 for Project # 80210; Residential Street Phase 2 [2nd year]
- DD. Fire Department Monthly Reports [May]
- EE. Police Department Monthly Reports [May]
- FF. Municipal Court Monthly Reports [May]

Councilmember Filla requested to pull Item No. 7EE for discussion.

A motion to approve the remaining Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

7EE. Police Department Monthly Reports [May]

Councilmember Filla requested insight on the car theft projections for the year.

Police Chief John Meier indicated several vehicles were taken over the winter due to people leaving them running in their driveways to warm up. Vehicles left with keys in the ignition are also being taken from garages.

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

City Administrator Scott Lambers referred to Item Nos. 7L and 7M on the agenda and noted anyone located within 300' feet of a sewer line with a septic system is required to tie into the sewer system, unless otherwise waived by the City Council. He recommended that the City review its 300' foot limitation and reduce it to the county's limitation of 200' feet in order to eliminate this entire process. There are approximately 80-90 septic systems still remaining in the City.

A motion was made by Councilmember Rasmussen to request that the City Administrator draft a recommendation to remove the 300' foot sewer line requirement and revise the Leawood Development Ordinance [LDO] to conform to sanitary sewer district requirements; seconded by Councilmember Filla.

Councilmember Rasmussen noted when the City had their own sewer district; the overall premise was to eliminate septic tanks. He felt they should still encourage conversion of septic systems to the sanitary sewer district.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

8. MAYOR'S REPORT

- A. Attended the funeral services for Graham Giblin, Sr., former Ward 4 Councilmember that passed away on June 11, 2010. Mayor Dunn extended her condolences to his family for their loss.
- B. The Leawood Chamber of Commerce had a very successful Taste of Leawood fundraiser, held in the City Hall courtyard. There were approximately 525 people in attendance, including nearly all Councilmembers. Mayor Dunn thanked Chamber President Kevin Jeffries and his staff, Chamber Chair Connie Aversman and the Chamber Board of Directors for all of their work to make this a success. She also recognized the Parks and Recreation, Public Works, Police and Fire Departments for their in-kind assistance that ensures the success of this special event.

- C. Attended a Leawood Chamber of Commerce ribbon cutting ceremony with Councilmember Azeltine for the expansion of His & Her Fitness, located in the Nall Valley shops at 151st and Nall. They have been at this location for approximately four years and have had to more than double the square footage due to their success. Mayor Dunn expressed her appreciation to them for being located in the City of Leawood.

9. COUNCILMEMBERS' REPORT

Councilmember Filla- Request that Stormwater Management Committee review flooding situation on 91st Street and 104th Street and review and analyze revisions to the Leawood Development Ordinance [LDO] regarding pervious concrete

A motion to refer this request to the Stormwater Management Committee for review was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

10. STAFF REPORT

Chris Claxton, P&R Director, update on the P&R Maintenance building damaged by flooding from recent storms

Parks and Recreation Director Chris Claxton reported the water level had reached a record high in comparison to the last 30 years. They had raised the maintenance facility in 1985 in an attempt to preclude water from coming in. The water level was 2' feet high in the garage bays and storage rooms. There were numerous pieces of motorized equipment that were damaged, including mowers, trimmers, blowers, welders, drills, etc. They have attempted to recover as many items as possible. There are currently unresolved wiring issues on the automated entry gate. The office area received 2" of water, resulting in drywall damage. This has already been replaced because of mold concerns. The carpeting will be replaced with tile. The server and several computers were damaged. Almost all of the vehicles were also impacted. Four were considered total losses, including three parks and one police vehicle. Some are still experiencing electrical issues. Skid loaders and deck mowers stored in the open storage building were also submerged. Everything was still under review by the insurance adjusters.

There was also significant damage from downed trees along the trail on Tomahawk Creek Parkway that needs to be hauled away. Many of the trees that were donated to the park were also lost.

At City Park, there was over 20' feet of damaged concrete on the trail bridge going over State Line Road. There were also several trees lost from the park renovation.

Mayor Dunn confirmed that there were no new vehicles parked at the maintenance facility at the time of the flooding.

Councilmember Rasmussen asked if there was any evidence of surge in the water. Ms. Claxton was unaware of this and noted she would check into it.

Public Works Director Joe Johnson confirmed that the water did not rise above the wall at Indian Creek.

Mr. Lambers clarified they would most likely replace all of the damaged vehicles for the safety of the employees.

Mayor Dunn noted appreciation to the City's staff for all of their cleanup efforts.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the May 25, 2010 Planning Commission meeting]

- A. **Ordinance No. 2448** amending § 16-4-6, of the Leawood Development Ordinance [LDO] entitled, 'Sign Regulations', pertaining to temporary signs [Roll Call Vote]

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

Councilmember Osman referred to section 16-4-6.9 regarding Prohibited Signs and confirmed with Community Development Director Richard Coleman that Codes Enforcement was notified of a sign in the site triangle at 117th and Roe. Mr. Osman was concerned of the deviation within, versus outside, the site triangle. If the sign is back too far from the street it won't be visible and would defeat the purpose. Mr. Coleman clarified this was intended for public safety, which takes precedent. Mr. Osman understood this and confirmed that staff would notify the property owners if a sign needed to be moved further back.

Regarding section 16-4-6.15; Temporary Signs, Mr. Osman confirmed with Mr. Coleman the reason for removing the temporary signage from the chart was so that all temporary signage could be content neutral and treated equally.

Regarding section 16-4-6.3; Office, Commercial and Industrial Signage in Planned Districts, Mr. Osman wanted the language changed to read "one or more buildings with two or more tenants."

Regarding section 16-4-6.4; Design, Construction, and Maintenance under Item (C), Mr. Osman noted there were paper type products that were durable and wanted clarification. Mr. Coleman thought a plastic laminated type product would be acceptable for temporary signage that was in place longer than 10 days. The language could be changed to read "solely" paper type products.

Mayor Dunn clarified they could override the Planning Commission to modify the language on both of these sections.

Councilmember Gill revised his motion to include amending the language in section 16-4-6.3 to read "a project of one or more buildings with two or more tenants" and section 16-4-6.4-(C) to read "constructed of solely paper type products"; seconded by Councilmember Rasmussen. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Bussing absent).

- B. **Ordinance No. 2449** amending § 16-9-257 of the Leawood Development Ordinance [LDO] entitled, 'Signs,' pertaining to the definition of a 'Temporary Sign' [Roll Call Vote]

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

Mayor Dunn confirmed with Mr. Coleman they did not need to incorporate any of the revisions in Item No. 11A.

The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Bussing absent).

12. **OLD BUSINESS**

- A. **Ordinance No. 2450C** amending Chapter 14, Article 1 of the Code of the City of Leawood, 2000, by adding a new Section 14-109a, pertaining to seat belts, amending the 'Standard Traffic Ordinance' [STO] incorporated by reference in Ordinance No. 2419C, and repealing other sections in conflict herewith [Roll Call Vote] – ***CONTINUED FROM THE JUNE 7, 2010 GOVERNING BODY MEETING***

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

Councilmember Rasmussen confirmed with City Attorney Patty Bennett that the ordinance was structured with the City's fines of \$30 and \$60.

Councilmember Cain confirmed with Ms. Bennett that a fine would be imposed to any occupant that doesn't have their safety belt fastened.

The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Bussing absent).

13. **OTHER BUSINESS** – None.

14. **NEW BUSINESS**

- A. **Resolution No. 3417** authorizing the sale by the City of Leawood, Kansas of General Obligation Bonds and General Obligation Temporary Notes of the City to provide funds to finance the costs of certain public improvements within said City and to refund certain outstanding General Obligation Bonds of the City; authorizing the underwriter to offer the Bonds for sale; and authorizing certain related matters and actions

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

Finance Director Kathy Rogers indicated the Preliminary Official Statement had been revised to reflect paid assessments. The resolution included that the bonds would be sold through negotiated sale.

Councilmember Rasmussen confirmed with David Arteberry, George K. Baum & Company, that they will offer the bonds and establish interest rates, then return before the Council on July 19, 2010, for review and approval.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

ADJOURN

There being no further business, the meeting was adjourned at 8:45 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk