

Minutes

DVD No. 276

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, March 19, 2012. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Councilmember Andrew Osman

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Dept	Chris Claxton, P&R Director
Interim Chief Steve Duncan, Fire Dept	Lovina Freeman, HR Director
Mark Andrasik, Info Systems 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 amended agenda was made by Councilmember Rawlings; seconded by Councilmember Rezac. 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.**

Michael Wren, 8017 Manor Road, shared deep concerns on behalf of the residents of Manor Road for the safety of their children. Over the last few years vehicles enter their street to cut-thru either Lee Boulevard or Somerset Drive, which has caused several "close-call" pedestrian accidents. There are no sidewalks on Manor. Even when following the 25 M.P.H. speed limits, motorists do not have ample time to act on the blind corners to a pedestrian or cyclist. This same issue was brought to the attention of the City Council 20 years ago. The Prairie Village City Council recently approved a plan for a senior living facility to be developed on the site of the former Highlands Elementary School, located just north of their neighborhood.

With the addition of this new facility, there is growing concern that the higher volume of traffic will entice even more motorists to cut-thru. The residents voiced their concern through a petition that was submitted to Councilmember Andrew Osman last month, in which he has been very responsive. On behalf of the residents, Mr. Wren requested that Manor Road be considered for a cul-de-sac as a solution. The petition shows the neighborhood would be happy to use the south entrance only.

Mayor Dunn noted this would be referred to the Public Works Committee for consideration later in this meeting. Any and all residents of Manor Road can be noticed and are welcome to attend that meeting.

4. PROCLAMATIONS – None

5. PRESENTATIONS/RECOGNITIONS Recognition of Sgt. Tayne Smith upon his retirement from the Police Department after 32 years of service

Mayor Dunn recognized Sergeant Tayne Smith on his retirement from the Leawood Police Department after 32 years of service. Sergeant Smith joined the department on March 17, 1980, as a Public Service Officer and was soon promoted to Police Officer and sworn in on September 1, 1980. He was promoted to Corporal on December 15, 1986, and later promoted to Sergeant on December 17, 1990. Mayor Dunn thanked Sergeant Smith for his 32 years of wonderful service to the City of Leawood and wished him well with his future endeavors.

Police Chief John Meier stated he appreciated everything Sergeant Smith has done for the department throughout his career. His daily upbeat and optimistic attitude made him such a pleasure to work with. He will be deeply missed by the entire department.

Sergeant Smith expressed his appreciation thanking everyone for giving him the opportunity to see the City of Leawood grow over the years.

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. 2012-8 and 2012-9
- B. Accept minutes of the March 5, 2012 Governing Body meeting
- C. Accept minutes of the March 5, 2012 Governing Body Work Session
- D. Accept minutes of the January 10, 2012 Historic Commission meeting
- E. Accept minutes of the March 10, 2011 Leawood Foundation Annual meeting
- F. Accept minutes of the September 28, 2011 Stormwater Management Committee meeting
- G. Approve Change Order No. 1 in the amount of \$32,893.23 to CV Anderson, Inc., pertaining to repairs to city facilities [Project # 74045]

- H. **Resolution No. 3771** approving the 2013-2017 Capital Improvement Program [CIP] for the City of Leawood, Kansas
- I. **Resolution No. 3772** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$23,090.00 between the City and George Butler Associates, Inc., [GBA] to perform biennial bridge inventories of vehicular and pedestrian bridges, one culvert and one levee
- J. **Resolution No. 3773** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$42,193.00 between the City and IMS Infrastructure Management Services LLC to perform the City's Pavement Management Program
- K. Declaration of Surplus Property; Wheel loader [Unit # 472]; and Data Collectors [Engineering]
- L. **Resolution No. 3774** approving a Final Plan for a tenant finish for Park Place – Native 34, located at the northeast corner of 117th Street and Nall Avenue (PC Case # 10-12) [*From the February 28, 2012 Planning Commission meeting*]
- M. Fire Department Monthly Report
- N. Police Department Monthly Report
- O. Municipal Court Monthly Report

Councilmember Azeltine requested to pull Item No. 7A and Councilmember Bussing pulled Item No. 7H for discussion.

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

- 7A. Accept Appropriation Ordinance Nos. 2012-8 and 2012-9

Finance Director Dawn Long confirmed for Councilmember Azeltine that the Commerce Bank purchasing cards are credit cards that are used by several employees throughout the City. Part of the \$39,000 in purchases includes the Delta Dental premium.

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

- 7H. **Resolution No. 3771** approving the 2013-2017 Capital Improvement Program [CIP] for the City of Leawood, Kansas

Councilmember Bussing stated the Desired, but Unfunded Projects listed on Page 44 may be "desired" by some of the Governing Body, but not all and requested the language be amended. City Administrator Scott Lambers suggested the heading read: "Submitted, but Unfunded Projects" and the description at the bottom read: "These projects."

A motion to approve Item No. 7H with the amended language as stated was made by Councilmember Azeltine; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. (Councilmember Osman absent).

8. MAYOR'S REPORT

- A. Mayor Dunn had the pleasure of addressing the 2012 – 32 Influential Women in the Kansas City area. This is an award that is sponsored by the Kansas City Business Magazine. The women were leaders in fields of law, banking, education, health care, transportation logistics and the nonprofit world. Congratulations to Leawood resident Kandy Meehan who was one of this year's honorees.
- B. Mayor Dunn, Police Chief John Meier and others in the Leawood Police Department, attended the Drug Abuse Resistance Education [D.A.R.E.] graduation for St. Michael the Archangel. Officer Brett Leathers is in charge of the program and does a wonderful job with the students. Councilmember Carrie Rezac's daughter, Jada, was one of the graduates.
- C. Special thanks to Police Chief John Meier for the very nice retirement celebration of Sergeant Tayne Smith to honor his 32 years of wonderful service.
- D. The Council of Mayors meeting was hosted by Johnson County Commission Chair Ed Eilert at the new \$30.2 Million Johnson County Sheriff's Office Criminalistics Laboratory in Olathe. This has been funded by the ¼-cent public safety sales tax that was passed in 2008. This is an incredible facility. Guided tours were conducted by Crime Lab Director Gary Howell.
- E. Attended the 51st Annual Greater Kansas City Mayors' Prayer Breakfast, which emphasizes ethics, morality and spirituality in business, labor, the professions and government. The keynote speaker was Chief Scout Executive Bob Mazzuca of the Boy Scouts of America.
- F. Mayor Dunn was joined by Councilmembers Jim Rawlings and Andrew Osman at a retirement celebration for Fire Chief Ben Florance that was conducted by the fire department. There was a huge gathering of friends and family to honor his 36 years of extraordinary service. Mayor Dunn wished him well with his future endeavors.
- G. Congratulations to Leawood resident Bob Kipp who will be the recipient of the Kansas University Alumni Distinguished Achievement Award at a reception next month. He will be honored for his 50 years of municipal administration, commercial and philanthropic efforts.
- H. Reminder of the Governing Body Work Session scheduled for April 9, 2012, regarding the newly acquired Ironwoods Park land.

*** 9. COUNCILMEMBERS' REPORT**

Councilmember Osman – Recommendation to forward to Public Works Committee; consideration for traffic calming measures at 80th & Manor

A motion to forward consideration for traffic calming measures at 80th & Manor to the Public Works Committee was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Osman absent).

10. STAFF REPORT – CITY ADMINISTRATOR SCOTT LAMBERS

Introduction of Steve Duncan as Interim Fire Chief

Interim Chief Duncan thanked the Governing Body for the opportunity to lead the department and expressed his appreciation to Mr. Lambers for having the trust in him to do so.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the October 25, 2011 Planning Commission meeting]

- A. Ordinance amending Section 16-4-9 of the Leawood Development Ordinance [LDO], Fences and Walls, pertaining to fences constructed on top of a deck (PC Case # 119-11) **Continued From The November 21, 2011 and March 5, 2012 Governing Body Meetings -- [Roll Call Vote] CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING**

[From the February 22, 2011 Planning Commission meeting]

- B. Resolution approving a Final Sign Plan for Ranchmart – U.S. Bank, located north of 95th Street and east of Mission Road (PC Case #18-11) **Continued From The March 21, 2011 and March 5, 2012 Governing Body Meetings - CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING**

[From the February 28, 2012 Planning Commission meeting]

- C. Resolution approving a Revised Final Plan for Park Place – Building F Expansion Roof Screen, located at the northeast corner of 117th Street and Nall Avenue (PC Case # 30-12) **--CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING**

[From the January 25, 2011 Planning Commission meeting]

- D. **Resolution No. 3775** overriding the Planning Commission's recommendation for denial of Final Sign Plan for Town Center Plaza – AMC 20 IMAX, located at 11701 Nall Avenue (PC Case # 01-11) **--Continued From the February 21, 2011, August 15, 2011, and March 5, 2012 Governing Body Meetings**

Community Director Richard Coleman stated the Governing Body had requested they revisit the sign ordinance concerning subtenant signage. The revised ordinance was approved and the sign is now in conformance with the Leawood Development Ordinance [LDO]. Originally, the sign was denied by the Planning Commission and staff recommended 2 stipulations; therefore, this will take a 2/3 majority to override. Planning Official Mark Klein clarified since this was continued by the Governing Body, they have the ability to override the Planning Commission's recommendation for denial.

A motion to override the Planning Commission's recommendation for denial and approve the Final Sign Plan with the addition of the 2 stipulations recommended by staff was made by Councilmember Filla; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. (Councilmember Osman absent).

[From the January 24, 2012 Planning Commission meeting]

- * E. **Resolution No. 3776** amending and repealing Resolution No. 3770, approving a Final Plan and Final Plat for Park Place – Building M [AMC] Parking Garage ‘C’ and Park Place 9th Plat, located south of Town Center Drive and east of Nall Avenue (PC Case # 11-12)
Continued from the February 20, 2012 and March 5, 2012 Governing Body meetings

City Attorney Patty Bennett clarified the Governing Body had approved the building portion only of this case at the last meeting. This meeting is to consider the parking garage; however, this will all be tied into one resolution.

Mayor Dunn noted the parking garage was discussed at length in a work session prior to this Governing Body meeting.

Jeffrey Alpert, Park Place Investors, confirmed the generator would be maintained to the City’s noise level standards. The parking garage is designed for 571 spaces. In the event they increase the structure with additional levels they may lose a few of these spaces.

Mr. Alpert agreed to the following additional stipulations as stated:

Stipulation No. 28 - “Prior to development plan approval of the next building within the Park Place Development, the applicant shall provide additional parking sufficient to meet the parking demand for the overall development as determined by a parking study that will consider actual parking data in addition to other methodologies completed by consultant obtained by the City of Leawood and paid for by the applicant/owner.”

Stipulation No. 29 - “The applicant agrees to design and construct Parking Structure “C” such that the parking structure can have 2 additional levels added at some future date provided; however, that the City will not require the 2 additional levels be constructed while the lease between the Park Place Developers and AMC remains in effect. Provided further, the City will agree to enter into a development agreement to include the costs to redesign the parking structure to accommodate the provision of the 2 additional levels and the actual costs of over sizing the parking structure in the Transportation Development District [TDD] for Park Place. Provided further, should the 2 additional levels of parking be deemed to be required and constructed, the total amount reimbursed to the Park Place Developers shall be credited to any existing and/or future TDD obligation of the City with the Park Place developers.”

Stipulation No. 30 [Old Stipulation No. 28 now becomes Stipulation No. 30] - “The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through thirty.”

Mr. Alpert confirmed a parking counter had been installed on Parking Garage ‘A’ and would also be installed on Parking Garage ‘B’. A counter for Parking Garage ‘C’ has not yet been determined.

Councilmember Bussing stated comments in the work session regarded that the lease remain unchanged, which was not noted in Stipulation No. 29.

Mr. Lambers replied the developers requested this be omitted from the language because there will be numerous changes to the lease during the course of time. Mr. Lambers was comfortable with this because it accomplishes the end goal of increasing the size of the garage. The proposed financing of the redesign is to enter into a new development agreement similar to the one currently in place, in which they are in the process of reimbursing the developers for a level of parking for the Aloft Hotel taking in the City's transient guest tax and TDD sales tax. Once that TDD obligation has been met, the second one would kick-in to continue the payments of reimbursement to the developers for their certified and redesign costs, and incremental construction costs for additional concrete, steel, other materials and labor. The clock would begin anew with this development agreement.

Mr. Lambers confirmed they would not be moving ahead at this time with the 2 additional levels of Parking Garage 'C' and would consider the other garage options that were discussed at the work session. Mayor Dunn clarified they would be moving forward to redesign Parking Garage 'C' in case in the future, the lease between Park Place and AMC would possibly no longer be in effect. This would enable the additional levels if needed.

Mr. Lambers expected to meet the obligation of the existing development agreement within 3-4 years and the new agreement could be paid off in another 3-4 years. The developer will have the expense upfront; however, the City will reimburse them as soon as possible because the revenue stream is already committed to the existing reimbursement.

A motion to approve the resolution with the 2 additional stipulations was made by Councilmember Filla; seconded by Councilmember Rezac.

Mayor Dunn clarified the 2 additional stipulations will require a 2/3 majority to override the Planning Commission's recommendation.

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

[From the February 28, 2012 Planning Commission meeting]

- *F. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for STC Five, L.L.C., for the continued use of a wireless communication tower and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County Kansas (PC Case # 18-12) **[Roll Call Vote] CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING**

- *G. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for Verizon Wireless [VAW] LLC, d/b/a Verizon Wireless [Verizon Wireless] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and West of Briar, Leawood, Johnson County, Kansas (PC Case #19-12) **[Roll Call Vote] CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING**

- *H. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility [AT&T Mobility] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County, Kansas (PC Case #20-12) [**Roll Call Vote**] ***CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING***
- *I. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for Cricket Communications, Inc., [Cricket] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County, Kansas (PC Case #21-12) [**Roll Call Vote**] ***CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING***
- *J. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for Sprint Nextel Corporation [Sprint Nextel] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County, Kansas (PC Case #22-12) [**Roll Call Vote**] ***CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING***
- *K. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for T-Mobile Central LLC [T-Mobile] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County, Kansas (PC Case #23-12) [**Roll Call Vote**] ***CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING***
- *L. Ordinance approving a 2 year extension of a Special Use Permit [SUP] for Clear Wireless LLC [Clearwire] for the continued use of wireless communication antennae and associated equipment located north of 135th Street and west of Briar, Leawood, Johnson County, Kansas (PC Case #24-12) [**Roll Call Vote**] ***CONTINUED TO THE APRIL 2, 2012 GOVERNING BODY MEETING***
- M. **Ordinance No. 2526** amending Section 16-2-7 of the Leawood Development Ordinance [LDO], Table of Uses, pertaining to uses within the BP (Planned Business Park) District (PC Case # 26-12) [**Roll Call Vote**]

Mr. Klein proposed that the following 3 uses be added to the BP District:

1. Restaurant, General
2. Restaurant Fast Food, Dine-In/Carry Out
3. Dry Cleaner/Laundry

Staff's rationale for this recommendation is because the BP District, located at 103rd and State Line, has a variety of uses in which, some are legal non-conforming. As these buildings become vacant staff felt they should add some flexibility to allow the uses that are currently there. This will be tied to a Special Use Permit [SUP] to allow the Governing Body and the Planning Commission to scrutinize this particular site and use.

An applicant would be required to meet the City's current parking requirements. The buildings do not meet the setbacks; therefore, they are legal non-conforming structures.

Councilmember Rawlings referred to the email from CEO Seth Freiden of US Toy Company and shared his concerns of parking issues at this BP. Overflow is causing customers to use other property owners parking areas. Mr. Klein replied when an applicant comes forward they would require that a minimum number of parking spaces be on site for that particular use. The property owners themselves would need to enforce the overflow issue. Each of these properties is separately owned with no cross-access parking agreement.

Councilmember Rasmussen represented comments from Councilmember Osman asking why retail sales and service uses should not be applicable to this BP with a descriptive phrase of special use. The previous Pride Cleaner location has not been occupied for a few years. If this BP was applicable to any retail use with a SUP, the City would benefit. Mr. Coleman replied they wanted to limit the number of retail uses in this particular area. The floor area ratio is much greater than they would allow in any BP or retail district. A much greater in-depth study would be needed before they would want to open this up to entire retail use because of the parking and setback limitations. This BP was unplanned, which began in the 1950's. There is another BP within the City, in which they would not want to open up to entire retail as well.

Councilmember Rezac thought if they include retail, the SUP would give them the flexibility to approve or deny whatever comes before them. Mr. Coleman thought there could be argument if they deny a retail application in one of the BP's since they have the same zoning classifications. There may be further studies and suggestions with this BP, depending upon the outcome of their upcoming Community Improvement District [CID] discussion. Several of these older areas do not meet their requirements and need redevelopment.

Mayor Dunn stressed this discussion was not regarding a plan; however, they were discussing amending the LDO to allow the 3 stated uses. There is a comfort level knowing a SUP will be required to give them the ability to stipulate a condition or deny a request.

Councilmember Rezac thought it was unfortunate this area would not be allowed to have retail because of its prime intersection location; however, she understood the concerns from staff.

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

[From the January 24, 2012 Planning Commission meeting]

*N. 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 and March 5, 2012 Governing Body Meetings – CONTINUED TO THE MAY 21, 2012 GOVERNING BODY MEETING***

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS - None

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