

Minutes

DVD No. 257

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 16, 2011. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Carrie Rezac

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief Ben Florance, Fire Department	Joe Johnson, Public Works Director
Chief John Meier, Police Department	Chris Claxton, P&R Director
Richard Coleman, Comm. Dev. Director	April Bishop, Cultural Arts Coordinator
Mark Klein, Planning Official	Dawn Long, Interim Finance Director
Jack Reece, Info. Systems Technician	Lovina Freeman, HR Director
Deb Harper, City Clerk	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. 9 - Councilmembers Report from Debra Filla

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

National Public Works Week, May 15-21, 2011

Mayor Dunn read and presented the proclamation to Public Works Director Joe Johnson.

5. PRESENTATIONS/RECOGNITIONS Certificate of Recognition to Historic Commission in celebration of 150 years of Kansas history [Presentation by April Bishop as presented for the Sesquicentennial Celebration]

Cultural Arts Coordinator April Bishop gave a presentation recognizing the Leawood Historic Commission in celebration of Kansas 150th Anniversary in 2011.

Mayor Dunn thanked Ms. Bishop for the wonderful presentation and recognized Chair Janine Joslin and Alice Hawk of the Leawood Historic Commission for serving the community and preserving its history.

6. SPECIAL BUSINESS - 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. 2111-16, and 2011-17
- B. Accept minutes of the May 2, 2011 Governing Body meeting
- C. Accept minutes of the January 27, 2011 Leawood Foundation meeting
- D. Accept minutes of the April 12, 2011 Parks and Recreation Advisory Board meeting
- E. Accept minutes of the March 2, 2011 Bicycle Friendly Committee meeting
- F. Accept minutes of the March 10, 2011 Sustainability Advisory Board meeting
- G. Mayoral Appointment for Governing Body Presiding Officers from May 2011 through April 2012
- H. Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards
- I. Appointment of Rolland Grigsby and Geoff Bowen as co-Interim Building Officials
- J. **Resolution No. 3587** supporting the Summer Street Fair on July 15, 2011 to be held at Park Place
- K. Approval of installation of Historic District signs
- L. **Resolution No. 3588** approving and authorizing the Mayor to execute a Memorandum Agreement between the City and Schwarze Industry, pertaining to the replacement of the A-7000 Street Sweeper, last 6 VIN/AU6784, purchased in 2010
- M. **Resolution No. 3589** approving a Revised Final Site Plan for Park Place – Aloft Hotel Revised Landscape Plan, located at the northeast corner of 117th Street and Nall Ave. (PC Case # 37-11) *[from the April 26, 2011 Planning Commission meeting]*
- N. **Resolution No. 3590** approving a Final Plan for a tenant finish for Park Place – Building G – The Bar Method, located at 5215 W. 116th Place. (PC Case # 38-11) *[from the April 26, 2011 Planning Commission meeting]*
- O. **Resolution No. 3591** approving a Revised Final Site Plan for One Nineteen – Trader Joe's, located at the southwest corner of 119th Street and Tomahawk Creek Parkway. (PC Case # 42-11) *[from the April 26, 2011 Planning Commission meeting]*

- P. Fire Department Monthly Report
- Q. Police Department Monthly Report
- R. Municipal Court Monthly Report

Mayor Dunn requested to pull Item No. 7H for discussion.

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

- 7H. Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards

Mayor Dunn expressed her appreciation to the volunteers of Leawood. It is rewarding to contact those serving in volunteer capacities and having them readily agree to serve again or having others call and offer their service. It is very heartwarming and speaks to the commitment and dedication of our citizenry. Mayor Dunn also thanked the City Council, recognizing them as both committee members and liaisons to these groups.

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

8. MAYOR'S REPORT

Approve application for appointment of Councilmember Filla to the Congestion Mitigation Air Quality [CMAQ] Committee of the Mid-America Regional Council [MARC].

A motion to approve the application of Councilmember Filla to the CMAQ Committee was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a vote of 6-0. Councilmember Filla did not vote. (Councilmember Rezac absent).

- A. Participated on a panel with four other Johnson County Mayors for the Johnson County Business Leadership Council that is sponsored by the Greater Kansas City Chamber of Commerce.
- B. The Johnson and Wyandotte Counties Council of Mayors' meeting was hosted by Roeland Park Mayor Adrienne Foster. The newly installed Kansas City Mayor Sly James was a special guest.
- C. Attended a Leawood Chamber of Commerce ribbon cutting ceremony for Life Wise Renovations, located at 75th and Mission Road in Prairie Village. They are Leawood Chamber members and specialize in home renovations that make it possible to "age in place."

- D. United Community Services [UCS] of Johnson County hosted the Council of Advisors meeting and discussed the Mental Health and Criminal Justice Intercept Project. UCS convened 11 community partners to identify strategies to improve the response to persons with mental illness who come in contact with the criminal justice system. This 45-page report is available for download at www.ucsjoco.org. During 2011, UCS is placing a special focus on growing suburban poverty. UCS will be bringing attention to this dramatic rise in poverty in Johnson County.
- E. Attended the Salvation Army's Annual Civic Luncheon, which featured Governor Sam Brownback as the keynote speaker. Leawood resident Tom Bash received the "Others Award" for his commitment to helping people through his many years of service on the Army's Advisory Board.
- F. Mayor Dunn thanked Councilman James Azeltine for standing in for her during the Leawood Chamber's new member debut for the quarter.
- G. Mayor Dunn was joined by Councilmembers Jim Rawlings, Carrie Rezac and James Azeltine at a dinner hosted by the Leawood Lions Club, where the Salvation Army, Boy Scout Troop 10 and the City of Leawood received an "Appreciation Award." Mayor Dunn read the letter of recognition that was presented to the City of Leawood from Big Lion Chris Wright. She thanked them for that recognition and expressed appreciation to the Councilmembers that were able to attend.
- H. Attended the Drug Awareness Resistance Education [D.A.R.E.] Graduation for students at the Curé of Ars Catholic School with Major Troy Rettig and D.A.R.E. Officer Randy Wiler. This was a special D.A.R.E. Graduation because Mrs. Marlene Rowe, School Principal, is retiring after 39 years of dedicated service. Mayor Dunn wished her well.
- I. Congratulations to the Leawood Employee Activity Committee on their superb food drive for Harvesters Community Food Network and spending a day volunteering there. Mayor Dunn thanked the City's dedicated employees for their service.
- J. The Art in Public Places Initiative of the Leawood Arts Council will host a reception for Jesse Small, sculptor for "Cloud Gate," at I-Lan Park on May 19th, at 6:00 P.M.
- K. The Leawood Arts Council will present "Grinnin' & Groovin'" entertainment for the entire family each Tuesday, June 7th through June 28th at 9:30 A.M., at the Ironwoods Amphitheatre in Ironwoods Park.

9. COUNCILMEMBERS' REPORT – Councilmember Filla

Referral to Public Works Committee regarding how to ensure homeowners are notified of their responsibility in clearing snow from sidewalks and if special consideration needs to be discussed for major thoroughfares

A motion to refer this to the Public Works Committee for review was made by Councilmember Filla; seconded by Councilmember Cain. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the April 26, 2011 Planning Commission meeting]

- A. **Resolution No. 3592** accepting Complete Streets Policy for the City of Leawood, Kansas

The Bicycle Friendly Committee presented the Complete Streets Policy to the Parks Advisory Board, which was then brought before the City Council. The Council forwarded it to the Planning Commission for review. If approved, the policy will try to address all user needs incrementally, as street maintenance is done or new streets are constructed. Costs would be evaluated at that time. Some of the things the policy could contain are bike routes, paths, sidewalks, curb extensions, pedestrian connections, and bike racks. The next step would be to create a complete streets plan to identify routes and changes to some of the City's ordinances and regulations.

Mayor Dunn noted the Planning Commission changed the language to read "multiple users" versus "all users." Public safety would be evaluated as well.

Councilmember Filla noted when the City first applied to be a bicycle friendly community; they did not achieve any recognition. The two suggestions they came back with were to establish a policy and offer more education. Approving this will achieve both of those suggestions.

Parks Superintendent Brian Anderson commented while working on the policy with the various committees, it received support throughout. They have been scheduling events to encourage more riders and are offering classes to teach people how to ride better in traffic.

Councilmember Cain complimented the Bicycle Friendly Committee for spending an enormous amount of time in the community collaborating with the Police Department, local businesses and schools.

Councilmember Filla noted the Bicycle Friendly Committee has an upcoming event called "Spoke 'n Art" on June 11th, which is a 9-mile bike ride along Tomahawk Parkway in conjunction with the Arts in Public Places Initiative [APPI].

Samara Klein, Advocacy Director for KC Healthy Kids, stated this is a non-profit organization dedicated to reducing childhood obesity and improving the health of the Greater Kansas City area children. KC Healthy Kids supports the resolution in favor of complete streets because improving the built environment encourages more biking, walking and other ways people can be physically active and is a vital way to ensure children are healthy too. If approved, Leawood will be the first City in Johnson County to adopt this policy and will join Kansas City, Missouri, Kansas City, Kansas, and Lee's Summit, Missouri. Many other cities in the metro-area are in the process of establishing a policy as well. When a community supports active transportation through infrastructure such as sidewalks, bike paths and adequate cross walks, people use that infrastructure. In cities throughout the United States, research has shown a dramatic difference in the health of its residents based on infrastructure. Complete streets increase property values, encourage business, beautify neighborhoods, and make walking and biking safer.

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

Councilmember Azeltine impressed upon the City staff and the committee charged with implementing the policy that safety is paramount.

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

- B. **Resolution No. 3593** approving a Final Plan for a tenant finish for One Nineteen – Lululemon Athletica, located at the southeast corner of 119th Street and Roe Ave. (PC Case #22-11)

Melani Dannenberg, Hawthorne, California, stated Lululemon was excited to become a part of this community and they agreed with all staff recommendations.

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

Councilmember Filla asked how Leawood was chosen as a home for their store. Ms. Dannenberg replied Lululemon sends ambassadors to scout cities to determine their location and if there is community interest.

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

- C. **Resolution No. 3594** approving a Revised Final Site Plan for a tenant finish for One Nineteen – Fo Thai Restaurant, located at the southeast corner of 119th Street and Roe Ave. (PC Case # 35-11)

Councilmember Osman recused himself due to the appearance of a conflict.

Community Development Director Richard Coleman stated there was controversy at the Planning Commission meeting concerning the fencing that would enclose the outdoor seating. Staff has learned that the Attorney General's [AG] office has made an interpretation of the statute that allows the area of the outdoor seating to be demarcated by physical objects, such as planters.

City Administrator Scott Lambers stated the language in Stipulation No. 1 needed to be revised to read "the details to be worked out by City staff and the applicant prior to the issuance of the Certificate of Occupancy." A State representative revised their position that the connecting fence from the wall to the table is not a requirement of the State and there has to be a demarcation. Their description of it is better than what the current regulation calls for. It may; however, still cause problems to some entities. He recommended they continue to pursue this to eliminate it. It could be detrimental to the type of environment Park Place and the One Nineteen Developments are trying to create. They acknowledged this was to deal with problems in the out-State where people are taking their beverages from the outdoor seating to the streets engaging in public intoxication. Staff advised them they have laws to handle this if it becomes a problem and this was an unnecessary action that would hurt what they are trying to accomplish.

Councilmember Rasmussen asked how wide the path that runs in front of the restaurant would be and if it would be kept clear for wheelchair accessibility. Mr. Coleman replied it is 10-12 feet wide. Planning Official Mark Klein had encouraged them to keep the pathway clear.

Councilmember Rasmussen asked if the overhead doors could cause problems when they install the positive air control screen. Mr. Coleman responded the restaurant is required by the Health Department to have an air screen to channel air downward to help eliminate flies. Normally, the air screen is placed on the inside of a building. It could become an aesthetic issue if they are required to place the screen on the outside due to the configuration of the building.

James Sullivan, Sullivan Palmer Architects, stated he had just received clarification this afternoon regarding the issue of the fencing around the outdoor patio and hadn't had a chance to discuss it with his client. He wanted to move forward with the original proposal, knowing his client would like the idea of not having an enclosure fence.

Mayor Dunn thought it would be the Council's desire not to see the fencing because of the conversation at the Planning Commission meeting. They had a split vote with a lot of negative discussion regarding the fencing. Mayor Dunn thought not having the fence would be a good thing and asked Mr. Sullivan to clarify if he was requesting to move forward with the original proposal, which required the fencing.

Mr. Sullivan responded he didn't want to put an undue requirement on the project and wanted to investigate whether his client wanted some type of fencing. He requested a continuance.

A motion to continue this to the June 6, 2011, Governing Body meeting was made by Councilmember Azeltine; seconded Councilmember Rasmussen.

Councilmember Rasmussen confirmed with Mr. Sullivan they planned to install the air screen on the interior of the building.

Mayor Dunn asked Mr. Sullivan to return with an outdoor seating proposal and to work with staff in keeping the aisle open.

Councilmember Azeltine asked when this returns, if it would require an override of the Planning Commission without the fencing.

Mayor Dunn clarified it would with the language change in Stipulation No. 1. This was the only thing the Council was proposing to change. A continuance would require a super majority vote for approval when it returns.

Mr. Lambers suggested they remand this to the Planning Commission to review a proposal of the outdoor seating. They could then return on June 6th for a simple majority vote.

Mr. Sullivan decided to accept the changes to the resolution without the fencing. He did not want to continue or remand the case.

Councilmembers Azeltine and Rasmussen withdrew their motions.

A motion to approve the final site plan with the language modification in Stipulation No. 1 to read: "The outdoor patio shall be constructed without the installation of a perimeter fence; the details to be worked out by City staff and the applicant prior to the issuance of the Certificate of Occupancy." was made by Councilmember Filla; seconded by Councilmember Azeltine.

Mayor Dunn noted this would be an override of the Planning Commission's approval, which would require a super majority vote.

The motion carried following a unanimous vote of 6-0. Councilmember Osman recused. (Councilmember Rezac absent).

Councilmember Osman rejoined the meeting.

- D. **Resolution No. 3595** approving a Final Site Plan for Parkway Plaza – Romanelli Optix, located at 4750 W. 135th Street. (PC Case # 28-11)

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

Mayor Dunn confirmed with Chuck Peters, Peters & Associates, that approval of this plan would not constitute any approval of signage on the proposed building. Mr. Peters confirmed the signage would be presented separately at a future time.

Mr. Peters stated the building is similar to what was presented in the Preliminary Plan approval; however, there has been an adjustment to include a clock tower on the north side.

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

- E. **Ordinance No. 2488** approving a Revised Preliminary Site Plan and Final Site Plan for Parkway Plaza – Office/Retail Building 14 – Reece & Nichols, located at 5000 W. 135th Street. (PC Case # 33-11) [Roll Call Vote]

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

Mr. Peters stated the requirements in Parkway Plaza require that signage be a certain percentage of the main element of the building. After discussions with Reece & Nichols, they had asked that consideration be given based on the fact there would be only one sign on the north and south side, and they would be occupying 10,000 of the 12,400 square feet. They wanted to vary this so it would be architecturally in scale with the tower. Rather than delay the project, Mr. Peters requested they discuss the signage at a later date.

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

12. OTHER BUSINESS – None.

13. NEW BUSINESS

Ordinance No. 2489 granting to MCImetro Access Transmission Services LLC [f/n/a/ Brooks Communications of Missouri, Inc.,] 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. 1813 [Roll Call Vote]

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

City Attorney Patty Bennett confirmed with Jeff Markiewicz, of McKinney, Texas, this is not an existing conduit. It comes from Brooks Fiber Communications of Missouri, and is going to run to an office building.

Councilmember Filla confirmed with Mr. Markiewicz they would be operating at the Reece & Nichols building.

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

ADJOURN

There being no further business, the meeting was adjourned at 8:50 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk