

Minutes

DVD No. 289

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 1, 2012. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Lou Rasmussen

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief Dave Williams, Fire Dept.	Chris Claxton, P&R Director
Chief John Meier, Police Dept.	Lovina Freeman, HR Director
Karl Weinfurter, Info Systems Specialist	Dawn Long, Finance Director
Richard Coleman, Comm Dev Director	Deb Harper, City Clerk
Mark Klein, Planning Official	Pam Gregory, Assistant City Clerk
David Ley, City Engineer	

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Consent Agenda Item No. 7M – Continued to the October 15, 2012, Governing Body meeting
- Addition of Item No. 14C – Executive Session regarding Attorney/Client privilege

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

Fire Prevention Week, October 7-13, 2012

Mayor Dunn read and presented the proclamation to Fire Chief Dave Williams and Fire Marshall Gene Hunter.

Fire Marshall Hunter stated in 1978, there were 35 fire-related deaths per million people in the United States. That death rate has dropped to 12 in 2010. Fire prevention has been a tremendously effective strategy and is clearly the driving force behind this improvement. He thanked the citizens of Leawood for investing in fire prevention throughout the years recognizing this investment has paid great dividends.

Double Ten Day, October 10, 2012

Mayor Dunn recognized that the City of Leawood and City of I-Lan, Taiwan, entered into a Sister City relationship on October 7, 1988, and proclaimed Monday, October 10, 2012, as Double Ten Day, their national anniversary day of celebration. She urged all citizens to join her in extending congratulations and best wishes to the Republic of China on Taiwan during this celebration.

5. PRESENTATIONS/RECOGNITIONS - None

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. 2012-36 and 2012-37
- B. Accept minutes of the September 17, 2012 Governing Body meeting
- C. Accept minutes of the September 17, 2012 Governing Body Work Session
- D. Accept minutes of the July 26, 2012 Sustainability Advisory Board meeting
- E. Accept minutes of the May 8, 2012 Leawood Historic Commission meeting
- F. Approve Change Order No. 3 in the amount of \$7,588.00 to Titan Built Construction pertaining to the Leawood Justice Center Project to be located at Town Center Drive & Tomahawk Creek Parkway [Project # 76008]
- G. Approve Change Order No. 4 in the amount of \$8,623.55 to C.V. Anderson, Inc., pertaining to repairs to city facilities [Project # 74045]
- H. Approve 9th and Final Pay Request in the amount of \$1,127.25, to Continental Consulting Engineers, pertaining to the Tomahawk Creek Parkway North Pond Restoration and Trail Relocation Project [Project # 71011]
- I. Approve purchase in the amount of \$29,956.08 from Van Wall Equipment for the purchase of replacement Parks Utility Vehicles
- J. **Resolution No. 3911** approving and authorizing the Mayor to execute 2013 Employee Benefit Plan documents
- K. **Resolution No. 3912** designating holidays for the year 2013
- L. **Resolution No. 3913** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$20,500.00, between the City and Crawford Architects pertaining to the furniture design Services for the Leawood Justice Center to be located at Town Center Drive & Tomahawk Creek Parkway [Project # 76008]

- M. Resolution approving and authorizing the Mayor to execute a Deposit Agreement between the City and Palo Verde Group, LP, for placement of funds into an escrow account for underground utilities for Palo Verde property located at 5101 College Boulevard – *CONTINUED TO THE OCTOBER 15, 2012, GOVERNING BODY MEETING*

Councilmember Rezac pulled Item Nos. 7G and 7L for discussion.

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

- 7.G. Approve Change Order No. 4 in the amount of \$8,623.55 to C.V. Anderson, Inc., pertaining to repairs to city facilities [Project # 74045]

City Attorney Patty Bennett confirmed this additional cost was covered under the City's insurance.

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

- 7.L. **Resolution No. 3913** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$20,500.00, between the City and Crawford Architects pertaining to the furniture design Services for the Leawood Justice Center to be located at Town Center Drive & Tomahawk Creek Parkway [Project # 76008]

Dave Lovetere, McRealty Group, stated they felt the traditional design/bid process for furniture design services would lead to a higher quality control and competitive pricing that would exceed that of any buying program and recommended that the City would be best served by using a controlled design/bid process for the Justice Center.

Councilmember Rezac suggested they consider an open bid qualification process for any high profile City project in the future.

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

8. MAYOR'S REPORT

- A. Attended three Leawood Chamber of Commerce ribbon cutting ceremonies in the past two weeks: Aestheticare Med Spa, located at 5001 College Boulevard. This is their second move within Leawood's boundaries to allow for expansion due to growth; American Family Insurance, owned by Michelle Underwood, located at 4701 College Boulevard in the Citizens Bank building; and Best Friends Pet, located at 13008 State Line Road in Leawood.

They offer pet grooming, photography and holistic care for pets. Mayor Dunn wished all of these new businesses within the community great success.

- B. Attended a retirement celebration for Detective John Dickey in the Oak Room at City Hall. This was very nicely orchestrated by Police Chief John Meier, Major Troy Rettig and their department. Detective Dickey is moving on to another career and has had a stellar 25-year career here with the City of Leawood. Mayor Dunn wished him the best of luck in his future endeavors.
- C. Mayor Dunn thanked Police Chief John Meier and all involved for organizing and attending the "Topping Off" ceremony for the Leawood Justice Center and thanked Titan Built Construction for hosting dinner.
- D. According to a new ranking by Coldwell Banker Real Estate, LLC, the top Kansas suburbs in the Kansas City metro area are Mission Hills, Leawood, Prairie Village, Westwood and Fairway. All five cities are located in Johnson County. Ranking was based upon access to amenities, proximity to good schools, average commute times and community safety. Money Magazine ranked Leawood as No. 8 on a list of best places to live throughout the Midwest with populations of less than 100,000. Cities were ranked by not being located more than 60 miles from a big city, having median incomes of more than \$50,000 a year and unemployment rates less than the national average.
- E. Reminder of a studio art show on Friday, October 12th from 5:00-9:00 P.M. at the Rice Gallery of Fine Art, located at 117th and Nall in the Park Place Development. This event is co-sponsored by the Leawood Arts Council presenting "Our Land" by Judith Mackey and Aaron Norris showing all new works. The show will run through November.

9. COUNCILMEMBERS' REPORT

Councilmember Filla Information on International Walk/Bike to School Day,
October 3, 2012

Councilmember Filla reported six Leawood-area schools will join schools from around the world to celebrate this International Walk/Bike to School Day. Corinth Elementary will use the event to kick-off its Walking School Bus Program, the first of its kind in Leawood to be held on October 3rd and the following five Wednesdays. Merchants have donated items to raffle and Bike Source is donating \$100 worth of gift card give-a-ways.

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the September 11, 2012 Planning Commission meeting]

- A. **Ordinance No. 2575** approving a Special Use Permit [SUP] for a commercial daycare facility for Parkway Plaza - Kiddi Kollege, located at the northwest corner of 135th Street and Roe Avenue (PC Case 107-02) [Roll Call Vote]

Jeff Schroeder, Scharhag Architecture, stated there are currently seven Kiddi Kollege locations throughout Johnson County with the proposed being their eighth location. This is a high-quality development that will blend in with the existing neighboring development.

Building materials will consist of cast stone around the base of the building with a mix of brick and textured stone on the remaining walls and accent stucco areas. The roofing will be precast concrete tile. The playground equipment colors have changed to blue, silver and tan. The majority of the playground equipment will be 6 feet high or less.

Community Development Director Richard Coleman confirmed the applicant had revised the plans to construct a berm in the area between Briar Street and the parking lot.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Rezac. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rasmussen absent).

- B. **Ordinance No. 2576** approving a Preliminary Plan and Final Plan for Parkway Plaza - Kiddi Kollege, located at the northwest corner of 135th Street and Roe Avenue. (PC Case 107-02) [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rezac; seconded by Councilmember Azeltine. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rasmussen absent).

12. OLD BUSINESS - None

13. OTHER BUSINESS –

Councilmember Filla recognized Mayor Peggy Dunn and husband, Terry Dunn, President and CEO of JE Dunn Construction Group, as a “Dynamic Duo” on the cover of KC Business magazine.

14. NEW BUSINESS

- A. **Ordinance No. 2577C** amending Chapter 14, Article 1 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, 2012 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, 14-102a, 14-102b, 14-102c, 14-102d, and 14-103 through 14-113; and other sections in conflict herewith [Roll Call Vote]

Ms. Bennett noted Item Nos. 14A and 14B were standard Codes the City adopts each year to reflect updates in the Kansas statute.

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 7-0. Nay: None. (Councilmember Rasmussen absent).

- B. **Ordinance No. 2578C** amending Chapter 11, Article 1 of the Code of the City of Leawood, Kansas, 2000, by 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,' 2012 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 Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rasmussen absent).

- C. Recess into Executive Session to discuss matters related to Attorney/Client Privilege immediately following the regular meeting

A motion to recess into Executive Session at 8:15 P.M. for a period of 20 minutes to discuss matters related to Attorney/Client Privilege was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion carried following a unanimous vote of 7-0. (Councilmember Rasmussen absent).

The Governing Body reconvened into regular session at 8:35 P.M.

Mr. Lambers stated there has been a recent amount of considerable publicity regarding the issue of open-carry, which has come about by the opinion of the Attorney General [AG] regarding whether cities can ban open-carry in public places. The City of Overland Park has recently decided they will permit this. The City of Leawood currently has an ordinance which prohibits this; however, it is possible they will be approached with regards to changing it. The League of Kansas Municipalities [LKM] has stated the AG opinion is incorrect and the cities, as a part of their home rule authority, have the ability to regulate and ban this activity. He suggested the City reaffirm its ordinance prohibiting open-carry in public places, which has been in place for at least 13 years.

Police Chief John Meier stated with conceal-carry, there is an application and background process, which requires an applicant to attend a firearms training class and obtain qualification; however, the Police Department's concern under open-carry is that none of these provisions are in place. They feel the difference between the two could impact public safety in the community.

A motion to reaffirm the City's current ordinance prohibiting open-carry in public places was made by Councilmember Filla; seconded by Councilmember Rawlings.

Mr. Lambers stated for the record he is a licensed firearm owner for hunting purposes; however, he felt the City's current ordinance is the best policy for the City of Leawood.

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

A motion to adjourn the regular session at 8:45 P.M. was made by Councilmember Rezac; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Rasmussen absent).

ADJOURN

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

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk