

Minutes

DVD No. 255

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 18, 2011. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Councilmembers Lou Rasmussen and Andrew Osman

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	Chris Claxton, P&R Director
Richard Coleman, Comm. Dev. Director	Lovina Freeman, HR Director
Mark Klein, Planning Official	Dawn Long, Finance Director
Mark Andrasik, Info Systems Director	Pam Gregory, Assistant City Clerk
Deb Harper, City Clerk	

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman 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.**

4. PROCLAMATIONS

Arbor Day, April 25, 2011

Mayor Dunn read the proclamation into the record.

Sexual Assault Awareness Month, April, 2011

Mayor Dunn read and presented the proclamation to Beth Child, representative for the Metropolitan Organization to Counter Sexual Assault [MOCSA].

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

Public Hearing: Pre-Budget Public Hearing for 2012 Fiscal Budget for the City of Leawood, Kansas

Seeing no one present to speak, a motion to close the Public Hearing was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman 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. 2011-12, 2011-13, and 2011-14
- B. Accept minutes of the April 4, 2011 Governing Body meeting
- C. Accept minutes of the April 4, 2011 Governing Body Work Session
- D. Accept minutes of the January 25, 2011 Arts Council meeting
- E. Accept minutes of the March 8, 2011 Parks and Recreation Advisory Board meeting
- F. Approve 2nd and final payment in the amount of \$590.00 to R.F. Fisher Electric Company, pertaining to the replacement of Parks Maintenance Emergency Generator
- G. Accept bid in the amount of \$11,612.00 for skid-loader breaker from KC Bobcat
- H. **Resolution No. 3573** accepting Permanent Storm Sewer Easement from Timothy E. and Corrine O'Brien, Trustee of that certain Trust Agreement dated March 20, 1986, property located at 4814 W. 143rd Street
- I. **Resolution No. 3574** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$25,000 between the City and Western Enterprises, Inc., pertaining to the 2011 Fireworks July 4th celebration
- J. Fire Department Monthly Report
- K. Police Department Monthly Report
- L. Municipal Court Monthly Report

Councilmember Filla requested to pull Item No. 7D and Councilmember Rezac pulled Item No. 7I for discussion.

- 7D. Accept minutes of the January 25, 2011 Arts Council meeting

Councilmember Filla confirmed with Parks and Recreation Director Chris Claxton that an Artist Reception will be held on May 19th at 6:00 P.M., at I-Lan Park in honor of Jesse Small, creator of the sculpture "Cloud Gate."

A motion to approve Item No. 7D was made by Councilmember Filla; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

Councilmember Azeltine left the Chamber.

- 7I. **Resolution No. 3574** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$25,000 between the City and Western Enterprises, Inc., pertaining to the 2011 Fireworks July 4th celebration

Councilmember Rezac asked why the other two companies, Rainbow Fireworks and Aerial FX, did not submit bids. Ms. Claxton responded this request was for a 3-year bid and these two companies did not respond.

A motion to approve the resolution was made by Councilmember Rezac; seconded by Councilmember Filla. The motion carried following a unanimous vote of 5-0. Councilmember Azeltine not seated for vote. (Councilmembers Rasmussen and Osman absent).

Councilmember Azeltine returned to the Chamber.

8. **MAYOR'S REPORT**

- A. Attended the Johnson & Wyandotte Counties Council of Mayors' meeting, hosted by Shawnee Mayor Jeff Meyers at the Shawnee Town's Town Hall. Updates of the Legislative Session were given by Overland Park Lobbyist Eric Sartorius, who also announced he is moving and will be leaving Overland Park. Mayor Dunn wished him well.
- B. Attended a ribbon cutting ceremony, co-sponsored by the Leawood and Overland Park Chambers of Commerce for College Nannies and Tutors, located at 148th and Metcalf in Overland Park. Mayor Dunn wished them much success.
- C. Mayor Dunn expressed her appreciation to all of the Leawood professional staff and Councilmembers for their involvement in the Arts KC fund drive. There was an increase in the number of contributors from last year by 56% and an increase in campaign dollars by 14%.
- D. Congratulations to Councilmember Gary Bussing and his wife Kathy on their recent honor as "Light of Hope" awardees at the Jackson County CASA [Court Appointed Special Advocate] 11th Annual Fundraising Breakfast. They have been involved with this organization for many years and the honor was very well deserved.

9. **COUNCILMEMBERS' REPORT** – None.

10. **STAFF REPORT** – None.

COMMITTEE RECOMMENDATIONS

11. **PUBLIC WORKS COMMITTEE**

[from the March 15, 2011 Public Works Committee meeting]

Recommendation that no changes be made to replace current Yield signs with Stop signs at the intersection of 121st Terrace and Wenonga [does not meet warrants in accordance with adopted MUTCD/ASHTO Criteria]

Councilmember Azeltine recalled on February 21st, the Council referred the review of traffic signage at the intersection of 121st and Wenonga to the Public Works Committee. This intersection currently has yield signs for traffic traveling east or west on 121st Terrace.

The request was to replace the existing yield signs with stop signs. There have been one or two accidents over the last eight years at this location. According to the police report, the at-fault drivers stopped at the yield sign and then pulled into the pathway of a vehicle on Wenonga. The posted speed limit is 25 mph. 85% of the vehicles travel at 29 mph. The highest recorded speed is 47 mph. The average daily traffic is 669 vehicles. According to the Manual on Uniform Traffic Control Devices [MUTCD], installation of a stop sign must meet the following criteria:

- The volume of traffic needs to be at least 6,000 vehicles per day
- Three or more crashes reported within a 12-month period OR
- Five or more crashes in a 2-year period

Since the Public Works Committee met, Mr. Azeltine learned there could be an issue of vehicles parking too close to the yield sign, which could be causing a view obstruction.

A motion to remand this to the Public Works Committee for additional consideration was made by Councilmember Azeltine; seconded by Councilmember Bussing.

Jeffrey Nessel, 12012 Ensley Lane, submitted a petition signed by 50 residents all requesting a stop sign at this intersection. One of the residents had phoned the police requesting they watch that intersection. Another resident had contacted the City requesting that a stop sign be installed two years ago. Staff had responded that the MUTCD would not allow a stop sign at that location. There have been unreported accidents and numerous tire screeches. The City would not incur any costs by installing a stop sign and it is what the neighborhood wants. He asked the Governing Body to be pro-active and install the stop sign to prevent a possible serious accident.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

12. PLANNING COMMISSION

[from the March 22, 2011 Planning Commission]

- A. **Resolution No. 3575** approving a Final Plan for a tenant finish for Park Place – AS Bistro, located at 11652 Ash Street. (PC Case # 26-11)

Mayor Dunn asked about the ingress and egress locations of the second level outdoor dining area.

Tim Sinclair, AS Bistro KC, responded that the ingress and egress locations meet the Code. They will be installing an elevator and additional stair case in the tenant finish area. This outdoor dining area will maintain the existing railing. The fire pit will be located on the first level exterior of the building and will be enclosed by a removable seasonal fence. There are two gas fire places on the upper level. Park Place Developers will direct them on coordinating their outdoor dining with Park Place events.

Councilmember Cain thanked Mr. Sinclair and the representatives of AS Bistro for choosing Leawood as their flagship location. Mr. Sinclair stated Leawood's reputation preceded itself and they very much appreciate Leawood's tedious approval process. They hoped to open on September 6, 2011.

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

- B. **Resolution No. 3576** approving a Final Plan for a tenant finish for Park Place – The Gent's Place Men's Fine Grooming, located at 11544 Ash Street. (PC Case # 27-11)

Councilmember Cain confirmed with Melanie Mann, Park Place Developers, that the hanging blade sign will be made to look like scissors, which are actually brackets, and the triangular portion of the sign will be on the awning.

Mayor Dunn confirmed with Planning Official Mark Klein that when the applicant submits their sign permit application, staff will ensure the writing on the awning has met the 5% or less requirement on the storefront as stated in Planning Commission Stipulation No. 3.

Ms. Mann noted sales for their first month in operation were up 200%.

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

Councilmember Rezac asked how the approval of this sign, reducing to the 5%, aligns with how signage and logos have been done in the past. Mr. Klein responded typically, the logos are on the same line as the text; however, because of the Planning Commission stipulation, staff recommended that the logo not be part of the approval and include only the text along the awning. The logo and text are required to meet the 5% or less requirement. Staff maintained their position that it is not appropriate for the logo to be separated.

Councilmember Cain commented even though they were separating the logo and text, it still makes up their entire legal name.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

13. OTHER BUSINESS

Request from Church of the Resurrection for Release of Letter of Credit related to Church of the Resurrection's Special Benefit District Projects

A motion to approve the request to release the Letter of Credit [LOC] was made by Councilmember Bussing; seconded by Councilmember Filla.

Dick Cooper, Director of facilities in construction for Church of the Resurrection, stated they had always thought their current phase of development was 100% complete and don't believe their Master Plan commits them to a full development. At this time, they don't know if or when future development would take place.

The church was bundled with a Special Benefit District [SBD] with the Cornerstone development. Staff had commented since Cornerstone was not 35% complete, the LOC may not be released. Mr. Cooper felt by completing the entire infrastructure to the roads and completing the church, the LOC should be released.

City Attorney Patty Bennett clarified the LOC 35% threshold is applied to the Final Plan of the Church of the Resurrection, not to Cornerstone. The Final Plan included the large sanctuary. Total construction to this point is 29%. The Debt Policy allows them to request that the LOC be released after 5 years of payment of the assessment and it is within the Council's discretion whether to do so.

Mr. Cooper confirmed if the LOC is released, they fully intend to continue paying the assessments.

Ms. Bennett confirmed this would not be precedent setting for others with LOC's; review would be on a case-by-case basis.

Mr. Lambers stated even though they are eligible to come forward after 5 years, it shouldn't apply to one or two completed phases of a multi-phase project. Staff's position is clear that the 35% threshold is based upon the approved Final Plan. An example of a variance would be if someone has an active construction building permit that would place them over the 35%. He would then consider recommending a release. The 35% has not been met by Mr. Cooper's assertion that they have completed 100% of certain phases. He reiterated this calculation is based upon the Final Plan.

Councilmember Bussing recognized they are not 35% complete; however, his motion was based upon the memo from Ms. Bennett stating under the current Debt Policy, they can release or reduce funding or financial guarantee after 5 consecutive years of timely payment. The vitality and growth of this organization demonstrates continued payments should not be an issue.

The motion to release the LOC carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

14. NEW BUSINESS

- A. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, August 1, 2011, to Review Stage Company's 2012 schedule of performances at the Amphitheater, located at Ironwoods Park, 14701 Mission Road

A motion to approve the work session was made by Councilmember Filla; seconded by Councilmember Cain.

Councilmember Azeltine asked why a work session was needed to review the amphitheatre performance schedule. Mr. Lambers responded this is in conjunction with Steeplechase residents complaining about the Stage Company productions running late into the evening. He asked the Stage Company about adjusting their schedule to eliminate their Thursday evening production; however, it was too late for the 2011 season. The work session discussion will include whether to have productions run late on a school or work night.

Councilmember Bussing noted they had discussed having a meeting regarding some of the other issues pertaining to the amphitheatre. Mr. Lambers responded this meeting would be independent of that. Mayor Dunn noted there is no timeline for that meeting. Ideally, it would be prior to this one.

Councilmember Rezac confirmed with Mr. Lambers that the contract had already been executed for the performances this summer. Residents will be able to identify their concerns and staff will monitor the noise level and parking. Comments will be used as a benchmark for this work session.

Mayor Dunn confirmed with Ms. Claxton that the residents had concerns with late night performances on Thursday and Sunday evenings.

The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

- C. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, September 19, 2011, to discuss Parks & Recreation Cost Recovery Study

A motion to approve the work session was made by Councilmember Filla; seconded by Councilmember Cain. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

15. EXECUTIVE SESSION - Discuss matters relating to the acquisition of real property

A motion to recess into Executive Session at 8:30 P.M., for a period of 15 minutes was made by Councilmember Cain; seconded by Councilmember Filla. The motion carried following a unanimous vote of 6-0. (Councilmembers Rasmussen and Osman absent).

The Governing Body reconvened into regular session at 8:45 P.M.

A motion to adjourn the regular session was made by Councilmember Bussing; seconded by Councilmember Rezac.

ADJOURN

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

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk