

Minutes

DVD No. 245

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 15, 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
Mark Andrasik, Info. Systems Director	

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modification to the agenda:

- Addition of New Business - Item No. 15G

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. 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 - Resolution of Recognition of Councilmember Mike Gill [Resolution No. 3475]

Mayor Dunn read the resolution into the record and presented Councilmember Mike Gill with an Outstanding Service Award and Key to the City.

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

Mayor Dunn thanked Councilman Gill for not only being a dedicated public servant and outstanding community leader, but also a very dear personal friend.

Mr. Gill stated he was proud to serve as a City of Leawood Councilman for the last 13 years. Leawood has a very diverse tax base, solid foundation, terrific amenities and services, with an unparalleled City staff and is fortunate to have unrivaled citizens who volunteer on committees that take their jobs seriously. He thanked Mayor Dunn for her unbelievable leadership and the City Council for giving him the privilege to serve alongside them.

6. SPECIAL BUSINESS

- A. Approve recommendation of Professional Services Industries, Inc., [PSI] to conduct geotechnical testing in the amount of \$5,595.00 at future Justice Center, to be located at 117th & Tomahawk Creek Parkway [Project # 76008]

A motion to approve the recommendation of Professional Services Industries, Inc., to conduct geotechnical testing at the future Justice Center site was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

- B. **Resolution No. 3499** accepting the Revised Certified Cost Summary in the amount of \$2,985,000, in accordance with that certain Development Agreement dated September 18, 2008 between the City and 119th Street Development, LLC, pertaining to the One Nineteen Development Project, Transportation Development District [TDD] located at 119th Street and Roe Avenue [Project # 80456]

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

- C. **Public Hearing:** Revised Assessments for One Nineteen Transportation Development District [TDD] located at 119th and Roe Avenue [One Nineteen Project] [CIP# 80456]

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

- D. **Ordinance No. 2467** repealing Ordinance No. 2426, and levying revised assessments on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of paying for the construction of certain public and private road and parking lot related improvements, and other such transportation related improvements for the One Nineteen Transportation Development District [TDD] located at 119th Street and Roe Avenue [One Nineteen Project] [CIP # 80456] [Roll Call Vote]

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

- E. **Ordinance No. 2468** authorizing the issuance and delivery of \$2,985,000 principal amount of Taxable Transportation Development District Special Obligation Bonds [119th Street Transportation Development District Project] Series 2010, of the City of Leawood, Kansas; authorizing execution and delivery of a Bond Trust Indenture and certain other documents in connection therewith; providing for the levy and collection of special assessments for the purpose of paying a portion of the principal of and interest on the bonds as they become due; and making certain covenants with respect thereto [Roll Call Vote]

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

7. **CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2010-43 and 2010-44
- B. Accept minutes of the October 18, 2010 Governing Body Work Session
- C. Accept minutes of the November 1, 2010 Governing Body meeting
- D. Accept minutes of the October 12, 2010 Parks and Recreation Advisory Board meeting
- E. Accept minutes of the September 29, 2010 Stormwater Management Committee meeting
- F. Approve Mayoral Reappointment of Kimberly Reene as Leawood's representative to Drug & Alcoholism Council of Johnson County [term ending December 31, 2013]
- G. Approve renewal of Cereal Malt Beverage [CMB] license for Cosentino's Price Chopper, located at 3700 W. 95th Street
- H. Approve Change Order No. 3 in the amount of \$11,664.59 to O'Donnell & Sons Construction Company, pertaining to the 2010 Residential Street Mill & Overlay Project [Project # 49120]
- I. Approve Change Order No. 2 in the amount of \$85,000.00, to Miles Excavating Company, pertaining to the 2010 Parking Lot Improvements Project [for repair of 83rd between State Line Road and Lee Boulevard] [Project # 76012]

- J. Approve Change Order No. 1 in the amount of \$3,312.00 to Regents Flooring for carpet replacement in Planning Conference Room – 2nd Floor EAST, located at City Hall, 4800 Town Center Drive
- K. Approve Change Order No. 2 in the amount of \$17,860.00 to Linaweaver Construction Company, pertaining to the 2010 Residential Street Reconstruction Project, for work on the Park Trail [Project # CIP 80210]
- L. **Resolution No. 3500** approving and authorizing the Mayor to execute an amendment and adoption for the City's Flexible Benefits Plan
- M. **Resolution No. 3501** approving and authorizing the Mayor to execute a Mutual Aid Cooperation Agreement by the City and among Board of Johnson County Commissioners, Johnson County Fire & Emergency Services Chiefs Association, and various municipalities and Fire Districts within Johnson County, Kansas
- N. **Resolution No. 3502** accepting a Permanent Sidewalk and Traffic Signal Easement from Vic Regnier Builders, Inc., for property located at 95th & Mission Road
- O. **Resolution No. 3503** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$16,915.00, between the City and Affinis Corporation, pertaining to the traffic signal design, located at 133rd and Roe Avenue [Project CIP#80404]
- P. **Resolution No. 3504** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$49,590.00 between the City and R.F. Fisher Electric Company, for the replacement of Parks Maintenance Emergency Generator
- Q. **Resolution No. 3505** approving a Revised Final Site Plan for site furnishing and signage for Park Place – Phase 2, located at the northeast corner of 117th Street and Nall Avenue. (PC Case # 92-10) [*from the October 26, 2010 Planning Commission meeting*]
- R. **Resolution No. 3506** approving a Revised Final Site Plan for Park Place – Mechanical Equipment Screen, located at the northeast corner of 117th Street and Nall Avenue (PC Case #82-09) [*from the October 26, 2010 Planning Commission meeting*]
- S. Fire Department Monthly Report [October]
- T. Police Department Monthly Report [October]
- U. Municipal Court Monthly Report [October]

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

8. MAYOR'S REPORT

- A. Attended a Leawood Chamber of Commerce ribbon cutting ceremony for the Roasterie Café, located in the One Nineteen Development. Mayor Dunn congratulated Danny O'Neill on opening his 2nd location in the metro and wished them much success.
- B. Mayor Dunn thanked Councilmember Julie Cain for standing in for her at the Leawood Chamber of Commerce ribbon cutting ceremony for the Elite Squad Tennis Club.

- C. Mayor Dunn was joined by City Administrator Scott Lambers, Leawood Chamber of Commerce President Kevin Jeffries and other Leawood Chamber members, at the Kansas City Area Development Council's [KCADC] annual luncheon. The keynote presentation was given by Daniel Pink, who is a New York Times bestselling author, regarding creativity, motivation and the changing world of work.
- D. The Johnson & Wyandotte Counties' Council of Mayors' meeting was hosted by Prairie Village Mayor Ron Shaffer with the Legislative Delegations and Commissioners from both Johnson & Wyandotte Counties. Topics included the upcoming session and budgetary concerns for the state, the counties and municipalities.
- E. Mayor Dunn addressed the Huntington Farms Men's Club, who were very interested in hearing about the challenges and opportunities in the City of Leawood.
- F. Congratulations to Leawood resident Michael Brown, Co-Founder, Chairman and CEO of Euronet Worldwide, who has a new headquarters on Tomahawk Creek Parkway. Mayor Dunn attended two dinners where Mr. Brown was recently honored. First, as Regional Entrepreneur of the Year by the University of Missouri – Kansas City [UMKC] Henry W. Bloch School of Management Institute for Entrepreneurship and Innovation; and second, by being inducted into the Greater Kansas City Business Hall of Fame, sponsored by The Junior Achievement of Middle America.
- G. Attended the Johnson County Community College Foundation's "Some Enchanted Evening," where former Senator David Wysong was honored as Johnson Countian of the Year. Mayor Dunn congratulated Mr. Wysong on receiving this recognition.
- H. Reminder of the holiday lighting ceremony to be held in front of City Hall on Monday, November 22, 2010, at 6:00 P.M.

9. COUNCILMEMBERS' REPORT

Councilmember Gary Bussing; Discussion of Recreational Vehicle [RV] Ordinance

Councilmember Bussing reported that currently, Recreational Vehicle [RV] owners can park their RV's in their driveways if properly screened for extended periods of time. A Leawood resident had informed him he uses his RV for business and it is too large to fit in his driveway because of the incline and must park in the street to load and unload supplies. Article 4-§G of the RV Ordinance states that RV's shall be allowed a maximum of 3 hours in any seven-day period, which is not a sufficient amount of time.

A motion to direct staff to initiate the process to review and possibly amend the RV Ordinance from a 3-hour limitation to a 24-hour limitation in any seven-day period and return with a recommendation to the Governing Body was made by Councilmember Bussing; seconded by Councilmember Filla.

Mayor Dunn confirmed with Councilmember Bussing that this particular RV would be parked in the street approximately 3 times per year to re-stock supplies for his business.

Mr. Lambers clarified this section of the ordinance only applies to parking on public streets, not private parking lots.

The motion carried following a unanimous vote 8-0.

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. STORMWATER MANAGEMENT COMMITTEE

[from the October 27, 2010 Stormwater Management meeting]

Drainage concerns between homeowner Kerrigan and Leawood South Country Club, located at 12600 Overbrook Road –**NO RECOMMENDATION**

A motion to accept the Stormwater Management Committee's recommendation for no recommendation to the City was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

12. PLANNING COMMISSION

[from the October 26, 2010 Planning Commission meeting]

- A. **Resolution No. 3507** approving a Revised Final Plat and Revised Final Plan for Manors at Mission Farms, located at the southeast corner of 105th Street and Mission Road. (PC Case # 98-10)

Craig Eymann, Ambassador Homes, stated they had made significant changes in the plan by reducing the density to more normal size villas and lots. An individual currently residing there informed them he was in favor of their proposal as well as the residents in the single family residential area and the commercial developer.

Councilmember Rezac wanted clarification between Stipulation No. 6 and No. 21 regarding maintaining the common areas. Mr. Klein stated if the common areas are not satisfactorily maintained, responsibility would fall to the mixed-use portion of the development before the City would assume responsibility. Costs incurred by the City would be assessed against each lot and become the responsibility of the lot owner.

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

- B. **Ordinance No. 2469** approving a Special Use Permit for Molle Off-site Parking for New Vehicles, located at 104th Street and State Line Road. (PC Case # 103-10)
[Roll Call Vote]

Curtis Holland, Esq., Polsinelle Shughart, represented Molle Toyota requesting an extension of the Special Use Permit [SUP] for use of the parking lot, located at 104th Street and State Line Road for off-site parking for their vehicles. Mr. Holland stated they've had no issues with this over the last several years and have agreed to all of the stipulations.

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

Councilmember Osman wanted the Governing Body to consider the opportunities in re-development. Over one-third of the business owners in this area have their properties for sale. He felt the current industrial zoning was outdated and requested that staff review this corridor to consider changing the zoning classification.

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**

- A. **Ordinance No. 2470** granting to SureWest Kansas Licenses, LLC [f/n/a/ Everest Midwest Licenses, LLC] a franchise contract to construct, operate and maintain a Telecommunications System in the City of Leawood, and prescribing the terms of said franchise contract, and repealing Ordinance No. 2162 [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.

- B. **Resolution No. 3508** approving and authorizing the Mayor to execute a Public Lands Use Agreement between the City and SureWest Kansas Licenses, LLC [f/n/a/ Everest Midwest Licenses, LLC] pertaining to the installation and maintenance of communications facilities within existing conduit

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

- C. **Ordinance No. 2471** repealing the four-tenths of one percent [.4%] City Retailers' Sales Tax levied in the City of Leawood, Kansas for the purpose of funding for construction of public safety improvements, including a Justice Center, and all other necessary and related improvements, including infrastructure related thereto, by repealing Ordinance No. 2192 [Roll Call Vote]

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

Mayor Dunn noted the effective date would be April 1, 2011, which is approximately one year sooner than anticipated.

Councilmember Azeltine confirmed with Mr. Lambers that \$2-\$2.5 Million was raised per year, totaling \$10 Million.

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

- D. **Ordinance No. 2472C** amending §12-207 of the Code of the City of Leawood, 2000, pertaining to carrying of weapons prohibited and repealing existing § 12-207, and other sections in conflict herewith [Roll Call Vote]

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

Mayor Dunn clarified this amendment would bring the City into conformance with the Kansas Personal and Family Protection Act (Conceal and Carry State Law). Ms. Bennett thought this law would continue to evolve over the next several years.

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

- E. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, April 18, 2011 to discuss Parks and Recreation's Cost Recovery Study

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

- F. Discussion of Troon's proposal to adjust IRONHORSE golf fees for 2011

Mr. Lambers was concerned of providing total flexibility for discounting fees for the golf course. The City has no other facility where such procedures are permitted. If the Council decides to allow the management company this flexibility, he suggested they set a limitation of no more than a 50% discount and wanted them to report the success of the promotional discounts to the Governing Body.

A motion to direct the City Administrator to draft language for the proposal to adjust the Ironhorse golf fees at no more than 50% of the rack rate as necessary to fully maximize play to accommodate weather conditions, changes in course conditions, a competitive venue, and competitive sports events and to record the effects of such a program was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Jeff Thomasson, General Manager Ironhorse Golf Course, confirmed they had already been offering some discounts on a very limited basis; however, they needed to incorporate limitations into the fees since the course is City-owned.

Councilmember Azeltine asked what other publicly owned municipal courses in this region were doing in comparison. Mr. Thomasson replied that others were using online vehicles to offer 4%-40% discounts and they would use online services as well offering similar current market rates. Of the 30 Kansas City area golf courses, one-third are publicly owned municipal courses.

Mayor Dunn confirmed with Mr. Lambers he would return with draft language for the proposal in December when all of the City's fees are presented.

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

- *G. Approve recommendation of Hoefer Wysocki Architects by the Architect Selection Task Force to perform architectural services at future Justice Center, to be located at 117th & Tomahawk Creek Parkway [Project # 76008]**

***Staff Comment:* It is anticipated the contract will be placed on the December 20, 2010, Agenda for consideration**

Mayor Dunn recognized Captain Dale Finger and Councilmember Jim Rawlings and thanked them for serving on the Architect Selection Task Force.

Councilmember Rasmussen confirmed with Mr. Lambers that the architectural costs would be approximately 5% of the total estimated cost of \$16-\$20 Million for the Justice Center.

A motion to approve the recommendation of Hoefer Wysocki Architects to perform architectural services for the future Justice Center was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion carried following a unanimous vote of 8-0.

ADJOURN

There being no further business, the meeting was adjourned at 8:30 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk