

**Minutes**

DVD No. 272

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 17, 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
Dawn Long, Finance Director	Deb Harper, City Clerk
Scott Smith, Web Master	Pam Gregory, Assistant City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the following amendments to the agenda:

- Item Nos. 7K and 12 – Continued to the February 6, 2012, Governing Body meeting

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

Dr. Nolen Seth Berry, 9419 Wenonga, spoke on behalf of the neighbors surrounding the Ranchmart North Shopping Center stating they were opposed to the new use of the old post office building as a BBQ restaurant. The post office did not generate a lot of noise and had minimal disruption to the adjacent properties. They were not opposed to other retail businesses at this location and wanted to see Ranchmart succeed; however, they wanted to ensure whatever moves in has a low impact on the surrounding neighborhood.

Allowing a restaurant into this space means it will stay open late with light intrusion and potentially serving alcohol on a noisy patio. It will constantly emit smoke and the smell of BBQ throughout the neighborhood and will drive their property values down. The change in use for this non-conforming structure and insufficient setback warrants further dialog with adjacent property owners. An interact meeting would have been beneficial. They collected over 150 petition signatures against this new use and have been submitted to Community Development Director Richard Coleman.

Mayor Dunn reminded the Council that this is an active Planning item, which will go before the Planning Commission on January 24<sup>th</sup>. These are citizen comments under a non-agenda item. At the advice of the City attorney, Mayor Dunn advised the Council to make no comments at this time. There will be ample time for discussion when this comes before them at a future Governing Body meeting. She welcomed the residents to return to any and all meetings on discussion of this.

Christi Pitts, 9428 Wenonga, stated her tree line in her backyard is located 48 feet from this building. She thought there was a 120-foot setback requirement. She was concerned if the restaurant goes in, it would create a bar atmosphere with cigarette smoke and alcohol on the outdoor patio and decrease their property values. She asked the Council to visit the site to fully understand their concerns.

Lynn Ellingsworth, 9424 Wenonga, appealed to the Council as a neighbor asking if they would want this restaurant to be located just over their fence. She was concerned with cigarette smoke being so close to her property because of the potential fire hazard. In addition to the parking noise, there will be delivery trucks at all hours of the day. She too, asked the Council to visit the site to appreciate how close this restaurant would be to their properties.

4. **PROCLAMATIONS** - None
5. **PRESENTATIONS/RECOGNITIONS** - None
6. **SPECIAL BUSINESS** – None

Councilmember Rezac joined the meeting at 7:45 P.M.

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. 2011-51, 2011-52, and 2011-53
- B. Accept minutes of the January 3, 2012 Governing Body meeting
- C. Accept minutes of the December 19, 2011 Governing Body Work Session
- D. Accept minutes of the December 13, 2011 Parks & Recreation Advisory Board
- E. Approve Mayoral Appointment of Michael Schaadt to the Sustainability Advisory Board for a two-year term ending in 2013

- F. **Resolution No. 3744** approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Board of Johnson County Commissioners [BOCC] pertaining to the 117<sup>th</sup> Street County Assisted Road System [CARS] Improvement Project between Roe Avenue and Tomahawk Creek Parkway [Project # 72043]
- G. **Resolution No. 3745** approving and authorizing the Mayor to execute Inter-local Agreement between the City and Board of Johnson County Commissioners [BOCC] pertaining to the 127<sup>th</sup> Street County Assisted Road System [CARS] Improvement Project between Nall Avenue and Mission Road [Project # 72020]
- H. **Resolution No. 3746** approving and authorizing the Mayor to execute Inter-local Agreement between the City and Board of Johnson County Commissioners [BOCC] pertaining to the Town Center Drive County Assisted Road System [CARS] Improvement Project between Roe Avenue and Nall Avenue [Project # 72019]
- I. **Resolution No. 3747** approving acceptance of the storm sewer located at Manors at Mission Farms as Public Infrastructure Improvements, in accordance with the GASB-34 Guidelines of Reporting Inventory of Assets
- J. **Resolution No. 3748** accepting deed of dedication from Jeffrey S. Myers and Andrea R. Myers, Trustees of the Jeffrey S. Myers Trust, for the east 50 feet on property located at 14600 Mission Road, for the purpose of street right-of-way
- \* K. Resolution approving and authorizing the Mayor to execute a Purchase Agreement in the amount of \$85,000 between the City and Larry Young, pertaining to the purchase of art piece, *Introspection [from the November 21, 2011 Arts Council meeting, and December 19, 2011 Governing Body meeting]* – **CONTINUED TO THE FEBRUARY 6, 2012 GOVERNING BODY MEETING**
- L. Fire Department Monthly Report
- M. Fire Department 2011 Yearly Report
- N. Police Department Monthly Report
- O. Police Department 2011 Yearly Report
- P. Municipal Court Monthly Report

Councilmember Filla pulled Item No. 7E for discussion.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Mayor Dunn congratulated Fire Chief Ben Florance and Police Chief John Meier on their great annual statistic reports for 2011.

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

- 7E. Approve Mayoral Appointment of Michael Schaadt to the Sustainability Advisory Board for a two-year term ending in 2013

Councilmember Filla commented with Mr. Schaadt being a LEED accredited professional, additional resources could be made available to the Sustainability Advisory Board. She thanked Mayor Dunn and Councilmember Rasmussen for finding a very qualified person to join their team.

A motion to approve Item No. 7E was made by Councilmember Filla; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

**8. MAYOR'S REPORT**

Acceptance of the Cloisters Homes Association holiday gift in the amount of \$1,485.00 to Leawood Fire and Police Departments

The City of Leawood's Police and Fire Departments have once again received a year-end gift from the Cloisters Homes Association in the amount of \$1,485.00 to be split evenly between the two departments. This gift is to show appreciation for the services, both rendered and available to them, and how highly they respect the public safety personnel in our community. Mayor Dunn thanked Police Chief John Meier and Fire Chief Ben Florance and their departments for their great work and engendering this wonderful, generous gesture year after year. This is not something they take for granted and is a very pleasant annual surprise. Much appreciation is expressed to Cloisters Homes Association President Jim Jenkins for this wonderful gift.

A motion to accept a holiday gift in the amount of \$1,485.00 from the Cloisters Homes Association was made by Councilmember Filla; seconded by Councilmember Osman. The motion carried following a unanimous vote of 8-0.

- A. Attended the Legislative Luncheon hosted by the Leawood Chamber of Commerce. There was a panel discussion of the 2012 Legislative Priorities that included all of the Representatives and Senators who represent Leawood. City Administrator Scott Lambers and Councilmembers Debra Filla, Jim Rawlings, Carrie Rezac and James Azeltine were also in attendance.
- B. Attended the Conveners Reception with Councilmembers Jim Rawlings and James Azeltine to send off the Johnson County delegation prior to the session beginning. Both the City and the Leawood Chamber of Commerce helped to sponsor this event along with several other cities and chambers.
- C. The Johnson & Wyandotte Counties Council of Mayors had breakfast at the Chateau Avalon in Kansas City, Kansas, with Secretary of Commerce Pat George and Secretary of Revenue Nick Jordan, as well as Governor Sam Brownback's Chief of Staff David Kensinger, to discuss the State of the State prior to Governor Brownback's delivery of his speech that evening.
- D. Attended a Leawood Chamber of Commerce ribbon cutting ceremony for Title Boxing Club with Councilman James Azeltine. They are located at 123<sup>rd</sup> and State Line. This is the second of two franchises for these owners. Mayor Dunn wished them much success with this Leawood location.
- E. Attended a Leawood Chamber of Commerce ribbon cutting ceremony for the Fo Thai Restaurant with Councilmembers Andrew Osman and James Azeltine. This is their second location outside of New York. The owners held a VIP Grand Opening party that evening that also served as a fundraiser for the Kansas City Free Health Clinic. Mayor Dunn congratulated them on a beautiful restaurant and wished them much success.

- F. Mayor Dunn and Police Chief John Meier attended the Dr. Martin Luther King, Jr., Legacy and Scholarship Awards Dinner that was co-sponsored by the Olathe branch of the NAACP [National Association for the Advancement of Colored People]. There were a number of outstanding student essays that were presented. This event is the largest Dr. King celebration in Johnson County and is organized by Leawood resident Henry Lyons. The "Law Enforcement Diversity" award was presented to Johnson County Sheriff Frank Denning. The "Legacy" award was presented to Overland Park Mayor Carl Gerlach. Leawood resident and attorney Sherwin Epstein was surprised with a "Diversity" award for his many efforts over the years regarding equal rights. Congratulations to all of those honorees.
- G. Congratulations to the Leawood Lions Club for their outstanding job once again bell ringing for the Salvation Army in 2011. They raised \$34,145, in which volunteers put in 380 hours. Mayor Dunn thanked Councilman Jim Rawlings for donating his time to help. Since Leawood's former Finance Director Harry Malnicof has been counting the money for the last 5 years, they have collected a total of \$170,358 or an average of a little over \$34,000 per year. This club receives the honor for the most dollars raised by a club ringing bells during the season. Excellent Job!
- H. Mayor Dunn presented the Council with CD Rom discs that were sent from Mayor Peter Weiss of the Gezer Region of Israel of pictures taken of their Leawood Square and Trail delegation visit to the region last October.
- I. There was a nice full-page spread of pictures of the City of Leawood in the Johnson County Neighborhood section of The Kansas City Star.

**9. COUNCILMEMBERS' REPORT - None**

**10. STAFF REPORT - None**

**COMMITTEE RECOMMENDATIONS**

**11. PLANNING COMMISSION - None**

**\* 12. OLD BUSINESS**

Ordinance amending § 13-407 of the Code of the City of Leawood, 2000, entitled 'Duty to Prune Overhanging Trees' [Roll Call Vote] **-CONTINUED TO THE FEBRUARY 6, 2012 GOVERNING BODY MEETING**

***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, and would become effective July 1, 2013.***

**13. OTHER BUSINESS - None**

**14. NEW BUSINESS - None**

**ADJOURN**

There being no further business, the meeting was adjourned at 8:00 P.M.

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Assistant City Clerk