

Regular Meeting

THE LEAWOOD CITY COUNCIL

February 18, 2013

Minutes

DVD No. 297

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, February 18, 2013. Mayor Peggy Dunn presided.

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

Councilmembers absent: Carrie Rezac

Staff present: Scott Lambers, City Administrator
Chief Dave Williams, Fire Dept.
Chief John Meier, Police Dept.
Mark Klein, Planning Official
Karl Weinfurter, Info Systems Specialist
Richard Coleman, Comm. Dev. Director

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Dawn Long, Finance Director
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 amendments to the agenda:

- Addition of Item No. 9B – Report from Councilmember Jim Rawlings

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 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.**

4. PROCLAMATIONS - None

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. 2013-3, 2013-4, and 2013-5
- B. Accept minutes of the February 4, 2013 Governing Body meeting
- C. Accept minutes of the February 4, 2013 Governing Body Work Session
- D. Accept minutes of the January 8, 2013 Parks and Recreation Advisory Board meeting
- E. Accept minutes of the November 15, 2012 Leawood Foundation meeting
- F. Approve purchase in the amount of \$24,478.66 for deck replacement supplies from Pro Deck & Patio for Leawood Aquatic Center located at 10601 Lee Boulevard
- G. **Resolution No. 3981**, approving request for a Fire Prevention & Safety Grant to provide funding for a Children's Fire Prevention and Safety Trailer
- H. **Resolution No. 3982**, approving and authorizing the Mayor to execute an Extension to that certain Financial Services Agreement dated October 17, 2005, between the City and Commerce Bank to provide certain banking service needs to the City of Leawood for a term ending in 2015
- I. **Resolution No. 3983**, approving and authorizing the Mayor to execute a Construction Agreement between the City and Vance Brothers, Inc., in the amount of \$345,800.00, pertaining to the 2013 Slurry Seal Program [Project # 70013]
- J. **Resolution No. 3984**, approving and authorizing the Mayor to execute a Construction Agreement between the City and Rodriguez Mechanical Contractors, in the amount of \$470,260.50, pertaining to the 87th Street and Mission Road Culvert Replacement Project [Project # 77011]
- K. Fire Department Monthly Report
- L. Police Department Monthly Report
- M. Municipal Court Monthly Report

Councilmember Osman requested to pull Item No. 7I for discussion.

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

- 7I. **Resolution No. 3983**, approving and authorizing the Mayor to execute a Construction Agreement between the City and Vance Brothers, Inc., in the amount of \$345,800.00, pertaining to the 2013 Slurry Seal Program [Project # 70013]

Councilmember Osman asked why they received only one bid for this project. Public Works Director Joe Johnson replied this is the only contractor in the area currently doing slurry seal work.

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

8. MAYOR'S REPORT

- A. Mayor Dunn proposed Councilmembers Carrie Rezac and James Azeltine to serve on the Sustainability Consultant Selection Committee with City staff for the 135th Street Plan. Councilmembers Gary Bussing and Julie Cain will serve as alternates.

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

- B. Attended a Leawood Chamber of Commerce Ribbon Cutting Ceremony for All-Tech Electric. Their new location with expanded space is located on College Boulevard in Overland Park. They have been a Leawood Chamber member for some time. Mayor Dunn wished them much success.
- C. Extended sincere appreciation to Councilmembers Debra Filla and Julie Cain and the Sustainability Advisory Board for a wonderful 5th Annual Homeowners Association [HOA] meeting. Councilmembers Lou Rasmussen, Jim Rawlings, Carrie Rezac and James Azeltine were also in attendance. This was a great event with presentations from Information Services Director Mark Andrasik, Public Works Director Joe Johnson, Parks and Recreation Director Chris Claxton and Parks Superintendent Brian Anderson. Three schools in the area participated in the Essays and Art Contest, including Carof Ars, Nativity Parish and St. Michael's the Archangel. Leed Platinum homeowners Jack Williams and his wife were in attendance as well.
- D. Thanks to Councilmember Lou Rasmussen for participating in the Leawood Chamber of Commerce debut of new Chamber members within the last quarter.
- E. Reminder of the Opening Night Gala of Arti Gras this Friday, February 22nd from 6:00 - 8:30 P.M. This fund raising event by the Leawood Foundation is being held in conjunction with the Leawood Arts Council. Exhibition hours will be Saturday and Sunday from 11:00 A.M. - 4:00 P.M. 30% of all sales will go to the Leawood Foundation.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Rawlings Update on Justice Center Construction Project

Councilmember Rawlings reported the Justice Center Project is on budget and is 54% complete. The targeted completion date is August 1, 2013. Site utilities are 79% complete.

Water and electrical lines have been installed. Geothermal wells are scheduled to be completed by March 8th. The brick and masonry work should be completed over the next few weeks. As the interior of the project progresses, a walk-through open house will be held for employees.

- B. Councilmember Rawlings - Referral to Stormwater Committee of residence abutting Ironhorse Golf Course- potential buy-out from FEMA

Councilmember Rawlings reported that a residence abutting Ironhorse Golf Course has recently been designated in a flood area by FEMA, in which they have offered to buy-out his property.

A motion to refer this issue to the Stormwater Committee for review was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the January 29, 2013 Planning Commission meeting]

- A. Resolution approving a Final Plan for 10314 State Line Road – Jimmy John’s (Retail: Restaurant), located at 10314 State Line Road. (PC Case 04-13)

Councilmember Osman requested to be recused due to the appearance of a conflict.

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous vote of 6-0. (Councilmember Osman recused; Councilmember Rezac absent).

Councilmember Osman rejoined the meeting.

- B. Ordinance approving a Preliminary Plan for Park Place – Specialty Fertilizer Products, located at the northeast corner of 117th Street and Nall Avenue. (PC Case 07-13) [Roll Call Vote]

Lily Carpio, Specialty Fertilizer Products, stated they produce fertilizer additives and outsource the manufacturing. The additives are tested on various types of soil conditions and are environmentally friendly.

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

- C. Ordinance approving a Special Use Permit for Park Place – Specialty Fertilizer Products, located at the northeast corner of 117th Street and Nall Avenue. (PC Case 07-13) [Roll Call Vote]

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

- D. Ordinance approving a Preliminary Plan and Final Plan for Pinnacle V, located at the southwest corner of 114th Street and Tomahawk Creek Parkway. (PC Case 14-13) [Roll Call Vote]

Curtis Holland, Esq., Polsinelli Shughart, gave a presentation requesting approval of a Preliminary Plan and Final Plan for Pinnacle V, a 69,890 square foot three-story office building, located on the southwest corner of 114th and Tomahawk Creek Parkway. He requested a revision in the language of Planning Commission [PC] Stipulation No. 18 to be consistent with the Leawood Development Ordinance [LDO] that “all trees larger than 12 inch caliper shall be replaced on a 1:1 inch caliper ratio.”

Mayor Dunn noted Stipulation No. 18 states there would be no disturbance of trees along the west property line with the exception of a sidewalk and patio within this area. Mr. Coleman replied the PC approved this application assuming no trees on the west property line would be removed. City staff received the revised landscape plan today.

Mr. Holland stated this was correct; however, this had been discussed with staff for several days. Trees that interfere with the parking lot will need to be removed; otherwise, all other trees will remain. Mr. Coleman noted the plan shows approximately 12 trees to be removed that are larger than 12 inches in caliper. Mr. Holland replied these trees will be replaced with several smaller ones and noted he had misinterpreted how the stipulation was worded.

Mr. Coleman confirmed the applicant was proposing that only trees greater than 12 inches in caliper and 4.5 feet tall be replaced on a 1:1 inch caliper basis. City staff has no objection to their proposal; however, he requested the applicant work with staff on where the trees are placed. Mr. Holland confirmed they would work with the City’s arborist and staff on the best location to plant the trees.

Mr. Holland also requested a revision in the language of PC Stipulation No. 20 to be consistent with the [LDO] that “one tree shall be provided for each 35 feet of street frontage.” This stipulation does not concur with the landscape plan they submitted. He interpreted this as a formula to determine the number of trees that should be planted, not 35 foot centers. They wanted to provide an 85-foot wide gap for better view of the corridor to the building.

Kevin Burman, Hoefler Wysocki Architects, gave a presentation of the building design plan. The materials will consist of brick with accents of cast stone. The glass will be a reflective low-glaze for privacy; however, it will allow a lot of light into the building. There are currently no tenants proposed and they are not asking for specific signage approval at this time; however, he wanted to ensure the building would meet the City’s signage guidelines. There are place holders on the façade to show proposed signage locations, which will be similar to the other Pinnacle projects. Mayor Dunn confirmed signage approval would come before them at a future application.

A motion to pass the ordinance with revised language for Planning Commission Stipulation Nos. 18 and 20 regarding the landscape plan be approved by the City's arborist and staff and extend the planting of the trees to a one-mile radius of the building was made by Councilmember Filla. The motion died for lack of a second.

Mr. Coleman recommended they leave Stipulation No. 20 as stated by the PC.

A motion to pass the ordinance approving all Planning Commission stipulations as stated with exception to Stipulation No. 18; to have the developer work with City staff regarding all trees larger than 12 inch caliper to meet the best landscape plan possible was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Mayor Dunn noted this would override the PC and require a super majority vote.

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

- E. Ordinance approving a Zoning, Preliminary Plan and Final Plan for City of Leawood - Brook Beatty Park, located south of Meadow Lane and west of Lee Boulevard. (PC Case 03-13) [Roll Call Vote]

Parks and Recreation Director Chris Claxton gave a presentation requesting zoning be revised to REC (Planned Recreation) and approval of a Preliminary Plan and Final Plan for enhancements to Brook Beatty Park. The park consists of .51 acres. The playground will be placed in the middle of the park with a sidewalk around it and is designed for ages 2-5. To address concerns of Lee Boulevard with those playing in the park, stone columns will be placed along the front with a split-rail fence. An 18" to 24" tall seat-wall will be installed with shrubs and landscaping. Heavy landscaping will be placed on the back side of the playground and to the south. There will be a picnic table, bench, bicycle racks, and drinking fountains for both pedestrians and pets. A bench sculpture entitled "Faith" will be placed along the corner of the park near the sidewalk. Fencing and landscaping are being proposed as a drainage ditch barrier to help protect the property owners abutting the park.

Parks Superintendent Brian Anderson gave a presentation of the landscaping plan stating when they were considering the playground space, they wanted to preserve the mature trees and not damage the roots. Once established, the mix of landscaping and trees will provide a dense hedge. Plans also include expanding the rain garden.

Ms. Claxton stated the drainage ditch runs throughout the property and discharges into the main creek area. Split-rail fences are proposed on the corners of the property as a barrier and will be filled in with landscaping. They plan to sod the entire area to the street and irrigate it. This property will go from low to high-maintenance with the proposed enhancements due to the City having to maintain the mowing, emptying trash, cleaning up debris, etc. The park will become a regular part of their rotation.

Public Works Director Joe Johnson confirmed the bulk of the property is located in a flood-way with the entire property in a flood-plain.

Councilmember Bussing asked staff their plans if parking becomes an issue on Meadow Lane in front of the Martin's home. He was concerned with site-line issues along Meadow and felt it was inappropriate for this to become a parking lot. Ms. Claxton replied there is no parking proposed. Staff has discussed placing "No Parking" signs along Lee Boulevard. People could park across the street along 86th Terrace; however, the park is not designed to be a drive-to park. The design of the playground is the driving factor for promoting this as a walk-to park. The center of the play area to Lee Boulevard is approximately 60 feet.

Councilmember Bussing expressed safety concerns recalling Mr. Martin's previous discussion of liability issues for a park to be located this close to a major thorough-way.

Ms. Claxton confirmed the total cost estimate for the park enhancements is \$100,500 with a \$101,000 budget.

John Stalder, 2401 W. 86th Terrace, preferred the park remain as green space and felt they were trying to do too much with too little space. He stated since he has lived there, this entire area has been covered in water across Lee Boulevard at least three times and didn't see the reason for the enhancements.

JoLynn Hobbs, 8309 Lee Boulevard, was in favor of the enhancements stating she had confidence in the Parks and Recreation Department to create a wonderful walk-to park that will benefit the families of old Leawood bringing value to their neighborhood.

Scott Martin, 8616 Meadow Lane, stated he has had multiple emails with City staff to stay informed of the process and was not informed tonight's request would include the Final Plan. He was told this discussion would include only the zoning request and final approval would not be addressed until March 4th. Mr. Lambers replied usually with an application there may be a follow up authorization for staff to proceed; however, given the sensitivity of this project he decided to place this on the March 4th agenda so there is no appearance of presuming this project would be approved.

Mr. Coleman confirmed this plan was approved at the PC meeting on January 29th.

Mr. Martin stated the PC discussed that the barrier be impassable to his property; however, a split-rail fence and landscaping is not. Mr. Coleman replied the PC specifically discussed a landscape barrier that discourages trespassing. Mr. Martin expressed concern that this type of barrier would be an impediment to the flow of water and could place his home in a flood zone. Mr. Coleman replied staff discussed flooding issues with the Public Works Department and determined the opening under Lee Boulevard is the main impediment for water flow. The landscaping and split-rail fence would have no impact on flooding. Mr. Martin was concerned with debris impacting the water flow along the fence and asked if the City was following its own ordinance by having an analysis done to determine such impact.

Mr. Johnson replied an analysis was done several years ago in conjunction with stormwater improvements to improve flooding conditions. This study determined that the bridge on Lee Boulevard needs to be at least 60' long. Flooding will continue until the City improves the opening under Lee or lengthens the bridge. A split-rail fence is recommended in a floodplain to allow debris to run through. An outside firm specializing in bio-engineering reviewed the landscape plan and determined the majority of the landscaping will lie down during flooding and would not cause an impact to water flow.

Mr. Martin concurred with Councilmember Bussing regarding parking concerns along Meadow Lane. He expressed concern with dog waste at the park and drainage issues with the new sewage system the City installed a few years ago and noted the City's budget does not account for maintaining the enhancements in the future.

Heidi Martin, 8616 Meadow Lane, stated she attended the PC meeting, in which one of the Planning Commissioner's specifically stipulated that the barrier must be impassable by a child. Mayor Dunn replied Commissioner Ramsey had stated "He wants to make it difficult for someone to trespass on the neighbors' property without overburdening the City by putting in an overly expensive barrier. How we do it, I don't care. That is the mission." Then the stipulation was made to include a requirement for a barrier that delineates the boundary of the park.

Shannon DeSalvo, 8316 Ensley Lane, was in favor of the enhancements to provide community space and add to the beauty of old Leawood. The number of children continues to increase in their neighborhood.

Councilmember Azeltine asked if a stormwater study was required for this type of project and if the park sign would be in compliance with the City's ordinance. Mr. Coleman replied a stormwater study is not required and governmental signs are exempted in the ordinance. Monument signs are allowed in the right-of-way. This sign would be in compliance. He confirmed the City subjects itself to the same process as any developer.

Ms. Claxton stated Parks Maintenance staff will determine if there is a problem with dog waste and will suggest whether they include a station. Typically, they are not shown on a plan.

Police Chief John Meier confirmed parking is allowed on Lee Boulevard unless there are emergency "No Parking" signs posted. The ordinance states tires are not allowed on grass surfaces throughout the City.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion carried following a roll call vote of 6-1. Nay: Councilmember Bussing. (Councilmember Rezac absent).

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS

Reschedule Executive Session Work Session; Personnel Matter; City Administrator's Annual Review from March 25, 2013 to Monday, April 22, 2013 at 6:00 P.M.

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

There being no further business, the meeting was adjourned at 10:15 P.M.

ADJOURN

Debra Harper, CMC, City Clerk

Pam Gregory, Assistant City Clerk