

Minutes

DVD No. 261

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, July 18, 2011. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

Staff present: Patty Bennett, City Attorney	Joe Johnson, Public Works Director
Chief John Meier, Police Department	Chris Claxton, P&R Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director	Dawn Long, Interim Finance Director
Mark Klein, Planning Official	Deb Harper, City Clerk
Karl Weinfurter, Info Systems Specialist	Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Bussing; 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

Resolution No. 3621 authorizing the sale by the City of Leawood, Kansas of General Obligation Bonds and General Obligation Temporary Notes of the City to provide funds to finance the costs of certain public improvements within said city; approving the form of Notice of Bond Sale and Preliminary Official Statement to be used in connection therewith; and authorizing and directing the City Finance Director to advertise such sale in the manner prescribed by law

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Osman. 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. 2011-25, and 2011-26
- B. Accept minutes of the June 20, 2011 Governing Body Work Session
- C. Accept minutes of the July 5, 2011 Governing Body meeting
- D. Accept minutes of the July 5, 2011 Governing Body Work Session
- E. Accept minutes of the May 25, 2011 Stormwater Management meeting
- F. Approve purchase for an amount not to exceed \$28,000 from Challenger Teamwear for the purchase of soccer uniforms
- G. **Resolution No. 3622** approving and authorizing the Mayor to execute a First Amendment to that certain Lease Agreement, dated March 1, 2010, between the City and Copy Card Control Systems, Inc., pertaining to the lease of copy/scan machines
- H. **Resolution No. 3623** approving and authorizing the Mayor to execute a First Amendment to that certain Maintenance Agreement, dated March 1, 2010, between the City and Foto's Office Systems, pertaining to the annual maintenance of copy/scan machines
- I. **Resolution No. 3624** approving a Revised Final Site Plan for a Tenant Finish for One Nineteen- Treats Unleashed (Retail: Gourmet Pet Food), located west of Tomahawk Creek Parkway and south of 119th Street (PC Case # 62-11) *[from the June 28, 2011 Planning Commission meeting]*
- J. **Resolution No. 3625** approving a Final Site Plan for a Tenant Finish for Town Center Plaza – Suite 200 (Retail: Undisclosed), located north of 119th Street and east of Nall Avenue. (PC Case # 72-11) *[from the June 28, 2011 Planning Commission meeting]*
- K. **Resolution No. 3626** approving a Final Sign Plan for One Nineteen – Glace' Artisan Ice Cream (Retail: Ice Cream and Chocolates), located at the southeast corner of 119th Street and Roe Avenue. (PC Case # 58-11) *[from the July 12, 2011 Planning Commission meeting]*
- L. Fire Department Monthly Report
- M. Police Department Monthly Report
- N. Municipal Court Monthly Report

Councilmember Osman requested to pull Item Nos. 7G, 7H, and 7K for discussion.

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

- 7G. **Resolution No. 3622** approving and authorizing the Mayor to execute a First Amendment to that certain Lease Agreement, dated March 1, 2010, between the City and Copy Card Control Systems, Inc., pertaining to the lease of copy/scan machines

City Clerk Deb Harper confirmed for Councilmember Osman they would be replacing one copy/scan machine with an updated version for the Police Department. Mr. Osman was concerned when the Justice Center is completed there would be excess units converging into one building. Police Chief John Meier stated the upgrade will allow color printing capability. The copier will remain in the records department and will be moved to the new Justice Center. Mr. Osman asked if they could have a shorter-term lease agreement to accommodate changing technology. Ms. Harper responded several years ago the City had several lease agreements throughout different departments, which made it difficult to keep track of. Since then, all lease agreements have been combined into one to expire simultaneously.

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

- 7H. **Resolution No. 3623** approving and authorizing the Mayor to execute a First Amendment to that certain Maintenance Agreement, dated March 1, 2010, between the City and Foto's Office Systems, pertaining to the annual maintenance of copy/scan machines

Councilmember Osman intended his above comments for both Item Nos. 7G and 7H.

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

- 7K. **Resolution No. 3626** approving a Final Sign Plan for One Nineteen – Glacé Artisan Ice Cream (Retail: Ice Cream and Chocolates), located at the southeast corner of 119th Street and Roe Avenue. (PC Case # 58-11) [*from the July 12, 2011 Planning Commission meeting*]

Christopher Elbow, Glacé Artisan Ice Cream, confirmed for Councilmember Osman that this is their d/b/a legal name.

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

8. **MAYOR'S REPORT**

- A. Participated in the Greater Kansas City Chamber of Commerce interactive, all-day workshop to narrow the list of 182 "big ideas" to 20, which will soon become 5 "big ideas." This has been a most interesting and exciting project for the future of our region.
- B. Mayor Dunn and Councilmembers Andrew Osman and Carrie Rezac participated in the "Grand Opening" of Trader Joe's at One Nineteen. Rather than cutting a ribbon, they cut a "lei" in keeping with their Hawaiian theme. They are headquartered in Monrovia, California, and have locations in 30 states with Leawood being the only City in the State in Kansas. People camped-out overnight at One Nineteen in anticipation of being some of the first in line. Mayor Dunn wished them much success.

- C. Attended the Leawood Stage Company's production of "Bye Bye Birdie." Sincere congratulations to the Stage Company and Chairman Paul Anderson, the Leawood Arts Council and Chair Mary Tearney, and hundreds of volunteers who participated and made it a tremendous success. Thank you to Parks and Recreation Director Chris Claxton and the Parks Department for their assistance. The production was greatly enjoyed by all. Councilman James Azeltine did a great job acting, singing and dancing. Volunteer statistics from Cultural Arts Coordinator April Bishop state that just this one production of "Bye Bye Birdie" will take approximately 11,930 volunteer hours. Each night there are at least 80 volunteers on site working to make each performance experience a great evening for the audience. The production has a cast of 53, an orchestra of 15, and at least 10 volunteers who work the front and back of the house each evening. There are 16 cast members that live in Leawood, with an additional 25 from other parts of Johnson County. Other cast members come from Kansas City, Missouri, and as far away as Smithville, Missouri, and Leavenworth, Kansas. Mayor Dunn encouraged everyone to go out and see the production.
- D. Congratulations to Councilmember Gary Bussing on his completion of Leawood Rotary Presidency. He was thanked for his outstanding service in the leadership role.
- E. Congratulations to Leawood resident Fred Logan, Jr., on his appointment by Governor Sam Brownback to the Kansas Board of Regents. They direct 32 public higher education institutions, including six universities.
- F. A recent issue of "435 South" magazine featured the art piece "Cloud Gate," by sculptor Jesse Small, in I-Lan Park.
- G. A recent issue of "Troon Golf and Travels" publication has a very nice article on Leawood's Ironhorse Golf Course.

9. COUNCILMEMBERS' REPORT - None

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the June 28, 2011 Planning Commission meeting]

- A. **Ordinance No. 2500** approving a Revised Preliminary Site Plan, Revised Final Site Plan and Revised Final Plat for Park Place – Building F Expansion and 6th Plat (Retail and Office) , located north of 117th Street and east of Nall Avenue (PC Case # 66-11) [Roll Call Vote]

Jeffrey Alpert, Park Place Developers, stated the Building "F" expansion will be four stories with approximately 45,000 square feet of office space on three floors above a floor of retail space. There will be some executive parking underground. Construction was precipitated by the signing of a major tenant for the building; a law firm moving from south Kansas City, Missouri. They will occupy 20,000 square feet. They are also in final lease negotiations for a not-for-profit foundation to occupy another 15,000 square feet.

Gary Schuberth, AIA with OPUS Design Build, stated the first floor of the building will consist of retail space. The executive covered parking will be located on the north side. Construction materials consist of precast concrete with a brick inlay. There will be decorative metal and precast cornice molding elements on the building as well.

Planning Official Mark Klein confirmed for Councilmember Rasmussen that the Preliminary Plan was back before them because the applicant had increased the height of the building from two to four stories.

Mr. Alpert confirmed for Mayor Dunn that the granite will be located on the base of the existing Building F. Mayor Dunn noted the Planning Commission had concerns of the parking spaces that are committed to the tenants. Mr. Alpert responded since these spaces are considered private parking, there shouldn't be any confusion. He confirmed they had submitted a revised landscape design plan for the open area, located at the northeast corner of the expansion.

Chris Dring, Young & Dring Landscape Architecture, stated they wrapped the existing approved streetscape around the east and north sides of the building. There is green space along the backside to help screen the garage. Mr. Alpert confirmed they would work with staff on a few minor adjustments.

Mr. Alpert confirmed for Councilmember Bussing the private parking area would not be gated; however, they may decide to designate it as restaurant employee parking during off hours. There are 23 parking spaces with no pedestrian access to the south and west of the garage.

Mayor Dunn confirmed with Community Development Director Richard Coleman they intended to have the Leawood Development Ordinance [LDO] amended to allow the deviations of the internal property line setback. The LDO revision will address this City-wide.

Mr. Coleman confirmed for Councilmember Rezac that the 30-foot peripheral setback deviation was approved as a part of the original application. There will be future developments in this same situation.

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

- B. **Ordinance No. 2501** approving a Revised Preliminary Site Plan for Park Place – The Residences, located north of 117th Street and east of Nall Avenue. (PC Case # 69-11) [Roll Call Vote]

Jeff Alpert, Park Place Developers, stated they have been trying to initiate the residential component to Park Place in order to make it a true Mixed-Use District [MXD]. The previously approved condominium building turned out to be too costly and the condominium market was beginning to decline at that time. They returned with the request for the Axis Lofts, which was a four-story condominium building with underground parking; however, they came across the same problems.

Over the last 2 years, rental units have become a strong market and they felt there is a very strong market for upscale units. They have designed a 150-unit two building plan. The square footage of the units meet the LDO requirements for MXD zoning with 20% of the units between 750-1000 square feet and the balance over 1000 square feet. The larger units will be considered luxury residences.

Bill Prelogar, NSPJ Architects, stated they wanted this residential project to continue the idea of building directly up to the street that has already been established in Park Place. There will be a two-story parking garage located in the middle of each building. The residential units will surround each building along the east and west façades. They plan to continue the same landscaping scheme currently existing in Park Place. Two-story town homes will be located on the east and west façades and will be the same height as the parking garage. Above the garage is a four-story residential block that will be substantially narrower than the garage. These buildings will be one-story higher than the Axis Lofts Building and approximately the same height as the Building F expansion. The façade of the garage and residences is setback 10 feet from the ends of the townhomes. The parking garage is essentially two double-bays, one that is level and one with a ramp. The parking garage roof will have rooftop terraces for the first level of residences. They are considering green roofs for the roofs of the townhomes. There are a total of 30 townhomes and 120 apartments.

Mr. Prelogar confirmed for Councilmember Rasmussen that the townhomes extend further north than the edge of the parking garage and the six-story wall is setback 10 feet from the façade of the townhomes. The 30-foot setback is located where the townhomes abut the parking garage. The stair tower is six stories high.

Mr. Prelogar stated they are using a wide variety of materials to reflect the residential character of the buildings to tie in with Park Place; however, there will be more brick and less stucco. They have been broken down into several elements, changing the materials and colors.

Councilmember Rasmussen asked if they could soften the six-story mass of the north façade for the residents of Edgewood. Mr. Prelogar felt by having the variety of materials, colors, windows, etc., it would not represent a continuous six-story mass of one element. The length of the six-story section along Town Center Drive is approximately 80 feet. There is a little over 200 feet of total frontage, most of which is two-stories high. The width of the park area between the buildings is approximately 155 feet. This does not include the 10-foot outdoor courtyard that will be in front of each townhome. There is approximately 31 feet from the sidewalk along Town Center Drive to the north side of the building, which will have detailed landscaping throughout.

Mr. Preloger confirmed for Councilmember Rasmussen the reason they didn't offset the apartments back another 10 feet was because it would have impacted the number and size of the units.

Mr. Alpert confirmed these are all currently rental units; however, they hoped to sell them in the future. They are still deciding whether to plat the units now or return for a re-plat.

Mayor Dunn was concerned with the type of gravel they planned to use for the sidewalks. Chris Dring, Young & Dring Landscape Architecture, responded they will use a very fine clean wash limestone, which should compact very well. This is planned as a low traffic area. The primary access and walk through the park will be concrete. They plan to have a high level of maintenance, which will include raking and replacing the gravel, if needed. The walkways and park area will be open for public use.

Councilmember Rezac preferred to see a more gracious and visually pleasing north façade to address Town Center Drive and the Edgewood residents. Mr. Prelogar responded they would take this into consideration as they go forward with the final plan and thought there were ways they could provide more articulation. In most instances the materials used on the east and west elevations wrap around the corners for continuity. Ms. Rezac clarified her interpretation of articulation meant a little more relief and a less harsh façade, not articulation in detail.

Councilmember Azeltine confirmed with Mr. Coleman the normal MXD setback requirement is 40 feet. Mr. Prelogar confirmed the stair tower is 35 feet in length and is setback at 30 feet. The townhomes on each end are at this setback as well. The remainder is at the 40-foot setback. Mr. Azeltine stated he preferred to see as much detailed articulation as possible. Mr. Alpert noted some of the difference in detail between the north elevation compared to the east and west could be the balconies. There are no balconies on the north side to allow privacy for the Edgewood residents.

Councilmember Cain wanted assurance the Edgewood residents understood the changes in the project. Mr. Prelogar responded there were some Edgewood residents at the interact meeting, including the resident that writes the newsletter for the homes association.

Mr. Coleman confirmed they were not approving the elevations at this time.

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

- C. **Ordinance No. 2502** amending Section 16-4-1.3 of the Leawood Development Ordinance [LDO], Permitted Accessory Uses, Buildings and Structures, pertaining to recycling bins. (PC Case 73-10) [Roll Call Vote]

Mr. Klein stated this application is intended to establish regulations in the LDO regarding recycle bins. This previously came before the Planning Commission, which recommended denial. It then came before the City Council, which recommended it be remanded to the Planning Commission and notification be given to those affected by the ordinance. They held a stakeholder's meeting and sent notification to all churches and schools. Residents at the meeting expressed that they wanted the recycle bins screened from their view; however, the recycling vendors do not want them screened. The modified ordinance proposes the bins would not have to be screened if they are not visible from residential property owners within 200 feet and at least 100 feet away from any property line. The Board of Zoning Appeals [BZA] can grant a deviation to allow the location or screening to change; however, the bins will always need to be screened from residential within 200 feet. If the regulations are approved, they would not take effect until 18 months after publication.

Councilmember Bussing asked how Leawood Elementary School could come into compliance since home currently surround their recycle bins. Mr. Klein replied they would have to be screened from adjacent residential property owners; however, they could request a deviation with the BZA on the screening location.

Jake Jacobsen, 5301 W. 141st Terrace, stated the south side of the Villas of Chapel Green backs up to St. Michael's Church. The church moved their four recycle bins from directly next to the church to the northeast corner of their parking lot because they felt the bins detracted from the beauty of the church. This places the bins within 150 feet from the property line and exposes them to eight residences. The wind opens the lids causing residue and materials to accumulate in the retention pond, creek, and their backyards. The Church of the Nativity built screening areas around their bins with front gates to allow trucks access to empty them with a forklift. There are side entrances for residents to deposit materials. Mr. Jacobsen wasn't implying St. Michael's has not been cooperative. They have simply been waiting for the City to pass an ordinance to decide what to do. Mr. Jacobsen encouraged the City Council to pass the ordinance to help them maintain the level of quality they have established in residential communities.

Councilmember Osman felt the recycle bins should be visible to invite the community to participate. Mr. Klein confirmed for Councilmember Osman that 8 cubic yards is the standard size recycling container. Mr. Osman asked staff's opinion of rippleglass containers. Mr. Klein replied they were omitted from this ordinance because they are a roll-off container. Discussion at the Planning Commission focused on the size of the container and concern of broken glass around it. Mr. Coleman noted one of the criteria of Rippleglass is that they not be screened at all.

Mayor Dunn noted curbside recycling had really taken off throughout Leawood. Currently, there are far more recyclable materials placed at the curb than trash.

Councilmember Filla stated effective January, 2012, in order for solid waste companies to conduct business in Johnson County, they must provide unlimited recycling. Schools and churches do this as a fundraiser, whereas, she thought the Church of the Nativity was using their recycling as an "on site" facility, versus encouraging people to participate.

City Attorney Patty Bennett confirmed for Councilmember Rasmussen that the City's legal basis to regulate recycle bins is for aesthetics and public welfare; the same as recycling trash collection. Mr. Rasmussen commented recycling has existed for nearly 60 years and thought they could get into constitutional issues if they begin to regulate how churches and schools run their recycle fundraising efforts.

Mayor Dunn commented for over 60 years they have had overhead power lines in northern Leawood that are now required to be buried to comply with the LDO. They occasionally require things to be more aesthetically pleasing as they move forward. The recycling bin issues began from a complaint of a Brookwood Elementary School parent; however, there have been multiple complaints from other residents. She felt there was plenty of flexibility in this recommendation.

Mr. Klein confirmed that Mr. Jacobsen's concerns would be addressed with this ordinance.

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a roll call vote of 6-2. Nay: Councilmembers Osman and Rasmussen.

12. STORMWATER MANAGEMENT COMMITTEE

[from the June 29, 2011 Stormwater Management Committee]

Recommendation regarding land depressions and settlement concerns in the Woods At Ironhorse Subdivision, located at 153rd Terrace and Nall Avenue

Councilmember Rawlings stated the Stormwater Management Committee had not determined the reason for the settling sidewalks. They are recommending they return in 6 months to re-televise the storm sewers to determine if there is any erosion in the stormwater system. Also, an individual would like to install some French drains to alleviate a problem that could be caused by an underground spring. The Public Works Department will work with this individual to ensure the drains are properly installed.

A motion to approve the recommendation from the Stormwater Committee to re-televise the storm sewers in 6 months and to have the Public Works Department ensure the French drains are properly installed was made by Councilmember Rawlings; seconded by Councilmember Azeltine.

Public Works Director Joe Johnson confirmed for Councilmember Bussing that they frequently meet with residents and issue permits on drainage issues.

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

13. OLD BUSINESS

- A. **Resolution No. 3627** revising Resolution No. 3617, approving a Final Sign Plan for Furr's Oriental Rugs (Retail: Oriental Rugs), located south of 103rd Terrace and west of State Line Road (PC Case # 59-11) *[from the June 28, 2011 Planning Commission meeting]*

Staff Comment: This is a revision to the Resolution approved at the July 5, 2011 Governing Body meeting

Mayor Dunn stated due to the fact this had not ceased operation for longer than 180 days, it is a grandfathered non-conforming use; therefore, in compliance with the ordinance.

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

- ****B. **Resolution No. 3628** approving and authorizing the Mayor to execute a First Amendment to that certain Real Estate Contract, dated June 20, 2011, between the City and Citizens Bank & Trust Company, for the purchase of approximately 45 acres of real property located adjacent to and east of the City's Ironwoods Park, located at 14701 Mission Road

Ms. Bennett stated this will extend the due diligence period. Staff did not receive the first draft of the title commitment until late this afternoon. They should have enough information by the August 1, Governing Body meeting for the Council to decide whether to move forward with the closing.

Councilmember Rasmussen confirmed with Ms. Bennett this property consists of 45 acres and has been re-surveyed. They should receive the final draft of the survey over the next few days.

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

14. OTHER BUSINESS - None

15. NEW BUSINESS

- A. Schedule an Executive Session immediately following the August 1, 2011 regular Governing Body meeting, to discuss matters related to attorney-client privilege

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

- B. Schedule a Governing Body Work Session at 6:00 P.M. on November 7, 2011, for discussion of existing Transportation Development District [TDD] Policy

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

- C. Schedule a Governing Body Work Session at 6:00 P.M., on November 21, 2011, to discuss potential financing source(s) for Curb Repair & Replacement Project

Mayor Dunn stated the scheduling for this Work Session needs to be continued to the August 15, 2011, Governing Body meeting due to November 21, 2011, being the same date as the Holiday Lighting Ceremony.

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

ADJOURN

There being no further business, the meeting was adjourned at 10:00 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk