

Minutes

DVD No. 266

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, October 17, 2011. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

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

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following amendment to the agenda:

- Addition of Item No. 5 – Johnson County Budget Highlights presented by County Commissioner Ed Peterson
- Addition of Item No. 9C – Report from Councilmember Azeltine

A motion to approve the amended agenda was made by Councilmember Rawlings; 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 Johnson County Budget Highlights-
Presented by County Commissioner Ed
Peterson**

Johnson County Commissioner Ed Peterson gave an overview of the 2012 Johnson County Budget. The total budget in 2011 was \$750 Million with an increase to \$810 Million for 2012. \$40 Million of this increase is additional capital that is a one-time expenditure from existing reserves. The remaining increase is additions to reserves in order to meet their reserve level to maintain a AAA bond rating. There is no mill levy increase to support this. In a few instances there is additional federal or state funding to supplement. There have been no layoffs; however, the overall County workforce has been reduced over the last 2 years from 4,000 to a current permanent level of 3,800 employees. This is part of a 5-year plan to address what they perceived a few years ago as declining or flat mill levy revenues, flat sales tax revenues, and adjustments to expenditures to continue to keep the budget in balance. Public safety and infrastructure dominate the 2012 operating expenditures. Infrastructure has increased because of capital projects. The mill levy has stayed consistent at 23 mills for the last 5 years; however, it fluctuates by one-tenth because of the variation in property evaluation. Overall, most homeowners have seen a decline in the amount they are paying for County services. Out of the \$800 Million budget, \$129 Million are services provided by the County on behalf of the State. The 2012 Equivalent Dwelling Unit [EDU] charge by Johnson County Wastewater has increased 3%. This is used to fund capital projects for the wastewater district, which composes half of the wastewater budget. The remaining half is paid by homeowners from bi-monthly bills for operational costs, which run approximately \$30. Beginning in 2013, they plan to eliminate this item from the property tax bill. Property taxes will decrease by \$134; however, they will collect this over 6 bi-monthly billings. An educational program will begin at the end of this year and carry forward through 2012.

Councilmember Bussing requested an update on the Sunflower Ammunition Plant Project. Commissioner Peterson replied they have continued with the cleanup of contaminated sites; however, there is a funding issue related to ongoing efforts. There is a dispute on how to complete the cleanup with no plans for development.

Councilmember Azeltine asked the rationale for shifting the wastewater money from the mill levy to a billing cycle. Commissioner Peterson replied their overall goal is to convert it into a strict utility so it's collected on a frequent basis. When the first bill was implemented, they feared if everything was moved over to monthly billing all at once there would be a shortfall of revenues and they would have issues with the bond coverage.

Every two years the County does a resident interest survey. In the last two surveys they added environmental and sustainability questions, which have both placed in the top 3 categories residents rank as important. They hope to implement some of the measures they've done in-house and extend them to the community.

**'Paperless' Presentation by Evan Stewart
[per Councilmember Filla]**

Evan Stewart, 8414 Rinehart Lane, gave a presentation regarding replacing the paper packets to paperless packets via updated technology.

Cities that have implemented this have found they are saving money and reducing the amount of paper used. Mayor Dunn noted while they don't currently have paperless packets, they do recycle. City Administrator Scott Lambers commented as a municipality they use a lot of paper and may not be able to transition to total paperless. Councilmember Filla noted one of the cities they have spoken with allows their Councilmembers to check out a tablet, which can be used to comment on, and return it at the end of the meeting. Councilmember Rezac noted several cities in Kansas and the majority of cities in Johnson County have already implemented this and she supports it. Mayor Dunn liked this idea; however, if implemented, she felt it should be optional.

A motion to direct staff to review the possibility of implementing paperless packets and return with a report was made by Councilmember Filla; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 8-0.

6. SPECIAL BUSINESS

A. PUBLIC HEARING

Consider the advisability of amending and reaffirming a Transportation Development District [TDD] for the Park Place Development located at the southeast corner of Town Center Drive and Nall Avenue, in Leawood, Kansas [Project # 80455 & 80458] [Transient Guest Tax]

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

B. PUBLIC HEARING

Consider creation of a Transportation Development District for the Park Place Development located at the southeast corner of Town Center Drive and Nall Avenue, in Leawood, Kansas [Project # 80455 & 80458]

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

C. Ordinance No. 2511 amending and restating Ordinance No. 2084 which authorized the creation of a Transportation Development District [TDD] for the Park Place Project located east of Nall Avenue between 117th Street and Town Center Drive in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefor [Park Place Development] [Project # 80455 & 80458] [Transient Guest Tax] [Roll Call Vote]

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

- D. **Ordinance No. 2512** authorizing the creation of a Transportation Development District [TDD] in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefor [Park Place Development] [Project # 80455 & 80458] [Roll Call Vote]

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

- E. **PUBLIC HEARING** Consider amendments to the 2011 Fiscal Budget for the City of Leawood

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

- F. **Resolution No. 3669** amending the 2011 Fiscal Year Annual Budget for the City of Leawood, Kansas

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

City Clerk Deb Harper distributed a certificate to the Governing Body from Johnson County requiring signatures showing passage of the amended budget.

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. 2011-37, 2011-38, 2011-39
- B. Accept minutes of the September 19, 2011 Governing Body meeting
- C. Accept minutes of the September 19, 2011 Governing Body Work Session
- D. Accept minutes of the August 16, 2011 Public Works Committee meeting
- E. Accept minutes of the July 26, 2011 Parks & Recreation Advisory Board meeting
- F. Accept minutes of the June 29, 2011 Stormwater Management Committee meeting
- G. Accept minutes of the June 16, 2011 Leawood Foundation meeting
- H. Approval of Justice Center Contractor Selection Task Force's recommended Short-List for bidders on the construction of the Justice Center
- I. Approve purchase in the amount of \$203,537.81 from CDW-G, for the purchase of mobile video recorders and in-car laptops
- J. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the 'Chain of Hope' fundraising event to be held at 13656 Roe Avenue at Sydney's Pet Spa, Saturday, October 29, 2011, in accordance with Code § 3-216

- K. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the DeLaSalle Education Center fundraising event to be held at 11701 Nall [AMC Movie Theatre] on Wednesday, November 16, 2011, in accordance with Code § 3-216
- L. **Resolution No. 3670** approving and authorizing the Mayor to execute a Service Agreement between the City and Marshall & Illsley [M&I] Trust Company pertaining to the flexible spending plans [medical and dependent care reimbursement]
- M. **Resolution No. 3671** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$24,240.40 between the City and Location Technologies, Inc., [LTI] pertaining to the locator system device for snow removal
- N. **Resolution No. 3672** approving a Final Sign Plan for Market Square – Life Spring Med Spa, located at 3601 W. 133rd Street. (PC Case #88-11) *[from the September 27, 2011 Planning Commission meeting]*
- O. **Resolution No. 3673** approving a Final Sign Plan for Mission Farms – Sassy Chic Boutique (Women’s Apparel), located at 10683 Mission Road. (PC Case #91-11) *[from the September 27, 2011 Planning Commission meeting]*
- P. **Resolution No. 3674** approving a Revised Final Plan for a tenant finish for Park Place – Mestizo Aaron Sanchez (formally AS Bistro), located at 11652 Ash Street (PC Case # 95-11) *[from the September 27, 2011 Planning Commission meeting]*
- Q. Declaration of Surplus Property, Public Works Utility Body
- R. Fire Department Monthly Report
- S. Police Department Monthly Report
- T. Municipal Court Monthly Report

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

8. MAYOR’S REPORT

- A. Attended 3 Leawood Chamber of Commerce ribbon cutting ceremonies at the following locations:
 - 1) Emergent Care Plus has now added Sports Medicine Plus and Primary Care Plus to their location in Parkway Plaza at 135th and Roe Avenue.
 - 2) Mind in Motion, specializing in therapeutic stress relief methodology, is located at College Boulevard and Nall Avenue.
 - 3) Joined by Councilmember Jim Rawlings at Gordon Biersch Brewery Restaurant, located in Park Place. This is their 2nd location in the metro region and 1st location in the State of Kansas.Mayor Dunn wished them all great success.
- B. Participated in the Greater Kansas City Chamber of Commerce [GKCCC] annual Leadership Exchange to Charlotte, North Carolina, along with approximately 100 other community leaders and elected officials in the metro region. Chamber staff member Cathy Bennett, sister of City Attorney Patty Bennett, organized a great educational and networking experience for all attendees.

- C. Edwardsville Mayor John McTaggart hosted the Johnson & Wyandotte Counties Council of Mayors' meeting. The bulk of the meeting was spent on the agenda topic discussions that will be held at the upcoming legislative meeting in November in Prairie Village.
- D. The City of Leawood had its official kick-off event for the 2011 United Way of Greater Kansas City campaign. Thanks to Human Resources Director Lovina Freeman and her team for organizing a special event and to City Administrator Scott Lambers for his leadership gift to the campaign. Some Councilmembers have already participated and all are invited to do so. The Leawood campaign ends on October 28th.
- E. Thank you to Leawood Foundation Chair Alice Hawk, Parks and Recreation Board members and the Gezer Sister City Committee for a wonderful dedication of the Havdalah Garden at Gezer Park. This was made possible by the generosity of Leawood residents Roshann Parris and her husband Jeff Dobbs. Special recognition goes to Parks and Recreation Director Chris Claxton and Superintendent of Parks Brian Anderson and his team for having the park in pristine condition. Councilmembers Andrew Osman, Julie Cain and Lou Rasmussen were also in attendance.
- F. Mayor Dunn expressed her sincere congratulations to Leawood resident Roger Kemp who will be accepting a medal from President Barack Obama for his work with the Ali Kemp Foundation. He will be receiving the Presidential Citizens Medal, the nation's 2nd highest civilian honor. This award will notice what he has done to empower women to protect themselves and his work as an early advocate for putting wanted posters on billboards.
- G. Reminder on Thursday, October 20th, the Leawood Arts Council presents "An Evening with J. Kent Barnhart," a Quality Hill Playhouse performance. This performance will take place at the Leawood United Methodist Church, located at 2915 W. 95th Street, at 7:30 P.M.
- H. Reminder on Friday, Saturday and Sunday, October 28th-30th, the Leawood Stage Company presents "Six One Act Plays," in the Oak Room at City Hall. The Friday and Saturday performances will be at 8:00 P.M., and on Sunday at 2:00 P.M.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Filla – Discuss possibility of Brook Beatty Park playground equipment

Councilmember Filla reported that several citizens have expressed interest in having a pocket or neighborhood park where families can gather to ride their bikes, walk, etc. Parking concerns have been expressed; however, there is currently a pocket park located south of 95th Street that has no parking, but is very well utilized by walking and bike riding.

A motion to refer the discussion of possible playground equipment at Brook Beatty Park to the Parks and Recreation Advisory Board was made by Councilmember Filla; seconded by Councilmember Osman.

Jolynn Hobbs, 8309 Lee Boulevard, stated there are many young children in her neighborhood that would benefit from usable park space. The demographics of the neighborhood have changed over the last several years with new families moving in. Brook Beatty is the only green space in old Leawood and is in walking distance for most of the neighborhood residents. There is sidewalk access, including safe handicap access, on the west side of Lee Boulevard. There may be an option for parking on Meadow Lane. Most of Leawood's parks are located in south Leawood. There are numerous pocket or neighborhood parks without parking in many surrounding cities. Ms. Hobbs asked the Council to support enhancing Brook Beatty to a usable park that can be enjoyed by all in a neighborhood that needs usable green space.

Shannon DeSalvo, 8308 Meadow Lane, stated there are 35 children under the age of 12 between 83rd and Lee. Brook Beatty has wonderful green space that is in walking distance for so many. Several neighbors visit Prairie Village parks because they want to access a park in walking distance. Ms. DeSalvo asked the Council to consider the park and indicated many of the neighbors were willing to help out in any way they could.

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

- B. Councilmember Bussing – Consideration of a motion to rescind the motion relating to the expenditure of funds on design and construction of restrooms at Ironwoods Park which was adopted at the August 16, 2010 Governing Body meeting

Councilmember Bussing reported this is a continuation of the September 19, 2011, Governing Body meeting where they had deferred discussion on this issue. There is a pressing need, as discussed in August, 2010, for some additional parking for the Lodge in Ironwoods Park. There is question as to if, and when, they could expend the funds that have been approved for the restrooms. The purpose of this request is to re-open the motion that addressed the funding for the restrooms and rescind that motion and direct staff to apply those funds toward additional parking. There was also discussion regarding the \$150,000 that was spent on the design for the restrooms and parking. Discussion this evening is only intended to move funding and is not a statement on the advisability or desirability of the restrooms. Due to the acquisition of additional park land they will need to take additional time to reconsider park use before they are able to proceed with developing the restrooms.

A motion to rescind the motion relating to the expenditure of funds on construction of restrooms at Ironwoods Park, which was adopted at the August 16, 2010, Governing Body meeting, and re-direct the funds to the construction of additional parking and direct staff to initiate the planning process was made by Councilmember Bussing; seconded by Councilmember Filla.

Parks and Recreation Director Chris Claxton confirmed the plan was for 65 additional parking spaces. The Lodge has a maximum capacity of 300-500 depending upon the type of event.

Councilmember Cain re-emphasized the need for the restrooms and noted they had all agreed in August, 2010, to use these remaining funds for restrooms. There are multiple activities taking place at the amphitheatre throughout the year. Restrooms are not just needed on production nights. Ms. Cain was not in favor of the motion and wanted those funds continued to be earmarked for the restrooms.

Councilmember Azeltine stated this motion was to rescind a motion on an issue that has been continued. Mayor Dunn clarified the issue that was continued was the construction of the restrooms at the current site while they evaluate the acquisition of the additional 45 acres. Mr. Azeltine argued the motion made by Councilmember Rasmussen at the September 19th meeting was to continue this for 12 months to allow staff adequate time to review land use opportunities and develop a possible Master Plan for the overall park. As Councilmember Cain pointed out, they had previously agreed unanimously to use these funds for the restrooms. There is only enough funding from the 1998 Bond Issue for one of these projects. Mr. Azeltine was not in favor of this motion and commented if approved, it would totally halt the restroom project and they would need to find new funding. He felt this was all connected and didn't think they should be rescinding a motion that was just approved at the last meeting. Mayor Dunn reiterated comments from the September 19th meeting that the remaining 1998 Park Bond money should be used for the existing Ironwoods Park. She was optimistic they would be able to find alternate funding if, or when, the Council chooses to proceed with the restroom project.

Councilmember Rasmussen felt if this motion is approved, the Council could continually be faced with motions to rescind from the opposing side in the future. A motion to rescind cannot overcome expenditures already made. Mayor Dunn clarified that was why the "design" is not a part of the motion. Mr. Rasmussen felt this motion was not only out of order, but was also poor policy. Mayor Dunn clarified a motion to rescind by parliamentary law can only be made by a person who voted on the prevailing side. Since it was a unanimous vote on August 16th to move forward with the construction of the restrooms it would include the motion makers, Councilmembers Bussing and Filla. Councilmember Rasmussen argued that the motion to rescind does not have to be from the prevailing side. The original motion for the parking lot expansion failed with a vote of 3-5; however, from a courteous standpoint the entire Council wanted to be on the record that both projects were needed.

Councilmember Filla was in favor of this motion since they were all supportive of both uses. It was discussed at the September 19th meeting that it could take up to 1-2 years before they determine a plan for the overall park. Many citizens felt they didn't have input on the design and scope of the restrooms. She agreed with previous comments that it would be poor use of their fiduciary rights to sit on this money for 2 more years when there is a need they felt was equally viable for parking. She was optimistic that if they could figure out how to budget for the additional 45 acres of park land, they could come up with money for restrooms at the existing facility if they don't come up with a different plan.

Councilmember Rawlings felt their immediate need was for parking and supported the motion. He stated he would also support the restrooms when that time comes.

Councilmember Rasmussen noted if this motion is approved staff would be combining the additional parking with the street program, which would not take place until March/April, 2012. Mr. Johnson confirmed this could go out for bid in early 2012 with construction beginning in the spring and completion within 30-60 days. They should receive better asphalt prices by combining the two projects. If they choose to proceed with the restrooms, construction would need to wait until spring and would take approximately 90 days to complete. Mr. Lambers clarified the restroom project has been continued until September, 2012; therefore, construction could begin spring, 2013.

Councilmember Rezac stated she was not a member of the Council at the time they voted for the restroom or parking project on August 16, 2010. As stated previously, both items seem to have a great need; however, she thought they should use these funds for additional parking since the Lodge is an existing facility with an immediate need.

Bill Ellwood, 9714 Overbrook Road, stated he was unaware this was going to be on the agenda until late into the weekend and thought others were unaware as well. Mayor Dunn responded that this was purposely delayed so everyone could be notified. Mr. Ellwood stated several people interested in this issue have been present over the last 2 meetings and left with the understanding this would be deferred for 1 year. He was concerned some of the citizens would feel it is inappropriate if the motion to exchange the funds for additional parking is approved. He didn't understand why it would take a year to determine whether the additional land would be an appropriate location for the amphitheatre. The Parks and Recreation Advisory Board had wrestled with the decision between the restrooms and additional parking and ultimately decided the restrooms were appropriate. Mayor Dunn reiterated their intention was to delay this so that everyone could be notified and stated she had numerous emails from residents asking for additional parking.

Councilmember Filla asked how they could assure citizens they have the intention to include the restroom project in the 2013 Budget if they determine to use the existing site for the amphitheatre. Mr. Lambers replied this would be premature in the budget and planning process. Ms. Filla stated she would support a budget that included these revised dollars, if possible, in the 2013 Budget after they've done due diligence of the new land and scaled down the existing amphitheatre plans. If it is determined that the existing site is appropriate and they have verified that the restrooms are in scale with the revised scope, they should plan to have monies available.

Mayor Dunn clarified for Mr. Ellwood the reason they continued the restroom request for 1 year was to allow staff and the Parks and Recreation Advisory Board enough time to review the new park land for a possible Master Plan for the overall park.

Mr. Lambers confirmed for Councilmember Cain they could not rescind the date certain of the continuance. Ms. Bennett clarified the only way to rescind the date would be to completely withdraw the application and begin again.

Councilmember Bussing recalled that their first discussion regarding the restroom and parking lot projects was almost an evenly split decision. It was well understood there are issues with both projects and with limited funding. He was not opposed to restrooms at the existing location and pledged to vote for the restrooms once the need, size, and scope are clearly determined. He wanted to utilize the funds the citizens approved nearly a decade ago to finish the park. Parking is a critical element of what needs to be done to complete it.

Councilmember Cain confirmed with staff that if the money is redirected this evening it would not prevent them from requesting funds for the restrooms.

The motion to rescind the motion relating to the expenditure of funds on construction of restrooms at Ironwoods Park, which was adopted at the August 16, 2010, Governing Body meeting, and redirect the funds to the construction of additional parking and direct staff to initiate the planning process failed with a vote of 4-4. Yay: Councilmembers Bussing, Rawlings, Filla and Rezac. Nay: Councilmembers Cain, Azeltine, Rasmussen and Osman.

Mr. Lambers pointed out that the conversation in regards to this issue is found in the September 19th Governing Body meeting minutes, which took place before the citizen comments were made. Members of the audience that were present for either side of this issue should have been present during that conversation.

City Clerk Deb Harper noted these minutes are on tonight's agenda for approval. The minutes were included in the packet; however, they are not posted to the City's website until they are approved.

Mayor Dunn stated both the restrooms and parking are clearly needed. I've been informed there are people that would like to rent the lodge; however they don't because of inadequate parking. She was in favor of the restroom continuance at the September 19th meeting because she felt there would be a better site on the new land for the amphitheatre expansion. It would not be appropriate to use the remaining 1998 park bond dollars to fund anything on the new tract of land. If the amphitheatre is placed there, they will have to use new sources of dollars. If they move forward with expansion on the current site and use these dollars for additional parking, she firmly believed they could find dollars within the budget to fund the restrooms. Because of the seemingly lack of awareness by the public, Mayor Dunn stated she was not going to vote on the motion this evening; therefore, the motion failed with a 4-4 vote.

**** C. Councilmember Azeltine – Request recommendation to Public Works Committee to review ordinance for trees to be trimmed at an increased height at curb line and sidewalks**

Councilmember Azeltine requested that the ordinance be amended to trim trees that overhang streets at an increased height from 8 feet to 14 feet at the curb and 10 feet above the sidewalk. There have been several instances with large commercial vehicles hitting lower limbs. In one particular incident a plow truck sustained \$7,000 in damages from low hanging limbs.

A motion to request that the Public Works Committee review the ordinance to consider trees be trimmed at an increased height at the curb line and sidewalk was made by Councilmember Azeltine; seconded by Councilmember Rasmussen.

Councilmember Filla noted there had been some staff discussion with the Sustainability Advisory Board regarding damage being done to trees by recycle/trash trucks. They thought the City may want to consider adopting a Street Tree Policy to ensure trees are planted in the correct places. Mr. Lambers replied in terms of new developments, they could consider a better tree species that would grow up as opposed to out. With existing subdivisions this would be done on a replacement basis. They would want to ensure a diversity of species; however, still maintain some consistency with the trees along the street line. Ms. Filla thought a Street Tree Policy would ensure the City is maintaining the trees rather than Home Owners Associations [HOA's].

Mr. Lambers confirmed they could review this for consideration. Currently, HOA's are responsible for tree maintenance; however, there are issues with trees outgrowing streetlights in the older subdivisions. This may result in paring the mature trees or replacing them with younger 3-4 inch caliper trees.

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

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. STORMWATER MANAGEMENT COMMITTEE

[from the September 28, 2011 Stormwater Management Committee meeting]

Recommendation for selection of design consultant, Phelps Engineering/J2 Engineering and Environmental Design for 87th & Mission Road Box Culvert Replacement Project

Councilmember Rawlings stated the list of candidates for this project was narrowed down to 3. After review, the Stormwater Management Committee selected the combined firms of Phelps Engineering/J2 Engineers and Environmental Design for the project.

A motion to approve the Stormwater Management Committee recommendation was made by Councilmember Rawlings; seconded by Councilmember Rasmussen.

Public Works Director Joe Johnson confirmed the total project cost is \$540,000 with 12% of this a design fee. Mayor Dunn confirmed with Mr. Johnson that this design fee was a reasonable amount.

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

12. PUBLIC WORKS COMMITTEE

[from the September 20, 2011 Public Works Committee meeting]

Recommendation for revision of Leawood Code § 13-1A13, entitled 'SNOW AND ICE TO BE REMOVED FROM SIDEWALKS'

A motion to approve the Public Works Committee recommendation was made by Councilmember Azeltine; seconded by Councilmember Rasmussen.

Mr. Johnson confirmed with approval of this they would return with a resolution to adopt at the next Council meeting. They are updating the City's website and plan to send notices to HOA's on citizen responsibility for snow removal to reflect the current policy.

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

13. PLANNING COMMISSION

[from the September 27, 2011 Planning Commission meeting]

A. **Resolution No. 3675** approving a Final Sign Plan for Town Center Plaza – 3 House Boutique (Women's Apparel), located at 4824 W. 119th Street (PC Case # 82-11)

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

- B. **Resolution No. 3676** approving the Planning Commission's recommendation for denial of a Revised Landscape Plan for One Nineteen – Baldwin Denim (Men's Apparel) Revised Landscape Plan, located at 4573 W. 119th Street (PC Case # 86-11)

A motion to approve the Planning Commission's recommendation for denial was made by Councilmember Bussing; seconded by Councilmember Rasmussen.

Mayor Dunn confirmed with staff that the applicant requested to relocate a tree in front of their store and replace it with a Dogwood tree. She noted there were other Dogwood trees at this site and thought a Dogwood would allow better visibility of the store. Community Development Director Richard Coleman replied there are several of these Overstory and Dogwood trees along the One Nineteen Center. Staff allowed them to trim the tree and they discussed moving it 5-6 feet to the west; however, they chose not to because electrical equipment would also need to be moved. Staff was concerned about the precedent removal of this tree could set. This is a deciduous tree, which will lose its leaves in the winter.

Mayor Dunn felt if the applicant wanted to plead his case he would have been present this evening.

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

- C. **Resolution No. 3677** approving a Revised Final Plat for Park Place –7th Plat, located at the northeast corner of 117th Street and Nall Avenue (PC #87-11)

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

- D. **Resolution No. 3678** approving the Planning Commission's recommendation for denial of a Final Sign Plan for Camelot Court – Comfort Plus Shoes, located at 11711 Roe Avenue (PC Case # 94-11)

A motion to approve the Planning Commission's recommendation for denial was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Mr. Coleman confirmed part of the recommendation for denial was due to the design and part was due to using different font than the existing sign. The proposed sign meets the Camelot Court Development guidelines. Their new design criteria allows for color and changes on the façade; however, if this was coming before the Governing Body for approval, they would ask that the signs have font continuity. The sign equals 4.9% of the overall square footage. Their legal registered name is Comfort Plus Shoes, Inc., and has been at this location since 1997.

Councilmember Osman stated he was in favor of denial because the applicant was not proposing to use their legal trade name as required by the City. He also felt they would have been present this evening if they wanted to plead their case.

Mayor Dunn pointed out they are currently in violation of the City's window sign ordinance. They have been cited; however, there has been no resolution.

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

- E. **Resolution No. 3679** approving the Planning Commission's recommendation to adopt an update to the Leawood Comprehensive Plan and map, in accordance with K.S.A. § 12-747 (PC Case # 101-11)

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

Mr. Coleman confirmed all of the changes were obtained from factual census data.

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

- F. **Ordinance No. 2513** amending Section 16-3-9, of the Leawood Development Ordinance [LDO], pertaining to deviations to interior property line setbacks (PC Case # 113-11) [Roll Call Vote]

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

14. **OLD BUSINESS** – None.

15. **OTHER BUSINESS** – None.

16. **NEW BUSINESS**

- A. **Ordinance No. 2514** amending Article 1 of Chapter 14 of the Code of the City of Leawood, Kansas, 2000, by amending Sections 14-101 through 14-113, pertaining to Regulating Traffic within the Corporate Limits of the City of Leawood, Kansas; incorporating by reference the 'Standard Traffic Ordinance for Kansas Cities, 2011 edition,' with certain amendments, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, and K.S.A. § 12-3301 and 12-3302; repealing existing Sections 14-101 through 14-113; and other sections in conflict herewith [Roll Call Vote]

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

Councilmember Rasmussen commented that some restaurants are re-sealing open bottles of liquor so guests can take them home and asked if this would be defined as an “open container.” Police Chief John Meier stated if the original seal has been broken it would be considered an “open container.” City Attorney Patty Bennett noted it would be considered an “unopened container” if it is located in the locked rear trunk, rear compartment, or any locked outside compartment that is not accessible to anyone while the vehicle is in motion.

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

- B. **Ordinance No. 2515** amending Sections 11-101 through 11-106 and adding a new Section 11-105a of the Code of the City of Leawood, 2000, pertaining to Regulating Public Offenses within the Corporate Limits of the City of Leawood, Kansas; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities,’ 2011 edition, with certain amendments and omissions, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, and K.S.A. § 12-3301 and 12-3302, and repealing existing § 11-101 through 11-106, and other sections in conflict herewith [Roll Call Vote]

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

ADJOURN

There being no further business, the meeting was adjourned at 9:50 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk