

Minutes

DVD No. 244

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, November 1, 2010. Mayor Peggy Dunn presided.

Councilmembers present: Julie Cain, Andrew Osman, James Azeltine, Debra Filla, Jim Rawlings, Gary Bussing, Lou Rasmussen, and Carrie Rezac

Mayor/Councilmembers absent: None.

Staff present: City Administrator Scott Lambers	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, Public Works Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Kathy Rogers, Finance Director	Chris Claxton, P&R 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 modification to the agenda:

- Addition of Item No. 15 – Other Business City Administrator Scott Lambers

A motion to approve the amended agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. 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.**

4. PROCLAMATIONS – None

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

A. Public Hearing- Amendment to 2010 Budget

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

B. **Resolution No. 3468** adopting amendments to the 2010 Fiscal Budget for the City of Leawood, Kansas

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.

City Clerk Deb Harper distributed an amended certificate to the Governing Body from Johnson County requiring signatures showing passage of the amended budget.

C. Discuss Transportation Development District [TDD] Financing for One Nineteen Development

Roger Edgar, George K. Baum & Company, City Financial Advisor, stated the Governing Body authorized Stifel, Nicolaus & Company to seek a purchaser for the bonds. They believe a purchaser has been found that is willing to purchase the bonds based upon the parameters set by the Governing Body. The proposed amount of the bond sale will be \$2,985,000, which is not the full reimbursement for costs on the project. There could be a subsequent completion bond in the future if the revenues support it. The projected revenue study completed by Alvarez & Marsal has been very accurate. The debt service coverage is 1.25, which is sales tax only. Any assessment income will be over and above the sales tax revenue. The bonds will be privately placed with a single purchaser. The City has no continuing disclosure obligation. The purchaser has requested a right of first refusal on any subsequent bonds. This should not have an adverse affect on the City. Stifel, Nicolaus & Company agreed to undertake a marketing process to determine the market and locate potential buyers in the case of a subsequent bond issue. The Governing Body needs to call an assessment hearing since the size of the bond issue has changed. They will return at the November 15, 2010, Governing Body meeting to consider a bond ordinance.

Councilmember Rasmussen confirmed that the 1% sales tax would fund the principal and interest bond payments. Mr. Edgar clarified that property assessments are used only as a back-up form of revenue if the sales tax proves insufficient. The assessments will be levied each year and held in reserve. Refunding of the assessments would only occur after the bond payments have been made for that year. The 22-year clock would begin with this bond issuance. The debt service coverage ratio increases with subsequent bond issues. The Council had requested that any subsequent bonds require an additional bonds test and that the revenues of the prior year be 1.35 times the outstanding bonds, plus any projected debt service on new bonds.

Councilmember Azeltine confirmed with Mr. Lambers that all off-site improvements had been completed.

Mr. Edgar felt as long as the Governing Body could agree on a fair interest rate and issuance terms, there would be nothing adverse to having the same purchaser hold any subsequent bond issue. The right of first refusal would go toward any bonds issued on this project.

Councilmember Rezac asked if there was a timeframe for them to refuse or accept the right of first refusal. Mr. Edgar confirmed they would incorporate this into the documents.

Councilmember Filla made a motion to approve the purchaser's right of first refusal for subsequent bond issues with a caveat regarding a fair market value as well as incorporating a timeframe for acceptance; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 8-0.

- D. **Resolution No. 3489** ordering a public hearing to be held on November 15, 2010 at 7:30 PM, or as soon thereafter as may be heard on revised assessments for construction of certain public and private road and parking lot related improvements and other such transportation related improvements approved by the City, located within 119th Street Development District, located within the City of Leawood, Kansas, and for the City Clerk to publish notice thereof and provide written notice to owners of property of such revised assessments [ONE NINETEEN TRANSPORTATION DEVELOPMENT DISTRICT] [CIP # 80456]

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. 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. 2010-41 and 2010-42
- B. Accept minutes of the October 18, 2010 Governing Body meeting
- C. Accept minutes of the September 14, 2010 Parks and Recreation Advisory Board meeting
- D. Accept minutes of the September 9, 2010 Sustainability Advisory Board meeting
- E. Accept minutes of the August 18, 2010 Bicycle Friendly Committee meeting
- F. Accept minutes of the July 22, 2010 Ironhorse Advisory Board meeting – *[Continued from the September 7, 2010, September 20, 2010, and October 18, 2010 Governing Body meetings]*
- G. Accept minutes of the April 20, 2010 Public Works Committee meeting
- H. Approve Mayoral Appointment of Councilmember Rezac to the Budget & Finance Committee; Public Building Commission; and Public Works Committee
- I. Approve renewal of cereal malt beverage [CMB] license for Hy-Vee Store, located at 12200 State Line Road
- J. Approve 7th and Final Pay Request in the amount of \$54.08 to Continental Consulting Engineers, Inc., pertaining to the 97th & State Line Road Stormwater Project [Project # 76022]

- K. Approve 4th and Final Payment Request in the amount of \$6,110.02 to George Butler Associates [GBA] pertaining to the 2010 Biennial Bridge Inventory
- L. **Resolution No. 3490** approving the 2011 Human Service Fund Recommendation Report [United Community Services-UCS] and the City of Leawood's participation for an amount not to exceed \$10,000
- M. **Resolution No. 3491** approving and authorizing the Mayor to execute an Encroachment Agreement, between the City and Southern Star Central Gas Pipeline to place an emergency siren within the gas pipeline easement located at 115th & Granada
- N. Resolution approving and authorizing the Mayor to execute a Service Agreement in the amount of \$45,400.00 to KR Lamming, for Parks Maintenance Emergency Generator replacement - ***Continued From The October 18, 2010 Governing Body Meeting-THIS ITEM HAS BEEN PULLED***
- O. **Resolution No. 3492** approving a Final Sign Plan for Town Center Plaza – Sunglass Hut, located at 4833 W. 117th Street (PC # 95-10) [*from the October 26, 2010 Planning Commission meeting*]
- P. **Resolution No. 3493** approving a Final Sign Plan for Village of Seville – Le Soleil Tanning, located at 13212 State Line Road (PC # 97-10) [*from the October 26, 2010 Planning Commission meeting*]
- Q. **Resolution No. 3494** approving a Final Sign Plan for Mission Farms – Avenues, located at 10681 Mission Road (PC # 100-10) [*from the October 26, 2010 Planning Commission meeting*]
- R. **Resolution No. 3495** approving a Final Sign Plan for Cornerstone – Seventy Seven South, located at 5041 W. 135th Street (PC # 102-10) [*from the October 26, 2010 Planning Commission meeting*]
- S. **Resolution No. 3496** approving a Final Site Plan for a Tenant Finish for Park Place – Exotic Aquatics, located at 11560 Ash Street (PC # 101-10) [*from the October 26, 2010 Planning Commission meeting*]
- T. **Resolution No. 3497** approving a Final Sign Plan for Market Square Center – Jane's Canines, located at 3633 W. 133rd Street [PC # 9610] [*from the October 26, 2010 Planning Commission meeting*]

Councilmember Osman requested to pull Item No. 7O 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 8-0.

- 7O. **Resolution No. 3492** approving a Final Sign Plan for Town Center Plaza – Sunglass Hut, located at 4833 W. 117th Street (PC # 95-10) [*from the October 26, 2010 Planning Commission meeting*]

Councilmember Osman confirmed with Assistant Planning Director Mark Klein that this sign meets the requirements of the Leawood Development Ordinance [LDO] and the sign criteria currently approved for the Town Center Plaza Development.

A motion to approve Item No. 70 was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

8. MAYOR'S REPORT

Authorize the Mayor to forward a letter to the Shawnee Mission School District Board of Directors regarding the school district's proposals

Mayor Dunn sent a draft letter to the Council to consider approval to forward the letter on behalf of the Governing Body to President Deb Zila of the Shawnee Mission School District Board of Directors. The letter has been revised to include that a copy be sent to Superintendent Dr. Gene Johnson. State Representative Pat Colloton copied the Mayor on a letter she is also writing.

A motion to authorize the Mayor to forward a letter to the Shawnee Mission School District Board of Directors was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a vote of 7-1. Nay: Councilmember Bussing. He felt it was inappropriate for this Governing Body to put pressure on another elected body for which they have no authority.

- A. Mayor Dunn and Councilmember James Azeltine attended a Leawood Chamber of Commerce ribbon cutting ceremony for Hoefer Wysocki Architects new headquarters, located in the Pinnacle Corporate Centre on Tomahawk Creek Parkway. It was a grand ceremony with hundreds of people in attendance for the festivities.
- B. Mayor Dunn was joined by Councilmember Lou Rasmussen at an open house for the Sypher home, the first Modern home on Leawood's Historic Registry, which was honored at the October 18, 2010, Governing Body meeting. Mayor Dunn thanked Historic Commission Chair Janine Joslin and all of the Historic Commission members for organizing a beautiful reception.
- C. Mayor Dunn offered her sincere congratulations and appreciation to all City of Leawood employees and City Council members who participated in Leawood's United Way Campaign. The City reached its goal and raised \$14,573, which increased from last year's totals. There were 15 new donors. Mayor Dunn thanked Human Resources Director Lovina Freeman for organizing the campaign and everyone for their generosity.
- D. Reminder on November 15, 2010, photos will be taken prior to the 7:30 P.M., Governing Body meeting.

9. COUNCILMEMBERS' REPORT – None

10. STAFF REPORT – City Administrator Scott Lambers

City Administrator Scott Lambers reported that the Architect Selection Task Force for the Justice Center interviewed several firms and have narrowed consideration to two. They will visit the facilities designed by the two firms this week. The geotechnical proposals will come before the Council at the November 15, 2010, meeting to proceed with boring of the site.

COMMITTEE RECOMMENDATIONS

[from the October 12, 2010 Parks and Recreation Advisory Board meeting]

***11. PARKS AND RECREATION ADVISORY BOARD**

Resolution No. 3498 approving and authorizing the Mayor to execute a Professional Service Agreement between the City and Phelps Engineering, Inc., in the amount of \$22,300, pertaining to the 123rd & Mission Road into Tomahawk Park Trail Study

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

Councilmember Rasmussen voiced concerns of already spending several hundred thousand dollars on this trail and thought they should consider closing it. He was concerned this study could lead to further expenditures and felt there were needs for other park improvements.

Mayor Dunn noted the committee recommended spending \$3,000 less than what was proposed. Parks and Recreation Director Chris Claxton clarified the additional \$3,000 was in the original proposal; however, was missed due to a mathematical error.

Mayor Dunn noted there was discussion at the Parks and Recreation Advisory Board meeting regarding Councilmember Rasmussen's comments. She preferred to have the study completed before considering closing the trail. Thousands of people utilize all of the trails throughout the City.

Ms. Claxton stated the last improvements to this trail were in 2008, which totaled \$380,000. Of the nine areas that need improvement, three have the potential for significant failure. The trail was constructed at least 20 years ago.

Councilmember Azeltine asked if this would be a comprehensive study to address all areas along the bank. Ms. Claxton confirmed the study would give an estimate of each area, prioritize them, and consider the option of Mission Road. Mr. Azeltine thought they should complete the study to determine how to proceed. Ms. Claxton confirmed the cost of the study should be a fixed price of \$22,300.

Councilmember Rezac confirmed this study included consideration for a trail on the east side of Mission Road. Ms. Claxton stated this would be an 8'-10' foot trail with a retaining wall, if necessary.

Councilmember Cain was in favor of completing the study; however, she was concerned if they proceed with the repairs, they would not hold because of the heavy water flow. The Parks and Recreation Advisory Board felt they didn't have enough information to make a recommendation without this study.

The motion to approve the resolution carried following a vote of 7-1. Nay: Councilmember Rasmussen.

[from the August 25, 2010 & September 29, 2010 Stormwater Management meeting]

12. STORMWATER MANAGEMENT COMMITTEE

A. Review Leewood Heritage stormwater issues

Recommendation to direct staff to modify project's scope to address public safety issues; and reflect these modifications in SMAC/CIP schedule for potential funding in future

Public Works Director Joe Johnson stated the Stormwater Management Committee requested they review replacing the box under Cherokee Lane and Ensley Lane to eliminate flooding under the streets. Upstream and downstream improvements need to be done in order to eliminate the flooding. The committee recommended they work with Phelps Engineering, who performed the original studies for this location, to define the study and submit it to SMAC for county funding for channel improvements, widening the culverts, and downstream improvements.

A motion to approve the Stormwater Management Committee's recommendation was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

B. Review stormwater issues at 3200 W. 81st Terrace

Recommendation to authorize staff to obtain easements for potential project; and to increase 2012 Residential Street Reconstruction Program funding to include storm sewer

Mr. Johnson stated in 2001 the City began working on a project to replace the existing storm sewer system, which begins north of 81st Terrace to 82nd Street, and then into the natural channel. They began working on the design and getting easements from property owners. At that time, there were only a few property owners willing to dedicate easements; therefore, design stopped. With the recent rains, some of the northern property owners contacted the City with concerns, which was then referred to the Stormwater Management Committee for review. In 2012, they will begin reconstruction of 81st and 82nd Terrace, and 82nd Street, replacing the storm sewer along the street. He wanted to incorporate this project into the 2012 Residential Street Reconstruction Program. The deed restrictions provide the City access to maintain the storm sewer system. If they are unsuccessful obtaining the easements, they can enter the property to make the necessary improvements with no costs incurred to the City.

Councilmember Bussing noted they only make funding changes as part of the Capital Improvement [CIP] and budget process. Mr. Lambers stated it wasn't uncommon for the scope of a project to change once it begins. It is preferable to go through the CIP process; however, this project is already in motion to be completed in 2012. Mayor Dunn confirmed if this is approved by resolution, it would give guidance in preparing the 2012 Budget. Mr. Bussing wanted assurance this would not be approving additional stormwater expenditures. Mr. Johnson clarified if approved; they would survey and design the storm sewer improvements. When they prepare the CIP in 2011, it will return before the Council to increase funding or consider other options within the 1/8 cent sales tax.

Mr. Lambers clarified the only easements needed were for the storm sewer improvements.

Mr. Johnson stated the improvements would include additional curb inlets, increasing the pipe size, and improving the storm sewer in the street within the right-of-way.

Councilmember Azeltine wanted clarification of the costs and funding. Mr. Johnson stated the total cost of the 2012 Street Reconstruction Program is \$1.25 Million; the design portion is estimated at \$200,000. Mr. Lambers stated they needed to obtain the design costs now in order for it to be included as part of the 2012 Budget. This approval would only be for the design costs and obtaining the easements.

Mayor Dunn suggested they revise the language in the committee's recommendation to read: "Recommendation to authorize staff to obtain easements for this potential project and to *possibly* increase the 2012 Residential Street Reconstruction Program funding to include storm sewer."

A motion to authorize staff to obtain easements for this potential project and to possibly increase the 2012 Residential Street Reconstruction Program funding to include storm sewer was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

[from the October 19, 2010 Public Works Committee meeting]

13. PUBLIC WORKS COMMITTEE

Selection of design consultant for traffic signals located at 133rd & Roe Avenue

Approve selection of Affinis Corporation and to direct staff to draft Professional Service Agreement in the amount of \$16,715.00 for approval at subsequent Council meeting

A motion to approve the selection of Affinis Corporation as the design consultant for traffic signals located at 133rd and Roe Avenue and to direct staff to draft a Professional Service Agreement was made by Councilmember Filla; seconded by Councilmember Cain.

Councilmember Azeltine noted this was included in the 2011 CIP. Mayor Dunn confirmed the funds would be advanced to begin design in 2010.

Councilmember Bussing asked if they could design this in-house. Mr. Johnson preferred to hire an engineering firm for their expertise and to receive competitive bids.

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

14. OLD BUSINESS - None

15. OTHER BUSINESS

Authorize the City Administrator to enter into negotiations for conveyance of City-owned property located at 114th & Tomahawk Creek Parkway

Mr. Lambers stated they have a potential buyer for this City-owned tract of land. The buyer has an eminent need to construct a 65,000-70,000 square foot office building and would like to enter into negotiations. An appraisal was done in 2009. Although the market has changed, plans are to rely on this appraisal during negotiations.

A motion to authorize the City Administrator to enter into negotiations for conveyance of City-owned property, located at 114th & Tomahawk Creek Parkway was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Councilmember Osman requested that the Council receive a copy of the appraisal.

Councilmember Rezac asked if they should open this to other potential buyers to create a competitive environment. Mr. Lambers preferred to proceed with this buyer, given their enthusiasm. If necessary in the future, they could set a minimum bid amount and receive sealed bids for the property.

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

16. NEW BUSINESS

Schedule an Executive Session immediately following regular meeting to discuss matters related to attorney-client privilege

A motion to approve the Executive Session for a period of 10 Minutes was made by Councilmember Bussing; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

The Governing Body recessed into Executive Session at 8:45 P.M.

The Governing Body reconvened into regular session at 8:55 P.M.

A motion to adjourn the regular session was made by Councilmember Rasmussen; seconded by Councilmember Rawlings.

ADJOURN

There being no further business, the meeting was adjourned at 8:55 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk