

**Minutes**

DVD No. 271

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 Tuesday, January 3, 2012. Mayor Peggy Dunn presided.

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

**Mayor/Councilmembers absent:** None

<b>Staff present:</b> 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
Mark Andrasik, Info. Services Director	Joe Johnson, PW Director
Richard Coleman, Comm. Dev. Director	Deb Harper, City Clerk
Mark Klein, Planning Official	Pam Gregory, Assistant City Clerk
Dawn Long, Finance Director	

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rezac. 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.**

Bruce Wendlandt spoke on behalf of his mother, Helen, residing at 3517 W. 92<sup>nd</sup> Street, stating his mother had signed a petition regarding the unsightly property, located next door at 3511 W. 92<sup>nd</sup> Street. The community is not happy with the aesthetics of this property. He asked the Governing Body to focus on getting this project finished. This started as an entire house remodel and then became a tear-down for a new home. Nothing is moving forward. There are no erosion control fences in place. He was also concerned with safety because there are no construction fences. The sight is not controlled allowing people to use the dumpster in the front drive.

Bob Lippold, 3409 W. 92<sup>nd</sup> Street, felt there needs to be stronger laws to help Leawood again get its reputation back as “cream of the crop.” He asked the Governing Body to get the City back to the respectability it once had. Although the market is down, yards and homes can still be maintained. The City’s Codes are not strict enough and the laws need to be enforced.

Mayor Dunn confirmed with Community Development Director Richard Coleman that he has been working on all of these issues. He confirmed this house has a valid construction permit. Although it may be unsightly, there is no violation. They do not have to secure the sight. There are some window wells being installed that may require fencing for safety. Staff spoke with the contractor today confirming they would have the exterior finished by the end of this month. Staff understands the neighbors concerns and is monitoring the project.

Councilmember Osman understood the neighbors concerns and agreed this property is unsightly. Some developers have gotten permits for up to a year and then don’t do any construction for several months. They are leaving the outside unsafe. He thought their permit had recently expired and they were actively getting a new one. He recommended they forward this to the Planning Commission to review ways to enforce a permit when it is issued for up to a year. He thought there should be a timeline for outside construction. Mr. Coleman replied permits for remodel are issued for 180 days. If they are making progress, they can request another 180 days. Much of their work was done on the interior of this home. They had initially installed the wrong roof and had to replace it. All inspections have been done and they received an extension of their permit for another 180 days. They have been making progress; however, because the exterior isn’t finished it looks unsightly. He wasn’t sure if they were remodeling for ownership, rental or resale. The property owner does not reside there. The City’s building official can work with the contractor to ensure progress and return within 90 days with a report.

Mr. Lippold clarified the contractor was planning to make this a rental home and had originally stated he could have the project done in 2 weeks.

Councilmember Filla asked staff how they determine by reviewing an application if a contractor has the construction knowledge and funding before they begin a project. Mr. Lambers replied this would be difficult to set parameters for. In some circumstances, homeowners with the proper certifications do the work themselves. These seem to take the longest because they do it on a pay-as-you-go basis. If substantial progress is not shown in the first 6 months, staff has the ability to not re-issue the permit. The best thing to do is encourage that properties such as this be done as quickly as possible. Staff felt confident their message had gotten across that the City and neighbors are not happy. They can provide a progress report at a Governing Body meeting in February.

Mr. Wendlandt stated the pictures don’t begin to show what is really going on at this property. He understood the hard economic times; however, he reiterated nothing is moving forward with this project.

Councilmember Azeltine asked the worst sanction the City could impose on a homeowner for a codes violation. City Attorney Patty Bennett replied the judge could impose a \$100-\$500 fine per day. Generally, if they correct it before going to court and plead guilty, it is a \$100 fine. If repeated, the fine increases.

Mr. Coleman confirmed if a contractor disturbs more than 400 square feet, they are required to have erosion control. If there are issues with erosion at this property, staff will ensure it is handled appropriately.

**4. PROCLAMATIONS** **Martin Luther King Day, January 16, 2012**

Mayor Dunn read the proclamation into the record proclaiming Monday, January 16, 2012, as Dr. Martin Luther King, Jr., Day.

**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. 2011-49 and 2011-50
- B. Accept minutes of the December 19, 2011 Governing Body meeting
- C. Accept minutes of the November 10, 2011 Sustainability Advisory Board
- D. Accept minutes of the November 9, 2011 Public Work Committee meeting
- E. Approve Cereal Malt Beverage [CMB] License to Bogey's Bar & Grill, located at 12024 State Line Road
- F. Approve payment in the amount of \$17,366.68 to League of Kansas Municipalities, for 2012 Dues and Subscriptions
- G. **Resolution No. 3738** calling for a public hearing to be held on Monday, February 6, 2012, at 7:30 P.M., or as soon thereafter as may be heard, to consider the 2013-2017 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas
- H. **Resolution No. 3739** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$398,236.17 between the City and Bryant & Bryant Construction Co, pertaining to the 135<sup>th</sup> Street Partial Depth Repair [Fund No. 13020; Project # 72027]
- I. **Resolution No. 3740** approving and authorizing the Mayor to execute a Professional Services Agreement in the amount of \$18,750.00 between the City and Olsson Associates, pertaining to the fiber design for connection between the City Hall building and Justice Center, located at 117<sup>th</sup> & Tomahawk Creek Parkway
- J. **Resolution No. 3741** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Pepsi Beverages Company, pertaining to providing soft drink products
- K. **Resolution No. 3742** approving and authorizing the Mayor to execute a Deposit and Reimbursement Agreement between the City and Park Place Investors, LLC, pertaining to the Park Place Special Benefit District
- L. **Resolution No. 3743** approving a Final Plan for a tenant Finish for One Nineteen – Love Culture, [Women's Clothing] located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue. (PC Case 133-11) [*from the December 6, 2011 Planning Commission meeting*]

- M. Declaration of Surplus Property; [1] Atwood 5' X 8' red tilt Trailer last 6 VIN/160021

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. Leawood resident and Gezer Sister City Committee member Pam Mann passed away shortly before Christmas. Mayor Dunn attended the celebration of her life at the Church of the Resurrection in Leawood. Sympathies go out to Pam's family for their loss.
- B. Attended the Corinth Elementary D.A.R.E. [Drug Abuse Resistance Education] Graduation with Police Chief John Meier. Thanks to Officer Randy Wiler for the great job he does with the students at Corinth.
- C. Congratulations regarding Ironhorse Golf Course Golf Shop and Jeff Thomasson with Troon Management for the shop being selected by Golf World as one of the "100 Best Golf Shops" for 2011.
- D. Holiday greetings were exchanged from citizens and elected officials from both of Leawood's Sister City's: I-Lan, Taiwan, and the Gezer Region of Israel.
- E. Mayor Dunn wished everyone a Happy New Year!

**9. COUNCILMEMBERS' REPORT - None**

**10. STAFF REPORT**

Police Chief John Meier reported he received notification from the District Attorney's office that the officer involved in a shooting last month has been cleared of all wrong doing and they are finished with their investigation.

***COMMITTEE RECOMMENDATIONS***

**11. PLANNING COMMISSION**

***[from the December 6, 2011 Planning Commission meeting]***

**Ordinance No. 2521** approving a Revised Preliminary Plan for Park Place – Building M (AMC) and Parking Garage C, located at the southeast corner of Town Center Drive and Nall Avenue. (PC Case 132-11) [Roll Call Vote]

Jeff Alpert, Park Place Developers, stated they are thrilled AMC Theatres has chosen Park Place and Leawood as their headquarters.

Councilmember Rezac disclosed that her husband is a shareholder with 360 Architects; however, he was not involved in the AMC Project.

Mark McDonald, AMC Theatres, stated they are thrilled to have the opportunity to relocate to Leawood. After interviewing several architects from around the country, they selected 360 Architects because of the vision they had presented.

Chris Dring, Young & Dring Architecture, gave a site plan and landscape presentation. The massing of Building M sits adjacent to Town Center Drive and the massing of Garage C sits adjacent to Nall. The garage has two main entries, one off of Nall and the other off of the auto court on Ash. The future hotel will be located on the south side of the courtyard and Garage C. The perimeter landscape is a continuation of what has already been installed along Nall and 117<sup>th</sup> Street. There will be a double row of maple trees with the sidewalk running between them and shrub beds. The auto court is intended to be used by both vehicles and pedestrians; however, they are still working with staff on the configurations. There will be a central island in the middle with two raised planters. They have been working with staff on a rain garden to help with storm water retention.

Judd Claussen, Phelps Engineering, stated the stormwater requirements recently adopted by the City include providing permanent post construction and stormwater treatment. This site complies with these new requirements by incorporating an infiltration basin for the stormwater to be treated on the northeast corner behind the building for runoff from the parking garage. There is also a pipe system running along the north and east side of the building. The runoff from this building will drain into the proposed rain garden. The courtyard concrete will have different textures of a light and heavy broom finish.

Trevor Hoiland, 360 Architects, stated the building would be similar in design to the JE Dunn Headquarters building. The south side of the auto court will feed into the future hotel. The building will be 4 stories with approximately 140,000 square foot. The parking garage will have 560 stalls, which will be shared with the future hotel. The building was designed as a focal point on Ash Street. There is an outdoor terrace on the south, east, and north façades, which pushes the office space back an extra 15 feet. All three terraces are wrapped on the inside with Brazilian hardwood. A large tree will be placed in the auto court as a main focal point. There will be Ash trees along the street, which will reach 25-30 feet at maturity. The building is predominantly glass and will have a custom silk screen pattern to help control glare and solar heat. The west façade faces the parking garage, which is located 21 feet away. The first two levels will consist of a loading dock, building services, and test labs for sound. The double row of street trees will come close to masking the entire height of the parking garage at maturity. The drive-in to the parking garage off of Nall is accented with hardwood. The remaining garage has staggered glass vertical panels. There will be clear glass at the terrace and main entry areas. The silk screen pattern will help make the glass less transparent to the residences on the north and east side. The intent of AMC and the architect was to differentiate the design of both the building and parking garage from Park Place. The double row of maple trees and landscaping should help tie it into the development. This is all within the design guidelines.

Councilmember Azeltine confirmed with Mr. Claussen that all emergency vehicles will be able to maneuver through the auto court.

Mr. Coleman confirmed there are three signs on the building. Park Place Development will need to revise their sign criteria to allow this.

Mr. Hoiland confirmed from 20-30 feet away the silk screen pattern on the glass would appear more as a vertical shade.

Mr. Claussen confirmed they have been working on revisions to the bio-retention and traffic areas and issues with distances of the right-in/right-out to the parking garage. These revisions will be consistent with comments made by City Engineer David Ley.

Mayor Dunn asked if they could camouflage the garage more to make it appear less like a garage. Mr. Hoiland replied they were trying to blend the garage in nicely with the office building, but could give this further consideration.

Mr. Alpert confirmed the parking stalls have been increased to 560. An independent parking study was done to confirm it meets the requirements and will be submitted to staff. This hotel building can be narrowed, if necessary, in order to allow a wider courtyard for traffic purposes.

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

## **12. PUBLIC WORKS COMMITTEE**

### **[from the December 14, 2011 Public Works Committee meeting]**

Recommendation to revise Code § 13-407 of the City of Leawood Code, 2000, entitled  
**'Duty to Prune Overhanging Trees'**

***Staff Comment: This is a revision to the current code that would raise the height of tree limbs at the curb line from 8 feet to 14 feet above the street.***

Councilmember Azeltine stated in order to allow property owners and homeowners associations [HOA] time to come into compliance; this will become effective January, 2013. This will be posted on the City's website and presented at the annual HOA meeting.

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

Councilmember Filla wanted to review this with the HOA's to ensure enough time for compliance because of their meeting schedules. Public Works Director Joe Johnson replied the trees that are generally an issue are located throughout the middle section of the City where the trees are 25 years old. They are currently working with property owners encouraging them to trim limbs before it becomes an issue. Parks and Recreation Superintendent Brian Anderson checked with neighboring cities and confirmed this is the height they are increasing to. This coincides with the height of commercial vehicles. The lower hanging limbs damage City vehicles.

Mr. Johnson confirmed for Councilmember Cain when an ordinance violation occurs, a courtesy notice is given to the property owner allowing them 10 days to respond back to the City. They are then given 30 days to comply. Failure to comply can result in a \$100-\$500 fine per day.

Councilmember Bussing felt they should increase the timeframe for compliance to January, 2014, and be more proactive by sending notices to all HOA's.

Mayor Dunn thought they may be able to publish information about this in the Leawood Lifestyle Magazine. She thought January, 2014 seemed like too long of timeframe considering the damage that has already been done to City vehicles.

Councilmember Filla asked if they could change the motion to pass the ordinance this evening.

Councilmember Cain concurred with Councilmember Bussing noting not all HOA's have adopted tree policies and there will be several individual homeowners that will need time to comply.

City Clerk Deb Harper confirmed the ordinance becomes effective upon publication or they can specify a certain date in the publication. Mr. Lambers confirmed if they approve the recommendation this evening and return on January 17<sup>th</sup> with the ordinance, it could be effective on January 24<sup>th</sup>. Staff will send a direct mailing to all HOA Presidents upon passage of the ordinance.

A friendly amendment to the motion was made by Councilmember Rawlings to change the effective date to July 1, 2013, to allow time for compliance. Councilmembers Azeltine and Rasmussen accepted the friendly amendment.

Ms. Harper had reservations about passing the ordinance since it wasn't officially noticed on the agenda. Since this wasn't time sensitive, she preferred to place it on the January 17<sup>th</sup> agenda as an official ordinance.

The motion to approve the recommendation carried following a unanimous vote of 8-0.

**13. OLD BUSINESS** - None

**14. OTHER BUSINESS** - None

**15. NEW BUSINESS** - None

#### **ADJOURN**

There being no further business, the meeting was adjourned at 9:45 P.M.

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Assistant City Clerk