

Regular Meeting

THE LEAWOOD CITY COUNCIL

Minutes

DVD No. 292

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, November 19, 2012. Mayor Peggy Dunn presided.

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

Councilmembers absent: None

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief Dave Williams, Fire Dept.	Joe Johnson, Public Works Director
Chief John Meier, Police Dept.	Dawn Long, Finance Director
Mark Andrasik, Info Systems Director	Mark Klein, Planning Official
Richard Coleman, Comm. Dev. Director	Chris Claxton, P & R Director
Mark Klein, Planning Official	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. 9B – Report from Councilmember Osman

A motion to approve the amended agenda was made by Councilmember Bussing; seconded by Councilmember Filla. 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

Small Business Saturday, November 24, 2012

Mayor Dunn proclaimed November 24, 2012, as Small Business Saturday in the City of Leawood, Kansas, in honor of groups and public and private organizations across the Country.

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. 2012-44
- B. Accept minutes of the November 5, 2012 Governing Body meeting
- C. Accept minutes of the November 5, 2012 Governing Body Work Session
- D. Accept minutes of the October 11, 2012 Sustainability Advisory Board meeting
- E. Accept minutes of the October 9, 2012 Parks and Recreation Advisory Board meeting
- F. Accept minutes of the September 11, 2012 Leawood Historic Commission meeting
- G. Accept minutes of the September 26, 2012 Stormwater Management Committee meeting
- H. Approve renewal of Cereal Malt Beverage [CMB] license for Hy-Vee located at 12200 State Line Road
- I. Approve Final Pay Request in the amount of \$3,692.64 to C.V. Anderson, Inc., pertaining to the 2011 Hail Damage Repairs to Facilities [Project # 74045]
- J. Approve 4th and Final Pay Request in the amount of \$1,000.00 to Bryant & Bryant Construction, pertaining to the 135th Street Partial Depth Repair Project [Project # 72027]
- K. Approve 3rd and Final Pay Request in the amount of \$1,000.00 to McAnany Construction Company, pertaining to the 2012 Residential Mill & Overlay Project [Project # 70012]
- L. Approve Final Pay Request in the amount of \$50,765.00 to Bazan Painting pertaining to the Aquatic Center Painting Project [Project # 74003]
- M. **Resolution No. 3930** amending the City of Leawood's Community Improvement District [CID] Policy, and repealing Resolution No. 3816
- N. **Resolution No. 3931** amending the City of Leawood's Debt Management Policy and repealing Resolution No. 3553
- O. Fire Department Monthly Report
- P. Police Department Monthly Report
- Q. Municipal Court Monthly Report

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

8. MAYOR'S REPORT

- A. There were two Leawood Chamber ribbon cutting ceremonies; Brooks Brothers, located in Town Center Plaza. This is a beautiful store and their only retail store in the State of Kansas. Special thanks to Councilmember Debra Filla for participating in the Verizon Wireless ribbon cutting at Hawthorn Plaza. In addition to these two businesses, Mayor Dunn and Councilmember Lou Rasmussen attended a grand opening celebration for Feng, located in Town Center Crossing, formerly One Nineteen, who moved from Hawthorn Plaza. Mayor Dunn wished all of these businesses much success.
- B. Attended the Leawood Stage Company's production of "Nunsense" at the Lodge at Ironwoods Park. The talent was extraordinary with a very entertaining show. Congratulations to the Leawood Stage Company and Chair Debbie Huffman, Cultural Arts Coordinator April Bishop and all involved.
- C. The Johnson & Wyandotte Counties Council of Mayors meeting, hosted by Prairie Village Mayor Ron Shafer, was held in conjunction with the Johnson & Wyandotte Counties legislators. All delegates spoke on issues they viewed as priorities for the upcoming legislative session.
- D. Reminder that the next Johnson & Wyandotte Counties Council of Mayors meeting will be at the Annual Holiday Social on December 5th, which will be held at the Overland Park Convention Center.
- E. Attended the United Way of Greater Kansas City Victory Celebration with City Administrator Scott Lambers. There was \$37.3 Million dollars raised in 2012, which represented a 3.5% increase over last year. Mayor Dunn expressed her appreciation to all City Councilmembers and City of Leawood employees for their participation and generosity.
- F. Attended the Leawood Citizen Police Academy graduation ceremony. Special thanks to Police Chief John Meier and his department for their commitment to provide an outstanding 10-week program offering great insight into the "behind the scenes" lives of our fine Police Department.
- G. Attended the Jewish Community Relations Bureau/American Jewish Committee 2012 Awards ceremony honoring Leawood resident and UMKC Chancellor Leo Morton. He received the Henry W. Bloch Human Relations Award and was the keynote speaker of the event as well. Among many other involvements, he is a member of the Ironhorse Golf Course Advisory Board.
- H. Special thanks to Parks and Recreation Director Chris Claxton, Events Supervisor Shelly Pollock and Parks staff for the wonderful holiday lighting ceremony this evening. There were great performances by Brookwood Elementary, the Leawood Singers and Dancerz Unlimited.
- I. Reminder of "Breakfast with Santa" hosted by the Parks and Recreation Department with food provided by the Leawood Lions Club on Saturday, December 8th, at the Lodge at Ironwoods Park. There will be two sessions; 8:30 A.M.–10:00 A.M. and 10:30 A.M.-12:00 P.M. Reservations are required.
- J. Congratulations to the Leawood Police Department for finishing 2nd in the State of Kansas in fundraising for Special Olympics raising \$32,481.64.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Filla - 5th Annual Leawood Homes Owners Association Meeting, Thursday, February 7, 2013 5:30 -8:30 PM; The Lodge at Ironwoods Park, 147th & Mission Road

Councilmember Filla reported the Annual HOA meeting is expanding to bring residents the latest news on trees and leaves, streets, sidewalks, green mobility, the City's progress as a Bicycle Friendly Community, and more.

- ** B. Councilmember Osman Update on Signage Ordinance

Councilmember Osman expressed concern of the City's timeframe for signage approval for local businesses. In certain instances, signage approval is required to come before the City Council; however, he recommended staff be allowed the flexibility to approve signage administratively (under certain conditions) and make recommendations to the Council.

City Administrator Scott Lambers replied they have already expedited Planning application Consent Agenda items, if they are approved, by coming before the next City Council meeting. Planning applications with any issues are placed on a Council agenda after the minutes are available for review. Community Development Director Richard Coleman confirmed this is generally a 6-week turnaround time. Mr. Lambers suggested they schedule a work session to discuss certain signage conditions that would or would not go through the Planning process. Currently, only temporary signage is approved on an administrative basis. Applicants can submit an "at risk permit" application; however, this puts a risk on the applicant if there are any changes from the Planning Commission or City Council. City Attorney Patty Bennett confirmed by allowing administrative signage approval, it would require a change to the LDO, which would first need to go through the Planning Commission for approval with their recommendation to the City Council.

A motion to schedule a work session with a date uncertain to review an administrative level signage approval process was made by Councilmember Osman; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. STORMWATER MANAGEMENT COMMITTEE

[from the September 26 2012 Stormwater Management Committee meeting]

- A. **Review Drainage and Erosion Concerns – Patrician Woods Town Homes Association**

Recommendation to approve extending stormsewer system; enclosing the existing open channel

Public Works Director Joe Johnson stated Patrician Woods was developed in 1984. At that time, the City had a stormsewer pipe under Roe Avenue that drained approximately 16 acres of land on the east side of Roe. Over time, an increasing amount of runoff flowed through the City's stormsewer under Roe and eventually into Patrician Woods stormsewer day lighting into a natural channel. While the pipe system was designed to handle runoff from the developed areas, the natural channel has experienced significant erosion. The Stormwater Committee recommended extending the stormsewer system 200 feet to the major tributary that runs along the rear of the property. The HOA and 2 private property owners will dedicate the necessary easements for the system to be public at no cost to the City. The project cost of \$66,000 would be programmed into the next update to the Capital Improvement Program [CIP]. Mr. Lambers noted project completion would be based upon other priorities and would more than likely be designed in 2014 and constructed in 2015. Mr. Johnson confirmed the major channel drains into Tomahawk Creek with no concerns of erosion in that area.

A motion to approve the Stormwater Committee's recommendation to extend the stormsewer system; enclosing the existing open channel with a completion date to be determined as a part of the CIP discussion was made by Councilmember Filla; seconded by Councilmember Azeltine.

George Handley, 12508 Cedar, stated there are 3 homes, including his, adjacent to this erosion problem that have all experienced long-term deterioration. He installed retaining walls to help stabilize the hill and has repaired major cracks inside his home. One of his neighbors spent \$20,000 piercing his home in an attempt to mitigate the problem. Mr. Handley requested that this project be completed before 2015 because of the active deterioration.

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

B. Consider a Green Street Pilot Project

Recommendation funding for a pilot Green Street Project for two [2] locations

Mr. Johnson stated the Stormwater Committee discussed consideration for a pilot Green Street Project when the City does its Curb Replacement Program. The project would create an area similar to a rain garden along the curb for water to drain into and filtered by a sand soil mix and native deep root plants before going into the stormsewer. They met with a consultant that specializes in green street designs to discuss the project. The biggest factor is to find a location that the adjacent property owner agrees to maintain the plantings in that area. There are 2 options to consider; narrowing a street approximately 4 feet creating a rain garden area for the water to drain into or place the area behind the curb. The committee's recommendation was to talk with the HOA's of Waterford and Wilshire along 132nd Street and consider Belinder Street when it is reconstructed in 2014 as part of the Residential Reconstruction Program. The area would be approximately 40-50 feet long and 4 feet wide at an estimated construction cost of \$10,000 and a design fee.

Mr. Lambers thought it would not be in the City's best interest to enter into individual contracts with private property owners and felt HOA's should be responsible for maintaining the gardens so the City has an avenue to ensure maintenance.

Mr. Johnson stated if the HOA's fail to maintain the gardens; they could include a clause in the contract that would allow the City to remove it.

Councilmember Rasmussen wanted to ensure snow plows would be able to maneuver throughout the narrowed area and that the plants could tolerate the salt.

Mayor Dunn noted information on Green Street Projects would be available at the Annual HOA meeting on February 7th.

Mr. Johnson stated if this was done in a residential area without sidewalks, they would place the garden area behind the curb to prevent narrowing the street.

A motion to recommend further investigation of a potential pilot Green Street Project for two [2] locations was made by Councilmember Filla; seconded by Councilmember Cain.

Mr. Johnson confirmed this would return before the City Council before proceeding. Mr. Lambers indicated if they decide to proceed, they would need to amend the budget to include a maximum project amount of \$20,000.

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

12. PLANNING COMMISSION

[from the October 23, 2012 Planning Commission meeting]

- A. **Ordinance No. 2586** amending Section 16-2-1, of the Leawood Development Ordinance [LDO], Establishment of Districts, pertaining to the creation of the SD-NCR2 (Planned Neighborhood Commercial Retail 2) District (PC Case # 142-12) [Roll Call Vote]

Community Development Director Richard Coleman stated Item Nos. 12A-12C pertains to the creation of a new zoning district SD-NCR2. This zoning district falls between SD-NCR (Planned Neighborhood Commercial Retail) and SD-CR (Planned General Retail) and would be used for developments where the uses are excluded in SD-NCR.

Seth Berry, 9419 Wenonga, stated he was very supportive of this new zoning district.

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

- B. **Ordinance No. 2587** amending Section 16-2-6.2, of the Leawood Development Ordinance [LDO], SD-NCR (Planned Neighborhood Commercial Retail), pertaining to the creation of the SD-NCR2 (Planned Neighborhood Commercial Retail 2) District (PC Case # 142-12) [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).

- C. **Ordinance No. 2588** amending Section 16-2-7, of the Leawood Development Ordinance [LDO], Table of Uses, pertaining to the creation of the SD-NCR2 (Planned Neighborhood Commercial Retail 2) District (PC Case # 142-12) [Roll Call Vote]

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

[From the April 24, 2012 Planning Commission meeting]

- D. **Ordinance No. 2589** approving a zoning to SD-NCR2 [Planned Neighborhood Retail 2], Preliminary Plan and Final Plan for a portion of Ranchmart North, Lot 3, located north of 95th Street and east of Mission Road [PC-52-12] [Roll Call Vote] ***[A Protest Petition was received on May 8, 2012, and has been determined to be valid.]***

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

Seth Berry, 9419 Wenonga, stated Lot 3 of the Ranchmart Shopping Center was never zoned as commercial real estate or for use as a restaurant. He submitted documentation to the Governing Body and requested that it be included into the record.

Councilmember Bussing stated he would accept Mr. Berry's documents into the record; however, he was not willing to stipulate that he agreed with everything in those documents.

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

- E. *[From the January 24, 2012 Planning Commission meeting]* A Resolution approving a Final Plan for Ranchmart – Slab N Pickle, located north of 95th Street and east of Mission Road (PC Case # 109-11) –***Continued From the February 20, 2012, March 5, 2012, and March 19, 2012, May 21, 2012, June 4, 2012, and August 20, 2012 Governing Body Meetings [Continued from the August 6, 2012 Governing Body meeting]***

Staff Comment: If the City Council approves Items 12A - 12D per the applicant's request, then Item 12E becomes moot and should be denied

Curtis Holland, Esq., Polsinelli Shughart, requested on behalf of the property owners, the Leawood Post Office, LLC, and the Rejnier family partnership, that this application be withdrawn.

[from the October 23, 2012 Planning Commission meeting]

- F. **Resolution No. 3932** approving a Final Sign Plan for Leawood Fountain Plaza – Sign Criteria, located south of College Boulevard and east of Nall Avenue (PC Case #115-12)

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.

- G. **Resolution No. 3933** approving a Final Plan for 2020 W. 89th Street Building - Parking Lot Expansion, located at 2020 W. 89th Street (PC Case #120-12)

Curtis Holland, Esq., Polsinelli Shughart, stated this application is for a parking lot expansion that was initially approved with the project in 1989. This came before the City and was approved in 2006; however, the plan expired because they did not move forward with it at that time. A tenant will be moving into this building with parking needs. They had arranged with the City to have a pedestrian trail easement placed along the western side of the property. The property owner is willing to dedicate this to the City at no cost. When the trail is constructed, they will need to remove 14 parking spaces; however, these will be recouped in the expansion area. This application is in conformance with the approved Preliminary Plan and all of the City's Codes.

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

- H. **Ordinance No. 2590** approving a Special Use Permit for Molle Off-Site Parking for New Vehicles, located south of 104th Street and west of State Line Road (PC Case #134-12) [Roll Call Vote]

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

Mayor Dunn noted this SUP has always come before the City Council for approval each year; however, the Planning Commission changed this to a 2-year timeframe.

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

- I. **Resolution No. 3934** approving a Final Plan for a Tenant Finish for Camelot Court – Red Door Grill, located at the northeast corner of 119th Street and Roe Avenue (PC Case # 137-12)

Paul Minto, Urban Prairie Architecture, gave a presentation for Red Door Grill, a new family-style restaurant where the food will be cooked on a wood-fired grill. The entrance will be located on the south side to improve ADA access. Larger windows will be installed, in addition to a weathered wood rain screen. The wood theme will be located throughout the inside of the building as well. The west patio area will be increased to serve more people with wood fencing installed to screen the sun and headlights.

The green awning will be replaced with pergola trelliswork. The metal fencing will remain in place and extend to the south side of the building. The brick wall behind the wooden rain screen will remain in place. To place the entry door on the south side, the sidewalk needed to be lowered to include a step and handrails. The gate for patio access, the grass planter, and fire-pit area are all designed with a flat metal panel material. These aesthetics will be carried out inside the building as well. Opening is scheduled for spring, 2013.

Councilmember Bussing expressed parking concerns. Mr. Coleman replied they are currently discussing parking issues with the shopping center owner; however, it is unrelated to this application. An application is pending for the remodel of the center.

Gary Zancanelli, Red Door Grill, declined to speak.

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.

- J. **Ordinance No. 2591** amending Section 16-9-257 of the Leawood Development Ordinance [LDO], Definitions, pertaining to directory signs and post and panel signs (PC Case # 144-12) [Roll Call Vote]

Mr. Coleman stated the change pertaining to directory signs are recommended so that the definitions can be expanded to not be business specific. Post and panel signs currently exist in some developments and are recommended to be included in the LDO.

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

13. **OLD BUSINESS** - None

14. **OTHER BUSINESS** - None

15. **NEW BUSINESS**

- Ordinance No. 2592C** amending § 1-102 of the Code of the City of Leawood, 2000, entitled 'Definitions,' defining Comprehensive Development Plan or Comprehensive Plan and Master Development Plan or Master Plan [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla. 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 9:15 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory, Assistant City Clerk