

Minutes

DVD No. 256

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, May 2, 2011. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

Staff present: City Administrator Scott Lambers	Patty Bennett, City Attorney
Chief Ben Florance, Fire Department	Joe Johnson, Public Works Director
Richard Coleman, Comm. Dev. Director	Chris Claxton, P&R Director
Mark Klein, Planning Official	Dawn Long, Interim Finance Director
Karl Weinfurter, Info. Systems Specialist	Theresa Lodde, Senior Accountant
Deb Harper, City Clerk	Karry Rood, Accountant II

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following amendment to the agenda:

- Addition of Item No. 9 – Report from Councilmember Filla

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rezac. 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

Bike to Work Week, May 16-20, 2011

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

Arson Awareness Week, May 1-7, 2011

Mayor Dunn read and presented the proclamation to Fire Chief Ben Florance.

Municipal Clerks Week, May 1-7, 2011

Mayor Dunn read and presented the proclamation to City Clerk Deb Harper and Assistant City Clerk Pam Gregory.

5. PRESENTATIONS/RECOGNITIONS Introduction of Aurelien Bordenave, French Firefighter Intern

Fire Chief Ben Florance introduced Aurelien Bordenave, a French Firefighter Intern. Aurelien resides at Fire Station No. 2 and stays at a host home on weekends.

In appreciation to the Leawood Fire Department, Mr. Bordenave presented Chief Florance with his fire helmet from France and stated this has been a great experience that will not be forgotten.

**Green Essay and Art Contest Participants
[Sustainability Advisory Board]**

Mayor Dunn recognized Paula Cornwell, member of the Sustainability Advisory Board, for her efforts organizing the essay and art contest.

Councilmember Filla, Chair of the Sustainability Advisory Board, stated the “Green Team” began as a 1-year task force and is now a standing committee called the Sustainability Advisory Board. The committee has three goals:

1. To encourage recycling
2. Water conservation
3. To support green mobility options

Mayor Dunn recognized Councilmember Julie Cain, Vice-Chair of the Sustainability Advisory Board. The advisory board believes that to drive change they have to engage students. When they engage the students they engage the parents, and then everyone becomes more educated about environmental challenges. To do this, they focused on an art and essay contest. Participation increased from 2009 with 191 participants to 220 this year.

Art Contest

This is the second year 5th graders have participated in the art contest. The topic was “How does recycling create new or different things we can use in our life and help the planet along the way.” Thank you to Nativity Parish Elementary School for their second year of participation. These students not only completed the art work, but also wrote an essay to accompany their work. Special thanks to Todd Petterson for taking this challenge on and providing guidance to the students.

Mayor Dunn recognized the following students for their demonstrated research and creativity:

Martha Tryban	Sophia Brown
Peter Kramer	Isabella Edgar
Lauren Fiss	Katie Hummel
Collin Klumb	

Essay Contest

This was the third year the essay contest was designed for 7th graders. The focus was water and students had to respond to this topic: “No matter where we live, there is a water crisis around us. Globally, 1 in 5 people do not have access to clean drinking water. 2 in 5 do not have adequate sanitation facilities and hundreds of millions of farmers lack adequate water. In wealthier parts of the world, many aquifers are being pumped dry so quickly, they will be emptied within our lifetime.” The students were asked to answer three questions:

1. Why is water important to life on this planet?
2. How are we impacting lakes, streams, rivers, and oceans today?
3. How do we need to think differently about our personal use of water?

There were 195 essays submitted from the Cure of ARS School, St. Michael the Archangel School, and Prairie Star Elementary School. Thank you to the English, communications, arts and science teachers and the school principals that encouraged their students to participate. The judging criteria for the essays were topic research and creativity.

Mayor Dunn recognized the following 7th grade students for their essays:

Top Honors

Sara Carlsen
Lucy Tubbert
Lily Koppen

Honorable Mention

Emily Ho
Madeline O’Donnell
Derek Ecklund
Maria Wonderlich
Lola Hitchcock
Katie O’Keefe
Delaney Meyer
Madison Masilionis
Lauren Rupp
Sophie Belusky

6. SPECIAL BUSINESS

A. Presentation of 2010 Annual Audit

Chester Moyer, Audit Manager with Rubin Brown, stated these communications are required by their professional standards. Their responsibility as auditors is to express an opinion about whether or not the financial statements are expressed in accordance with generally accepted accounting principles. This is the first time the City has had a single audit in several years, which relates to federal funding the City received this year, as opposed to prior years. The auditors expressed an unqualified opinion, which is the highest level of assurance they provide. They are required to communicate other information contained in their financial statements. The Comprehensive Annual Financial Report [CAFR] was included in the financial statement packet. There are other items included with this document; however, they do not provide an opinion on those areas of the financial statement. They are required to communicate the scope and timing of the audit, which was done in accordance with their plan.

They are required to communicate that Management is responsible for implementing and choosing the accounting policies, which have been deemed appropriate. Management uses judgments and estimates in preparing the financial statements for the audit. Some examples of the estimates contained in the financial statements are:

- Depreciable lives and estimated residual value of capital assets
- Estimated property taxes collectible
- Liability for other post-employment benefits
- Valuation of contributed capital assets

They evaluate the factors and assumptions used to develop those estimates, which have been deemed appropriate. The most sensitive disclosures affecting the financial statements are:

- Note No. 9 - Long-Term Liability
- Note No. 10 - Other Information

They encountered no difficulties in performing the audit. They are required to communicate any corrected and uncorrected misstatements. Management has prepared a letter, which has been included in the packet that notes some of these adjustments. There were no disagreements with Management during the course of the audit. They requested that Management provide them with certain representations, which are included in the packet. To their knowledge, Management did not consult with other independent accountants. There were no matters of significant discussion that affected their retention as the City's auditors.

Kaleb Lilly, Partner with Rubin Brown, noted two opportunities for improvement that warranted mentioning; however, they are not considered to be a significant deficiency or material weakness:

- Evaluate fair market value for investments greater than 12 months from the acquisition date
- Consider reviewing and revising, if needed, the City's policies, procedures and controls due to the retirement of the previous Finance Director

All prior year recommendations were implemented by the City.

Michael Fox, Senior Staff Member with Rubin Brown, stated last year they discussed several new GASB Pronouncements. Only GASB 54 will affect the continuing reporting requirements for the City. The Finance Department has elected not to early implement GASB 54. 2011 will be the first reporting year the pronouncement will be effective. GASB 54 changes the reporting requirements for the fund balances by changing the presentation to these distinct categories:

- Nonspendable
- Restricted
- Committed
- Assigned
- Unassigned

GASB 54 alters the definition for special revenue funds by defining the sources for the revenue. They will be working with the Finance Department to ensure implementation that is in accordance with Generally Accepted Accounting Principles [GAAP].

Councilmember Azeltine asked the definition of nonspendable. Mr. Fox responded this would be inventory that doesn't have a cash value.

Mr. Lilly stated during the preparation for this year's CAFR, Interim Finance Director Dawn Long found an error in the prior year that needed to be adjusted in relation to GASB 33, which are revenue recognition rules for governmental entities. The auditors found an additional misinterpretation of GASB 33 related to the recording of receivables and the deferrals for property tax revenue. The Management Letter relates to these two items. A material weakness means there is not an effective control in place that would prevent or detect and correct an error in a financial statement amount that might be material for the financial statements. This has been categorized as a significant deficiency, which is much less severe in nature; however, still warrants the attention of Management and the Governing Body. Control deficiencies are categorized as opportunities for improvement that were stated earlier.

Councilmember Bussing asked Mr. Lilly when he's describing a misinterpretation of GASB 33, if it implied there is debate about the appropriate interpretation, or if it was an error in their application. Mr. Lilly responded the misinterpretation was in the 60-day rule that applies to the recognition of revenues for property taxes. The error was found in the property tax revenue. If the property tax is levied in fiscal year 2010, and the City is budgeting to use it in fiscal year 2011, they would defer that entire levy and book it as a receivable. This was a balance sheet only entry for receivables for the entire year. The City was misinterpreting the 60-days as what was collected on that levy within the first 60 days of the next fiscal year. The 60-day rule only applies to cities that levy it and use it in the same year.

Councilmember Azeltine asked if they make specific recommendations for reviewing processes and controls to avoid a repeat error. Mr. Lilly responded this wasn't a procedural error; there just needs to be more knowledge of the rules.

Councilmember Rezac confirmed with Mr. Lilly since this was a balance sheet only entry, it would have no revenue or income statement impact.

Councilmember Bussing asked what caused this particular misinterpretation to be elevated to a significant deficiency. Mr. Lilly replied because of the two adjustments that were made. It was not raised to a material weakness level because it did not impact decisions being made.

Mayor Dunn recognized Interim Finance Director Dawn Long, Senior Accountant Theresa Lodde and Accountant II Karry Rood from the Finance Department and thanked them for their good work on the 2010 Annual Audit.

- B. **Resolution No. 3577** accepting the 2010 Comprehensive Annual Financial Report [Audit] for the City of Leawood, Kansas

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

- C. Authorization for City Staff to enter into negotiations with Citizens Bank & Trust for the acquisition of approximately 45 acres of real property located adjacent to the City's Ironwoods Park, located at 14800 Mission Road

A motion to authorize City staff to enter into negotiations with Citizens Bank & Trust for the acquisition of property was made by Councilmember Bussing; seconded by Councilmember Rawlings.

Councilmember Rasmussen asked the purpose of authorizing staff to purchase this land. City Administrator Scott Lambers replied for park land purposes. It is left to the Council to decide if this will be an active park or will be kept beautified. A proposal will be provided for some activities to be considered, such as youth soccer fields. Mr. Lambers confirmed that the people in the adjoining Leabrooke Subdivision had not been notified of the potential use of this land. Mr. Rasmussen referred to the deed restrictions and wanted assurance the Council was directing staff to ensure that if they acquire this land, it comes before them with a fee simple (a form of freehold ownership) with no restrictions. There are several easements throughout this property and he wanted assurance staff would review these easements to not restrict utilization for park purposes.

Mr. Lambers stated the purchase price for the 45-50 acres totals \$900,000.

Councilmember Rasmussen noted the Parks and Recreation staff currently maintains the City's parks at 16.5 acres per person. He thought if they acquire this land, they would need to hire additional maintenance staff. Mr. Lambers confirmed this would increase the City's park land 10%.

Mr. Lambers explained he began conversations about this property when the subdivision went into bankruptcy and it was returned to the bank. Bank representatives contacted him four months ago regarding the possibility of the City acquiring any or all of the property that is not developed. They are in the process of auctioning off the developed portions and have a home builder interested in acquiring and developing any portion the City is not interested in.

Mayor Dunn asked if this is approved, how soon it would come back before them for final action. Mr. Lambers hoped it could be within 30 days.

The motion to authorize City staff to enter into negotiations with Citizens Bank & Trust for the acquisition of property 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. 2111-15
- B. Accept minutes of the April 18, 2011 Governing Body meeting
- C. Accept minutes of the April 18, 2011 Governing Body Work Session
- D. Approve renewal of Cereal Malt Beverage [CMB] license for Hallbrook Country Club, located at 11300 Overbrook Road
- E. Approve purchase in the amount of \$149,550 from Independent Salt Company for 3,000 tons of road salt
- F. Approve Co-op bid in the amount of \$19,844.00, from Shawnee Mission Ford, for the purchase of a truck for IRONHORSE Golf Course
- G. **Resolution No. 3578** approving and authorizing the Mayor to execute a Participatory Agreement between the City and Legends Soccer Club, for partnership with the Leawood Soccer Program [*from the April 12, 2011 Parks & Recreation Advisory Board meeting*]
- H. **Resolution No. 3579** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,109,986.70, between the City and O'Donnell & Sons Construction pertaining to the 2011 Residential Mill & Overlay [Project # 70010]
- I. **Resolution No. 3580** approving a Sign Plan for Parkway Plaza – Runways, located at 4800 W. 135th Street. (PC Case # 32-11) [*from the April 26, 2011 Planning Commission meeting*]
- J. **Resolution No. 3581** approving a Sign Plan for Town Center Plaza – Express, located at 5016 W. 119th Street. (PC Case # 34-11) [*from the April 26, 2011 Planning Commission meeting*]
- K. **Resolution No. 3582** approving a Sign Plan for Mission Farms – Boutique Chic, located at the northeast corner of Mission Road and I-435. (PC Case # 36-11) [*from the April 26, 2011 Planning Commission meeting*]
- L. **Resolution No. 3583** approving a Final Plan for a Tenant Finish for Nall Valley Shops – Banana Island Frozen Yogurt, located at the northeast corner of 151st Street and Nall Ave. (PC Case # 39-11) [*from the April 26, 2011 Planning Commission meeting*]
- M. **Resolution No. 3584** approving a Sign Plan for Town Center – Mark's Rug Gallery, located at the northwest corner of 119th Street and Roe Ave. (PC Case # 40-11) [*from the April 26, 2011 Planning Commission meeting*]
- N. **Resolution No. 3585** approving a Sign Plan for Tomahawk Creek Office Park – DuPont, located at 11350 Tomahawk Creek Parkway. (PC Case # 41-11) [*from the April 26, 2011 Planning Commission meeting*]
- O. Declaration of Surplus Property; Various Fire Department equipment

Councilmember Azeltine requested to pull Item No. 7G, Councilmember Osman pulled Item Nos. 7I, 7J, 7K, and 7N for discussion.

A motion to approve the remaining items on the Consent Agenda was made by Councilmember Rezac; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- 7G. **Resolution No. 3578** approving and authorizing the Mayor to execute a Participatory Agreement between the City and Legends Soccer Club, for partnership with the Leawood Soccer Program [*from the April 12, 2011 Parks & Recreation Advisory Board meeting*]

Councilmember Azeltine noted there were two responses received from the Request for Proposals [RFP] and asked who the second proposal was from. Parks and Recreation Director Chris Claxton replied it was from the Puma Soccer Club. She confirmed there were approximately 1,400 kids currently in the Leawood Soccer Program. The new program will be open to everyone, just like the current one. Staff is working with the Legends Soccer Club to provide field space for programs that are integrating with their own programs for their current participants.

A motion to approve Item No. 7G was made by Councilmember Azeltine; seconded by Councilmember Filla.

Councilmember Rezac asked if the Legends Soccer Club would use their fields for more than what was requested. Ms. Claxton replied this could be; however, the Legends have other facilities they can use, including indoor facilities. As a part of the agreement, any field use must be done by mutual agreement. They understand that Leawood's recreational leagues and practice for teams that are currently participating must have first access to field use. Ms. Rezac was concerned with maintenance costs associated with the additional use of the fields. Ms. Claxton indicated they had discussions regarding this.

Councilmember Cain, member of the Parks and Recreation Advisory Board, commented that RFP's were sent to all of the other soccer clubs in the metro area. They received two responses. A sub-committee was formed and is very excited about the partnership with the Legends because of their superior program.

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

- 7I. **Resolution No. 3580** approving a Sign Plan for Parkway Plaza – Runways, located at 4800 W. 135th Street. (PC Case # 32-11) [*from the April 26, 2011 Planning Commission meeting*]

Councilmember Osman confirmed with Community Development Director Richard Coleman that Parkway Plaza currently has signage criteria on file with the City and this proposal falls within that criteria. Mr. Osman noted this was filed on February 28th, and asked the date it was submitted to the City. Mr. Coleman replied it was submitted on the deadline date of March 22nd and confirmed this was on the Planning Commission Consent Agenda.

A motion to approve Item No. 7I was made by Councilmember Osman; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- 7J. **Resolution No. 3581** approving a Sign Plan for Town Center Plaza – Express, located at 5016 W. 119th Street. (PC Case # 34-11) *[from the April 26, 2011 Planning Commission meeting]*

Councilmember Osman confirmed with Mr. Coleman that Town Center Plaza currently has signage criteria on file with the City; however, they are in the process of updating it. This proposal falls within the signage criteria. The City received the application on the deadline date of March 22nd and it was on the Planning Commission Consent Agenda.

A motion to approve Item No. 7J was made by Councilmember Osman; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- 7K. **Resolution No. 3582** approving a Sign Plan for Mission Farms – Boutique Chic, located at the northeast corner of Mission Road and I-435. (PC Case # 36-11) *[from the April 26, 2011 Planning Commission meeting]*

Councilmember Osman confirmed with Mr. Coleman that Mission Farms currently has signage criteria on file with the City and this proposal falls within that criteria. The City received the application on the deadline date of March 22nd and it was on the Planning Commission Consent Agenda.

A motion to approve Item No. 7K was made by Councilmember Osman; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- 7N. **Resolution No. 3585** approving a Sign Plan for Tomahawk Creek Office Park – DuPont, located at 11350 Tomahawk Creek Parkway. (PC Case # 41-11) *[from the April 26, 2011 Planning Commission meeting]*

Councilmember Osman asked why the DuPont sign was already installed. Mr. Coleman replied staff had brought it to their attention they needed a permit.

Mr. Lambers clarified they installed the sign without approval. City staff is going back through the process to make it legal.

Councilmember Osman commented these items should be considered for discussion on the July 18th work session that pertains to signage criteria and the time it takes for review and approval on both the Planning Commission and City Council Consent Agendas.

A motion to approve Item No. 7N was made by Councilmember Osman; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Attended a ribbon cutting ceremony, sponsored by the Leawood Chamber of Commerce, celebrating the 10th Anniversary and new training center for Comfort Keepers Home Care, located at 103rd and State Line, which is their headquarters.

- B. Attended a ribbon cutting ceremony, sponsored by the Leawood Chamber of Commerce, for The Limited, located in Town Center Plaza. This is the first store this year showcasing their new concept in 2011. The CEO from Columbus, Ohio, came in for the ribbon cutting. They have 230 stores nationwide. Mayor Dunn wished them much success.
- C. Participated in the Overland Park Mayor's Prayer Breakfast. Pam Morgan, author of I Stand, was the keynote speaker.
- D. Attended the Federal Reserve Bank of Kansas City's Leadership Summit. There were presentations from Tom Hoenig, President and CEO of the Federal Reserve Bank, on Economic Leadership. Former Mayor of Kansas City, Kay Barnes, talked about Public Leadership. Ellen D'amato, President and CEO of The Central Exchange, talked about Corporate Leadership.
- E. Attended the Johnson County Republican Party's Luncheon, which featured Senator Pat Roberts, at the Hereford House restaurant.

**9. COUNCILMEMBERS' REPORT – Councilmember Filla
Forward consideration of 13712 Fontana to Stormwater Management Committee**

A motion to refer a letter received from Paula Cornwell and Mark Crump, 13712 Fontana, to the Stormwater Management Committee for review regarding being cited for illegal drain on their property was made by Councilmember Filla; seconded by Councilmember Azeltine.

Councilmember Rawlings noted this could be reviewed at the May 25, 2011, Stormwater Management Committee meeting at 7:30 A.M.

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

Councilmember Rasmussen was concerned because residents had been discarding their grass clippings into the street, which end up in the stormwater system. Public Works Director Joe Johnson was unaware of any language in the ordinance prohibiting people from discarding their clippings into the street.

Councilmember Rawlings thought this related mostly to commercial contractors and wanted to try and regulate it.

10. STAFF REPORT

Mr. Lambers distributed a map identifying options of potential uses of the land they took action on earlier in the agenda. He advised the Council that the restrooms for Ironwoods Park would come before them on the June 6th agenda. Since the City is the applicant, he recommended they not take any action on this until they decide how to proceed with the amphitheatre. The funds that are available for the restrooms can be placed into a Capital Project Fund so they are not expended for another purpose. Should the amphitheatre development occur, the funds would be set aside for that use.

Councilmember Rasmussen asked if they had a map identifying the easements in this area. Mr. Lambers replied the only easement they were aware of was for the power lines and they would look into any underground easements.

City Attorney Patty Bennett stated the City will have a survey done identifying any easements before the Council makes a decision.

Mr. Lambers noted a work session could be scheduled in the fall to discuss the land use options.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION - None

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS

- A. **Resolution No. 3586** determining it necessary and advisable and ordering the reconstruction and repair of certain residential streets or portions thereof within the City of Leawood, Kansas, pursuant to K.S.A. § 12-614 ET SEQ., for the 2012, 2014 and 2016 Residential Street Reconstruction Program

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

- B. **Ordinance No. 2487C** amending § 14-109A of the Code of the City of Leawood, 2000, pertaining to regulating traffic within the corporate limits of the City of Leawood [Roll Call Vote]

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

- C. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, May 16, 2011, to discuss Special Benefit District [SBD] financing for Park Place Improvement District [CIP # 80196]

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

During the last work session, the Council and developers had agreed on financing Option No. 4; however, the developers plan to ask the Council to reconsider and will be presenting a petition for three different options. The agenda will be amended that evening to identify whichever option the Council agrees to so this item can move forward and brought to closure.

Mayor Dunn requested that staff provide the minutes and a memo briefing past details of their discussions on this.

Councilmember Bussing asked if Mr. Lambers had seen these options. Mr. Lambers replied they would be the same options that were previously presented and the developer would be requesting one other than Option No. 4. Mayor Dunn confirmed that Mr. Lambers would bring his recommendation.

They motion carried following a vote of 7-1. Nay: Councilmember Rasmussen.

- D. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, June 6, 2011 to discuss 2010 Census Results

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

Assuming there will be re-allocation of the wards, Councilmember Rasmussen confirmed with Mr. Lambers this would impact next year's election.

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

ADJOURN

There being no further business, the meeting was adjourned at 9:10 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk