

Regular Meeting

THE LEAWOOD CITY COUNCIL

December 3, 2012

Minutes

DVD No. 293

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, December 3, 2012. Mayor Peggy Dunn presided.

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

Councilmembers absent: Councilmember Osman.

Staff present: Scott Lambers, City Administrator
Chief Dave Williams, Fire Dept.
Chief John Meier, Police Dept.
Karl Weinfurter, Info Systems Specialist
Richard Coleman, Comm. Dev. Director
Lovina Freeman, HR Director
Travis Torrez, Building Official

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Dawn Long, Finance Director
Mark Klein, Planning Official
Chris Claxton, P & R Director
Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Item No. 7F – Pulled to a date uncertain
- Addition of Item No. 9B – Report from Councilmember Filla

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Osman 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** - None

5. **PRESENTATIONS/RECOGNITIONS** - None

6. **SPECIAL BUSINESS**

- A. Public Hearing- Amendments to the 2012 Fiscal Budget for the City of Leawood, Kansas

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 7-0. (Councilmember Osman absent).

- B. **Resolution No. 3935** adopting amendments to the 2012 Fiscal Budget for the City of Leawood, Kansas

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

Assistant City Clerk Pam Gregory 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. 2012-45, 2012-46, and 2012-47
- B. Accept minutes of the November 19, 2012 Governing Body meeting
- C. Accept minutes of the September 27, 2012 Leawood Foundation meeting
- D. Approve renewal of Cereal Malt Beverage [CMB] license for Walgreens Co., located at 4701 Town Center Drive
- E. Approve renewal of Cereal Malt Beverage [CMB] license for Cosentino Price Chopper, located at 3700 W. 95th Street
- F. Approve 5th and Final Payment in the amount of \$29,695.89 to Hayes Brothers Construction, Co., Inc., pertaining to the North Lake & Trail Project [Project # 71011] – ***PULLED TO A DATE UNCERTAIN***
- G. Approve Change Order No. 4 in the amount of \$28,351.00 to Titan Built Construction, pertaining to the Leawood Justice Center Project to be located at Town Center Drive & Tomahawk Creek Parkway [Project # 76008]
- H. **Resolution No. 3936** approving and authorizing the Mayor to execute Amendment No. 4 to that certain Professional Architectural Service Agreement, dated December 20, 2010, in the amount of \$10,620.00, between the City and Hoefler Wysocki Architects, LLC [HWA] pertaining to the Leawood Justice Center Construction Project to be located at 117th & Tomahawk Creek Parkway [Project # 76008]

- I. **Resolution No. 3937** approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2013 alcohol tax fund for an amount not to exceed \$175,000
- J. **Resolution No. 3938** approving and authorizing the Mayor to execute a Letter of Engagement between the City and Rubin Brown, LLP, for an amount not to exceed \$34,000, pertaining to 2012 audit services
- K. **Resolution No. 3939** approving and authorizing the Mayor to execute an Amendment to that certain Real Estate Agreement between the City and Block Development Company, dated June 18, 2012, pertaining to the real property located at approximately 114th Street and Tomahawk Creek Parkway, and extending the time for zoning and planning consideration by ninety [90] days
- L. **Resolution No. 3940** approving and authorizing the Mayor to execute a Video Service Provider Agreement between the City and Time Warner Cable Midwest LLC
- M. **Resolution No. 3941** approving a Final Sign Plan for Ironhorse Centre - Midwest Dermatology, located south of 151st Street and east of Nall Avenue (PC Case 145-12) *[from the November 27, 2012 Planning Commission meeting]*
- N. **Resolution No. 3942** approving a Final Sign Plan for Leawood Presbyterian Church - Monument Sign, located at 2715 W. 83rd Street (PC Case 146-12) *[from the November 27, 2012 Planning Commission meeting]*
- O. **Resolution No. 3943** approving a Final Plan for Market Square - Sunrise Advisors (Financial Services), located at the northwest corner of 135th Street and Pawnee Street (PC Case 147-12) *[from the November 27, 2012 Planning Commission meeting]*
- P. **Resolution No. 3944** approving a Revised Final Plat for Leabrooke - 8th Plat, located south of W.146th Street and west of Manor Road (PC Case 148-12) *[from the November 27, 2012 Planning Commission meeting]*
- Q. **Resolution No. 3945** approving a Final Sign Plan for Camelot Court - Red Door Grill (Wood Fired Grill Restaurant), located at the northeast corner of 119th Street and Roe Avenue (PC Case 154-12) *[from the November 27, 2012 Planning Commission meeting]*
- R. **Resolution No. 3946** approving a Final Sign Plan for Tomahawk Creek Office Park - Murphy Hoffman Co. (MHC) (Heavy Duty Truck Services), located at 11120 Tomahawk Creek Parkway (PC Case 156-12) *[from the November 27, 2012 Planning Commission meeting]*
- S. **Resolution No. 3947** approving a Final Sign Plan for Town Center Plaza - Brooks Brothers (Apparel), located north of 119th Street and east of Nall Avenue (PC Case 157-12) *[from the November 27, 2012 Planning Commission meeting]*
- T. **Resolution No. 3948** approving a Final Sign Plan for Leawood Corporate Manor Sign Criteria, located at the southwest corner of College Boulevard and Roe Avenue (PC Case 158-12) *[from the November 27, 2012 Planning Commission meeting]*

- U. **Resolution No. 3949** approving a Final Sign Plan for Leawood Corporate Manor - Citizens Bank & Trust, located at the southwest corner of College Boulevard and Roe Avenue (PC Case 155-12) [from the November 27, 2012 Planning Commission meeting]

Mayor Dunn requested to pull Item No. 7I to publicly acknowledge Kimberly Reene for her service representing the City of Leawood on the Drug and Alcohol Council [DAC] for United Community Services [UCS] of Johnson County.

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

- 7I. **Resolution No. 3937** approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2013 alcohol tax fund for an amount not to exceed \$175,000

Kimberly Reene, Drug and Alcohol Council of Johnson County, thanked the City of Leawood for the opportunity to serve and work with the DAC. Priorities for the DAC are to prevent underage substance use and reduce the barriers to treatment and services and to increase the evidence-based programming in all grants with measurable outcomes. The tax dollars being allocated are in good faith and well regarded. Ms. Reene expressed appreciation on behalf of the DAC for the City's \$45,000 increase in allocation of tax revenue. The DAC still runs approximately \$90,000 short on grants each year. The DAC funds alcohol and drug education programs in several Leawood schools.

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

8. MAYOR'S REPORT

- A. Mayor Dunn and Councilmember Carrie Rezac are attending a two-day summit, which started today, titled "City Age, The New American City." Kansas City is hosting this event at the Kauffman Center for the Performing Arts with approximately 600 attendees from across the U.S. and Canada, including Mayors, investors, entrepreneurs, business leaders and citizens. Topics included ideas on public/private partnerships, technology and infrastructure. They stressed repeatedly the importance of investing in infrastructure.
- B. Congratulations to Leawood Police Chief John Meier and his department. The Kansas City Business Journal on-line edition had an article on crime in U.S. cities, which compared crime rates with other cities or neighboring communities for 2011. The City of Leawood scored the lowest violent crime rate of 0.56 per 1,000 citizens. Property crimes were 13.88 per 1,000 citizens.
- C. Reminder of the Council of Mayors December Social on Wednesday, December 5th, at 5:30 P.M.

- D. Reminder of the Employee Appreciation Luncheon on Thursday, December 13th, from 11:30 A.M. to 1:30 P.M. at the Ironwood's Lodge.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Rawlings - Update on Justice Center Construction Project

Significant construction of the Justice Center Project is underway, including brick masonry and window installation. Site utility work is 44% complete; earthwork is 89% complete. The roof has been completed over the police station and the roof trusses are currently being installed over the courthouse. As of November 30th, construction was 38% complete with the general contractor on schedule. The exterior should be completed enough by December 15th to allow interior construction as the weather turns colder.

- B. Councilmember Filla - Recommendation regarding Sienna HOA well for irrigation using non-chlorinated water

On behalf of the Sienna HOA, Councilmember Filla requested that staff review the potential for a well to be installed for irrigation using non-chlorinated water to irrigate lawns.

Mr. Lambers stated cisterns are more desirable because they are underground and would not attract mosquito's that could promote the West Nile Virus. He was concerned with abandonment issues of wells with the potential for people to fall in and would want to ensure they are covered. They would also need to look into the legality of water rights.

A motion to request staff to review the concept of infrastructure for water conservation for a potential well and return in 30-45 days with a staff report was made by Councilmember Filla; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 7-0. (Councilmember Osman absent).

10. STAFF REPORT – CITY ADMINISTRATOR SCOTT LAMBERS

- Update on Special Animal Permits

Councilmember Rasmussen had raised an issue in a previous Governing Body meeting regarding the City's Special Animal Permits. Staff reviewed how other cities in Johnson County handle their animal permits. It was determined that no other cities have a limitation of the number of animals citizens are allowed. With a Special Use Permit [SUP], the State of Kansas limits the number of animals to 19. If the City Council would like to proceed with providing a limitation, this can be scheduled as a discussion. As a part of the limitation, staff can provide a draft ordinance requiring annual re-inspection by the January 7th Governing Body meeting. If passed, this would become effective January 1, 2014.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the November 13, 2012 Planning Commission meeting]

- A. **Ordinance No. 2603** amending Article 9 of the Leawood Development Ordinance, [LDO], entitled, 'Definitions,' to add a new section defining 'Research Services – Limited' (PC Case 128-12) [Roll Call Vote]

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

Planning Official Mark Klein stated the proposed amendment to the LDO would permit a limited research facility within the SD-O [Planned Office District] through a SUP. Currently, 'Research Services' are permitted as a Planned Use within the BP (Planned Business Park) zoning district. There were concerns at the Planning Commission regarding the safety of this type of use within an office and mixed-use area, in which the case was continued to allow additional review. Since that meeting, staff has worked with Fire Marshal Gene Hunter and Building Official Travis Torrez to further address potential concerns. The proposed amendment will allow limited research services with the following restrictions:

- The area dedicated to research shall be restricted to no more than 25% of the floor area of the business
- The research area shall not include Type F (Factory), H (High Hazard), S1 (Moderate Hazard Storage), or S2 (Low Hazard Storage) occupancies, per the International Building Code and the International Fire Code
- All quantities of hazardous materials shall be limited to a maximum of 10% per category of that which is allowed by the International Building Code or International Fire Code for any specified occupancy type
- A Special Use Permit with required annual inspections shall be required

Councilmember Rezac asked if there would be a required separation between office and mixed-use tenants. Mr. Torrez replied a separation would not be required; however, there could be control room requirements for hazardous materials. Life Safety Codes do not require a separation in most cases.

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

- B. **Ordinance No. 2604** mending Section 16-2-7, of the Leawood Development Ordinance [LDO], Table of Uses, pertaining to research services - limited (PC Case 127-12) [Roll Call Vote]

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

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS

- A. **Ordinance No. 2602** appropriating the amounts set up in each fund in the budget for fiscal year 2013, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts [Roll Call Vote]

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

- B. **Ordinance No. 2593C** amending Chapter 4, Article 2 of the Code of the City of Leawood, 2000, incorporating the International Building Code 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 2, and other sections in conflict herewith [Roll Call Vote]

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

- C. **Ordinance No. 2594C** amending Chapter 4, Article 3 of the City of Leawood, 2000, incorporating the National Electrical Code, 2011, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 3, and other sections in conflict herewith [Roll Call Vote]

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

- D. **Ordinance No. 2595C** amending Chapter 4, Article 4 of the City of Leawood, 2000, incorporating the International Plumbing Code, 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 4, and other sections in conflict herewith [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 Osman absent).

- E. **Ordinance No. 2596C** amending Chapter 4, Article 5 of the Code of the City of Leawood, 2000, incorporating the International Mechanical Code 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 5, and other sections in conflict herewith [Roll Call Vote]

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

- F. **Ordinance No. 2597C** amending Chapter 4, Article 6 of the Code of the City of Leawood, 2000, incorporating the International Fuel Gas Code, 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 6, and other sections in conflict herewith [Roll Call Vote]

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

- G. **Ordinance No. 2598C** amending Chapter 4, Article 8 of the City of Leawood, 2000, incorporating the international energy conservation code, 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing article 8, and other sections in conflict herewith [Roll Call Vote]

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

- H. **Ordinance No. 2599C** amending Chapter 4, Article 9 of the Code of the City of Leawood, 2000, incorporating the International Residential Code 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 9, and other sections in conflict herewith [Roll Call Vote]

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

- I. **Ordinance No. 2600C** amending Chapter 7, Article 2 of the Code of the City of Leawood, 2000, incorporating the International Fire Code 2012, save and except such articles, sections, parts or portions which are omitted, deleted, modified or changed, and making additions thereto, and repealing existing Article 2, and other sections in conflict herewith [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 7-0. Nay: None. (Councilmember Osman absent).

- J. **Ordinance No. 2601C** amending §8-504 entitled 'International Property Maintenance Code, Section 102.3,' and §8-537, entitled 'International Property Maintenance Code, Section 604.2,' of the Code of the City of Leawood, 2000, and repealing existing Sections 8-504 and 8-537 and other sections in conflict herewith [Roll Call Vote]

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 Osman absent).

- K. Schedule a Governing Body Work Session on Tuesday, January 22, 2013 at 6:00 P.M., to discuss potential amendments to the Leawood Development Ordinance [LDO] regarding signage

A motion to approve the work session was made by Councilmember Bussing; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Osman absent).

Councilmember Bussing wanted to ensure a productive work session on December 17th regarding the Justice Center art pieces. Mr. Lambers replied a staff report would be provided prior to the work session. City staff and the Arts Council will need direction from the City Council regarding how to move forward in placing the art. The Arts Council wants to proceed with placing an art piece at the corner of Town Center Drive and Tomahawk Creek Parkway in front of the Justice Center. He recommended they install a corner feature at that location and incorporate the art piece at the same time. Mr. Lambers stated as a part of this work session, they can discuss the potential for art to be placed in the plaza area as well. Mr. Bussing suggested that the Arts Council provide their position in writing regarding any questions or concerns.

There being no further business, the meeting was adjourned at 8:35 P.M.

ADJOURN

Debra Harper, CMC, City Clerk

Pam Gregory, Assistant City Clerk