

Regular Meeting

THE LEAWOOD CITY COUNCIL

May 6, 2013

Minutes

DVD No. 302

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, May 6, 2013. Mayor Peggy Dunn presided.

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

Councilmembers absent: None

Staff present: Scott Lambers, City Administrator
Chief John Meier, Police Dept.
Chief Dave Williams, Fire Dept.
Mark Andrasik, Info Systems Director
Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director
Chris Claxton, Parks and Rec Director

Patty Bennett, City Attorney
Dawn Long, Finance Director
Joe Johnson, Public Works Director
Mark Klein, Planning Official
Deb Harper, City Clerk
Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following amendment to the agenda:

- Addition of Item 9B – Councilmembers Report from Councilmember Rasmussen

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

4. PROCLAMATIONS

Bike Week, May 13 – 17, 2013

Mayor Dunn read the proclamation into the record.

5. PRESENTATIONS/RECOGNITIONS Introduction of visiting French Firefighter, Clément Muzeau

Training Chief Colin Fitzgerald introduced French Firefighter Clément Muzeau, who will be visiting for 11 weeks. All students in the University Fire Program complete an internship. Only select, English speaking students come to the United States. He is staying at Fire Station No. 2 and will respond to fire calls as an observer. Clément attends the University of Bordeaux, established in 1441 and speaks French, English, German, and is learning Russian. This is the 3rd year for the City of Leawood as a host site.

6. SPECIAL BUSINESS

A. Presentation of 2012 Annual Audit

Kaleb Lilly, Partner of Rubin Brown, gave a presentation of the audited financial statements for 2012 stating they are required to audit those in accordance with generally accepted auditing standards and obtain reasonable assurance those financial statements are free of material misstatement. They were able to issue a clean opinion on the City's financial statements for 2012. The financial statement disclosures are neutral, consistent and clear. There were no difficulties or disagreements encountered in dealing with management related to performance of the audit. There were no matters of significant discussion that affected their retention as the City's auditors.

Councilmember Bussing asked if procedural recommendation letters were required for City staff. Mr. Lilly replied letters are only required if there are significant deficiencies or material weakness. The last few years there have been no items of a reportable nature.

Michael Fox, Manager of Rubin Brown, stated the City implemented two new pronouncements; GASB Statement No. 63 and GASB Statement No. 65. GASB 63 defines deferred outflows of resources and deferred inflows of resources as a consumption of net assets. GASB 65 reclassifies certain items currently reported as assets and liabilities to deferred inflows and outflows of resources and removed bond issuance costs.

B. **Resolution No. 4024** accepting the 2012 Comprehensive Annual Financial Report [Audit] for the City of Leawood, Kansas

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

C. Public Hearing Regarding The Community Improvement District [CID] Application For Camelot Court Shopping Center, Located At 119th And Roe Avenue, Leawood, Kansas – [*Continued from the April 15, 2013 Governing Body meeting*].

David McIntyre, 14725 Fairway Street, expressed concern regarding the CID sales tax increase for Camelot Court to benefit the property owner.

He felt this would be precedent setting for other shopping centers in Leawood to request improvements at the expense of the citizens and suggested the owners of the center handle the improvements at their expense.

John Petersen, Polsinelli Shughart, stated they have gone through the process of rezoning, Special Use Permit [SUP] approvals, variances granted by the Board of Zoning Appeals [BZA], and Governing Body approval of the Revised Preliminary Plan. The approved plan provides completely new architecture with expansion of the Hen House by approximately 25,000 square feet, a CVS Pharmacy drive-thru and a Tide Cleaners with a drive-thru. This will bring total modernization of the site to include public street improvements along the perimeter and increasing the landscape along 119th Street, Roe, and 117th Street. They were able to meet all of the City's Leawood Development Ordinance [LDO] requirements. They hoped to move forward with the Final Plan within 60 days. The improvements will be done in phases so some of the center can remain open. They are continuing to review parking and stormwater in terms of water quality, along with other issues that have been identified by staff. The overall cost is \$35 Million, of which \$26 Million will be funded by private investors and \$9.1 Million funded through the additional one-cent CID sales tax. They are not requesting maintenance and are only requesting items that have been identified and eligible in the City's CID Policy.

A motion to close the public hearing was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

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. 2013-14, and 2013-15
- B. Accept minutes of the April 15, 2013 Governing Body meeting
- C. Accept minutes of the April 15, 2013 Governing Body Work Session
- D. Accept minutes of the March 28, 2013 Leawood Foundation meeting
- E. Accept minutes of the February 14, 2013 Sustainability Advisory Board meeting
- F. Renewal of Cereal Malt Beverage [CMB] License for Hallbrook Country Club, located at 11300 Overbrook Road
- G. Approve purchase in the amount of \$7,925.00, to Knapheide Truck Equipment for the purchase of [1] Service Body
- H. Approve purchase in the amount of \$53,865.00 from Midwest Truck Sales for the purchase of [1] Landscaper Truck
- I. Approve purchase in the amount of \$59,511.00 from American Equipment Co., for the purchase of [1] Single Axle Dump Body, Plow, and Sander
- J. Approve No. 4023 Change Order No. 8 in the amount of \$14,543.00, to Titan Built Construction, pertaining to the Leawood Justice Center Project to be located at Town Center Drive & Tomahawk Creek Parkway [Project # 76008]
- K. Approve Massage Establishment License for the Hallbrook Country Club, located at 11300 Overbrook Road, in accordance with Code §5-510 of the Code of the City of Leawood 2000

- L. **Resolution No. 4025** accepting the Finance Director's 2012 Annual Statement regarding the Leawood South Transportation Impact Fee, pursuant to §13-609, entitled, 'Annual Review,' of the Code of the City of Leawood, Kansas, 2000
- M. **Resolution No. 4026** accepting the Finance Director's 2012 Annual Statement regarding the 135th Street Corridor Transportation Impact Fee, pursuant to §13-506, entitled, 'Amount of Impact Fee,' and §13-509, entitled 'Annual Review,' of the Code of the City of Leawood, Kansas, 2000
- N. **Resolution No. 4027** accepting the Finance Director's 2012 Annual Statement regarding the Public Art Impact Fee, pursuant to §12-609, entitled, 'Annual Review,' of the Code of the City of Leawood, Kansas, 2000
- O. **Resolution No. 4028** accepting the Finance Director's 2012 Annual Statement regarding the Leawood Park Impact Fee, pursuant to §12-409, entitled, 'Annual Review,' of the Code of the City of Leawood, Kansas, 2000
- P. **Resolution No. 4029** approving and authorizing the Mayor to execute a Master Lease Agreement between the City and Copy Card Control Systems, Inc., pertaining to the Lease of copy/scan/print/fax machines
- Q. **Resolution No. 4030** approving and authorizing the Mayor to execute a Maser Maintenance Agreement between the City and Foto's Office Systems, pertaining to the annual maintenance of copy/scan/print/fax machines
- R. **Resolution No. 4031** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Alexander Open Systems [AOS] in the amount of \$764,945.10, pertaining to the Leawood Justice Center Construction Project to be located at 117th & Tomahawk Creek Parkway [Project # 76008]
- S. **Resolution No. 4032** approving and authorizing the Mayor to execute a Street Light Sales Agreement in the amount of \$1,221,141.00, between the City and Kansas City Power and Light [KCP&L] pertaining to the purchase of street lights located at various locations in the City of Leawood [Project # 75004]
- T. **Resolution No. 4033** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$26,378.10, between the City and George Butler Associates [GBA] pertaining to the design, construction inspection and emergency repair of Mission Road Bridge over Indian Creek [near Lee Boulevard]
- U. **Resolution No. 4034** approving and authorizing the Mayor to execute Amendment Agreement, between the City and Kansas City Power and Light [KCP&L] pertaining to the legal description of an easement located near Ironhorse Golf Course No. 6 Hole, and over the property located at 15400 Mission Road
- V. **Resolution No. 4035** approving and authorizing the Mayor to execute a Utility Easement Maintenance Agreement between the City and John F. Murphy and Mary B. Murphy, for property located at 11725 Manor Road, Lot 21, Block 3, Hallbrook Farms First Plat
- W. **Resolution No. 4036** accepting a Permanent Storm Sewer Easement, and Permanent Utility Easement from Grantors, Mark A. Butler and Lori A. Butler, for property located at 12216 Mission Road, Lot 1, Kings Forest Subdivision, pertaining to the 123rd and Mission Road Trail Project [Project # 71012]

- X. **Resolution No. 4037** accepting a Permanent Storm Sewer Easement, and Permanent Utility Easement from Grantors, Mark A. Sabo and Michelle L. Sabo, for property located at 12217 Alhambra, Lot 11, Berkshire 2nd Plat Subdivision, pertaining to the 123rd and Mission Road Trail Project [Project # 71012]
- Y. **Resolution No. 4038** approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Overland Park pertaining to the Roe Avenue Improvement Project between 119th Street and Tomahawk Creek Bridge [Project # 72051]
- Z. **Resolution No. 4039** approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Overland Park pertaining to the College Boulevard Improvement Project between Nall Avenue and El Monte [Project # 72044]
- AA. **Resolution No. 4040** approving and authorizing the Mayor to execute a Professional Services Agreement in the amount of \$131,000.00, between the City and Design Workshop, Inc., for the 135th Street Plan
- BB. **Resolution No. 4041** approving and authorizing the Mayor to execute a Grant Agreement in the amount of \$131,000.00 between the City and Mid-America Regional Council [MARC] for the 135th Street Plan
- CC. **Resolution No. 4042** approving a Final Sign Plan for Tomahawk Creek Office Park – Cognios Capital, located west of Tomahawk Creek Parkway and north of W. 114th Street. (PC Case 43-13) *[From the April 23, 2013 Planning Commission meeting]*

The following Consent Agenda items were pulled for discussion:

- Councilmember Osman – Item No. 7P and 7S
- Councilmember Filla – Item No. 7R
- Councilmember Rasmussen - Item No. 7S
- Councilmember Bussing – Item No. 7AA

A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

- 7P. **Resolution No. 4029** approving and authorizing the Mayor to execute a Master Lease Agreement between the City and Copy Card Control Systems, Inc., pertaining to the Lease of copy/scan/print/fax machines

Councilmember Osman asked if City staff had explored a 2-year lease option for machine upgrades instead of 5 years since technology is constantly changing. City Clerk Deb Harper replied the shorter the lease term the higher the cost. To incorporate all of the machines throughout the City is a very large project and would not be feasible to do 2-year lease terms.

A motion to approve Item 7P was made by Councilmember Osman; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

- 7R. **Resolution No. 4031** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Alexander Open Systems [AOS] in the amount of \$764,945.10, pertaining to the Leawood Justice Center Construction Project to be located at 117th & Tomahawk Creek Parkway [Project # 76008]

Councilmember Filla thanked Information Services Director Mark Andrasik and his department for their green initiatives and all that they do to stay current with the latest technology.

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

- 7S. **Resolution No. 4032** approving and authorizing the Mayor to execute a Street Light Sales Agreement in the amount of \$1,221,141.00, between the City and Kansas City Power and Light [KCP&L] pertaining to the purchase of street lights located at various locations in the City of Leawood [Project # 75004]

Councilmember Rasmussen abstained due to a conflict of interest.

Councilmember Osman asked if there would be any cost advantage to spread the purchase of the street lights over two years, versus purchasing all at once. Public Works Director Joe Johnson replied the original proposal was to spread the purchase over three years, beginning last year; however, they could not complete the agreement with KCP&L; therefore, they budgeted this for three years and carried over the funds from last year to purchase two-thirds of it now and the remaining one-third will be purchased in January, 2014.

Councilmember Filla commended City staff for initiating this purchase. Mr. Johnson replied by purchasing the street lights, their annual savings will be approximately \$200,000.

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

- 7AA. **Resolution No. 4040** approving and authorizing the Mayor to execute a Professional Services Agreement in the amount of \$131,000.00, between the City and Design Workshop, Inc., for the 135th Street Plan

Councilmember Bussing commended Design Workshop for the very specific format of this document and felt this would be a good prototype for all of the City's consulting agreements. Community Development Director Richard Coleman confirmed City staff was comfortable this would deliver what is needed to move forward with re-evaluation of the 135th Street Corridor guidelines.

A motion to approve Item No. 7AA was made by Councilmember Bussing; seconded by Councilmember Rasmussen.

Mayor Dunn thanked Councilmembers James Azeltine and Carrie Rezac for their involvement in selecting the task force team.

Councilmember Filla encouraged City staff to coordinate this with the RFP for the Complete Streets Program.

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

8. MAYOR'S REPORT

- A. Attended a Leawood Chamber of Commerce Ribbon Cutting Ceremony for Pig & Finch Restaurant, which opened in December, 2012. Owner Jimmy Lynch also owns 801 Fish and 801 Chophouse; all three restaurants are located in Park Place. Mayor Dunn thanked them for their investment and wished them much success.
- B. Lake Quivira Mayor Wayne Hidalgo hosted the Johnson & Wyandotte Counties Council of Mayors meeting at the Lake Quivira Country Club. They had the privilege of welcoming a number of new mayors who were elected in the April elections.
- C. Condolences to the family of Tod Haren on his passing on April 24, 2013. Tod had served on the Leawood Foundation Board of Directors in the past. His wife, Nathalie, was a long-time member of the Leawood Arts Council. Due to her involvement with the Arts Council, Tod and the Haren & Laughlin Construction Company were very supportive and have assisted in site work for a number of Leawood's public art sculptures. Mayor Dunn expressed her sincere sympathies on behalf of the City of Leawood on their loss.
- D. Condolences to the family of Jane Neff-Brain who passed away on May 3, 2013. Jane retired after 28 years as the City Attorney of Overland Park. She then served on the Leawood Planning Commission. Her husband, Don, was also a long-time Leawood Planning Commissioner. Mayor Dunn expressed her sincere sympathies on behalf of the City of Leawood on their loss.
- E. Congratulations to Leawood Police Chief John Meier on an excellent feature in the May issue of the Leawood Lifestyle Magazine.

Mayor Dunn noted Councilmember Lou Rasmussen would be serving on the Selection Committee for the City's Park Master Plan, along with members of the Parks and Recreation Advisory Board and Parks City staff.

9. COUNCILMEMBERS' REPORT

- A. **Councilmember Rezac Request from Historic Commission regarding former City Hall building located at 9615 Lee Boulevard**

Councilmember Rezac stated at a previous work session, the City Council had reached consensus to relocate the old City Hall building off site; however, the Historic Commission prefers this building remain somewhere on its current site, located at 96th and Lee Boulevard.

Ms. Rezac requested the Council reconsider their consensus to relocate the building and proposed another work session be scheduled for discussion. Mr. Lambers replied the walk-thru of the Justice Center scheduled for May 20th could be rescheduled to accommodate this topic.

A motion to schedule a Governing Body Work Session at 6:00 P.M., on Monday, May 20, 2013, to discuss the future location of the old City Hall building and other uses and plans for 96th and Lee Boulevard was made by Councilmember Rezac; seconded by Councilmember Filla.

Councilmember Rasmussen felt they should first discuss the options for teardown, rehab, or keeping just the main floor and structure before determining the location. Councilmember Rezac replied the letters from the Historic Commission address all of these options, as well as location.

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

B. Councilmember Rasmussen

Councilmember Rasmussen referred to the April, 2013, issue of American City and County Magazine regarding an article entitled “Cigs Booze and Sugar: The Skinny on Sin tax.” He was concerned with sales tax rates and their potential to reach a 10% level and the social problems that could follow.

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the April 2, 2013 Planning Commission meeting]

- A. **Resolution No. 4043** approving a Revised Final Plan for Lord of Life Lutheran Church, located south of 135th Street and west of Chadwick. (PC Case 34-13)

Mayor Dunn noted in order to address some concerns regarding the stipulation that was approved by the Planning Commission meeting at its April 2nd meeting, revised language is proposed to replace Stipulation No. 2. Approval of this revised stipulation will require a super majority vote.

Doug DeZube, Lord of Life Lutheran Church, gave a presentation requesting approval of the Revised Final Plan for Lord of Life Lutheran Church – Cross Tower to revise Stipulation No. 5 from Planning Commission Case #37-02 in reference to burying of power lines.

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- B. **Ordinance No. 2621** approving a Preliminary Plan and Final Plan for Plaza Pointe – Cross First Bank Emergency Generator at 4811 W. 136th Street, located south of 135th Street and west of Roe Avenue. (PC Case 23-13) [Roll Call Vote]

Alden Bradley, AB Bradley Construction, gave a presentation on behalf of Cross First Bank requesting approval of a Preliminary Plan, Final Plan, and Special Use Permit [SUP] to install a backup generator at the southeast corner of the building. The generator will operate on diesel fuel and is a double-wall, self-contained tank. Mr. Coleman confirmed City staff was comfortable with the design of the tank to prevent leakage.

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 8-0. Nay: None.

- C. **Ordinance No. 2622** approving a Special Use Permit for an Emergency Generator for Plaza Pointe – Cross First Bank Emergency Generator at 4811 W. 136th Street, located south of 135th Street and west of Roe Avenue. (PC Case 23-13) [Roll Call Vote]

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

- D. **Ordinance No. 2623** approving a Preliminary Plan and Final Plan for Bi-State/Centennial Park – Darbyshire Off Street Parking Lot, located north of 143rd Street and east of Overbrook Road. (PC Case 33-13) [Roll Call Vote]

Jack Epps, Foulston Siefkin Law Firm, requested approval of a Preliminary Plan, Final Plan, and SUP for an off-street parking lot to provide off-street parking inside of a building within the Bi-State/Centennial Park Development.

Mr. Coleman confirmed the applicant would be required to comply with Building Codes regarding exhaust.

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

- E. **Ordinance No. 2624** approving a Special Use Permit for an Off Street Parking Lot for Bi-State/Centennial Park – Darbyshire Off Street Parking Lot, located north of 143rd Street and east of Overbrook Road. (PC Case 33-13) [Roll Call Vote]

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

- F. **Ordinance No. 2625** amending Article 9 of the Leawood Development Ordinance [LDO], entitled, 'Definitions,' to add a new Section Defining Architectural Structures. (PC Case 25-13) [Roll Call Vote]

Planning Official Mark Klein stated this ordinance proposes to define the term “architectural structure,” pertaining to signage permitted on architectural structures and is defined as: “A structure approved as part of a Final Development Plan that meets all required building/structure setbacks, not used for human occupancy or storage of any kind, which is intended as a prominent, decorative element within a development. An architectural structure may include such elements as identity towers, clock towers, water features, etc.”

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 8-0. Nay: None.

- G. **Ordinance No. 2626** amending Section 16-4-6.13 of the Leawood Development Ordinance [LDO], Permanent Sign Regulations, pertaining to signage on architectural structures. (PC Case 24-13) [Roll Call Vote]

Mr. Klein stated this amendment is proposed to address signage on architectural structures within a development, as opposed to signage on buildings or monument signs. Architectural structures would be required to be approved through a Final Site Plan through the Planning Commission and Governing Body since each development is different and could have several types of signage. The proposal would allow the name of the overall development and/or the City of Leawood on the structure. This would be limited to a maximum signage on two sides of the structure and limited to 15% on the amount of space and would not allow any type of temporary signage on the structure. This amendment would limit the number of signs on each elevation to two.

Councilmember Rezac confirmed with Mr. Klein they would be allowed to place the name of the development and a logo on both sides.

Councilmember Osman suggested they affix temporary signage for special events to a clock tower or other architectural feature for more stability and visibility. Mr. Coleman replied this was not intended to provide a format for advertising; it was intended to allow a developer to have an architectural feature. Mayor Dunn noted this was also intended to regulate visual clutter.

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

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS

- A. Schedule Governing Body Work Session at 5:30 P.M., on Monday, May 20, 2013 to conduct a walk-through at the Justice Center

A motion to reschedule the walk-through at the Justice Center to a date to be determined was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- B. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, July 1, 2013, to discuss Corrugated Pipe Replacement

A motion to approve the work session was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

There being no further business, the meeting was adjourned at 9:35 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory, Assistant City Clerk