

Minutes

DVD No. 331

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, September 2, 2014. Mayor Peggy Dunn presided.

**Councilmembers Present:** Jim Rawlings, Julie Cain, Lou Rasmussen, Carrie Rezac, Andrew Osman, and James Azeltine

**Councilmembers Absent:** Debra Filla

<b>Staff Present:</b> Scott Lambers, City Administrator	Richard Coleman, Comm. Dev. Director
Mark Klein, Planning Official	Mark Andrasik, Info. Services Director
Nic Sanders, Human Resources Director	Chris Claxton, Parks & Rec. Director
Dawn Long, Finance Director	Capt. Kevin Cauley, Police Department
Chief Dave Williams, Fire Department	Sgt. Kirt Yoder, Police Department
Joe Johnson, Public Works Director	Patty Bennett, City Attorney
Deb Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

**Others Present:** None

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn pointed out the following amendment to the agenda:

- A. Item No. 12.A. will be continued to the October 6, 2014 Governing Body meeting, per a request made by the applicant.

**A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

**3. CITIZEN COMMENTS – None**

**4. PROCLAMATIONS DIAPER NEED AWARENESS WEEK**

Mayor Dunn proclaimed the week of September 8 - 14, 2014 as Diaper Need Awareness Week in the City of Leawood and encouraged the citizens of Leawood to donate generously to diaper banks, diaper drives and those organizations that distribute diapers to families in need to help alleviate diaper need in Leawood and environs.

**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. 2014-29, 2014-30, 2014-31, and 2014-32
- B. Accept minutes of the August 4, 2014 Governing Body meeting
- C. Accept minutes of the April 30, 2014 Stormwater Management Committee meeting
- D. Accept minutes of the June 19, 2014 Leawood Foundation meeting
- E. Approve renewal of Retail Liquor License for Ranchmart Wine & Spirits, LLC, located at 3748 W. 95<sup>th</sup> Street
- G. **Resolution No. 4307**, accepting New Infrastructure in connection with the 2013 Arterial Street Improvements Project [119<sup>th</sup> Street between State Line Road and Roe Avenue, in accordance with GASB-34 Guidelines of reporting Inventory of Assets [Projects # 72017 & 72051]
- H. **Resolution No. 4308**, approving and authorizing the Mayor to execute an Inter-local Agreement between the Board of County Commissioners of Johnson County [BOCC] and the City for a Preliminary Engineering Study of a Stormwater Management Project known as Waterford Subdivision Stormwater Improvements TM-04-007 [SMAC Project] [Project #77017]
- I. **Resolution No. 4309**, approving and authorizing the Mayor to execute an Inter-local Agreement between the Board of County Commissioners of Johnson County [BOCC] and the City for a Preliminary Engineering Study of a Stormwater Management Project known as Leawood South Subdivision Stormwater Improvements TM-04-008 [SMAC Project] [Project #77016]
- J. **Resolution No. 4310**, approving a Final Plan for a Tenant Finish for Park Place – Space G-25 (Retail: Future Space), located north of 117<sup>th</sup> Street and east of Nall Avenue. (PC Case 115-14) [*from the August 12, 2014 Planning Commission meeting*]
- K. **Resolution No. 4311**, approving a Final Plan for a Tenant Finish for Park Place – BSA Life Structures (Office: Architecture), located north of W. 117<sup>th</sup> Street and east of Nall Avenue (PC Case 123-14) [*from the August 12, 2014 Planning Commission meeting*]
- M. Fire Department Monthly Report – July, 2014
- N. Police Department Monthly Report – July, 2014
- O. Municipal Court Monthly Report – July, 2014
- P. Declaration of Surplus Property: 1998 Inter. PU, last 4 VIN/8074 [Unit # 454]; 1998 Dump Body on Unit 454, Asset # 1339; Material Spreader/Sander on Unit 454, Asset Inventory # 1342; Coates Snow Plow on Unit 454; 1998 Inter. PU, last 4 VIN/8075 [Unit # 455]; 1998 Dump Body on Unit 455, Asset Inventory # 1338; Material Spreader/Sander on Unit # 455, Asset Inventory # 1340; and Coates Snow Plow on Unit # 455

Councilmembers Rasmussen and Cain requested Consent Agenda Item 7.F. to be pulled and Councilmember Cain requested Consent Agenda Item 7.L. to be pulled.

**A motion to approve the remaining items on the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

F. **Resolution No. 4306**, approving Rules of Operation for Leawoof Dog Park, located at 10601 Lee Boulevard

In regard to pinch, spiked or choke collars, Councilmember Rasmussen asked Ms. Bennett about the basis for City government's authority to regulate dog collars in the sense that usually the basis for regulation is public safety and general welfare. Ms. Bennett stated this was based on research that dogs can become hung up on fences when wearing those types of collars. Councilmember Rasmussen pointed out that while much consideration was given to the rules and regulations, to ask an owner to remove a restricted collar, which may be a mechanism of control of the animal, would then violate the rule that collars should be worn at all times.

Councilmember Rasmussen asked if the dog ordinances would govern the rules and regulations of the dog park. Ms. Bennett replied that Chapter 1 of City Code gives the Council the ability to assess a general penalty on any violation of rules in any of the park, so long as the Council has approved those rules. Councilmember Rasmussen suggested the collar restrictions be removed from the listing, as he felt it was vague.

Councilmember Azeltine asked if the spikes are on the inside of the pinch collar. Ms. Claxton confirmed and she explained that staff spoke with other dog facilities in the area, as well as relied upon the expertise of the City's Animal Control division. These collars are a concern with fences and dogs at play, when an animal may get a tooth caught. She pointed out the collars should be removed once they are inside, but can be put back on when outside the dog park.

Councilmember Cain pointed out the Parks and Recreation Department and other staff spent much time compiling the list of rules and regulations. She applauded staff for the comprehensive list and believes the collar item should remain on the list. Councilmember Cain asked if penalties would be assessed based on the number of offenses. Ms. Bennett replied that penalties are not specific or based on the number of offenses, but Court's discretion with \$500 maximum.

Councilmember Osman stated the rules seem fair, but asked about the reasons for excluding strollers from inside the area. Ms. Claxton replied most strollers place the child at the same height as the dog and it may be difficult for a parent to deal with both a dog and an infant if a dog should approach a stroller. Additionally, the park is not designed for strollers. There is a space outside the fenced area where strollers can be left and the child then can be carried into the fenced area. Mayor Dunn added with a child in a stroller often there is also food in the stroller, which could cause a dog to be inquisitive, and also food is prohibited in the dog park.

Councilmember Azeltine asked if Animal Control would patrol the park. Ms. Claxton stated most of the parks are self-policing and if a serious situation were to arise, Animal Control would be contacted. She did not know the frequency of patrol. Councilmember Rasmussen affirmed the dog owners themselves would call if a situation occurred.

Mayor Dunn applauded staff for the comprehensive dog park rules and regulations, which are well thought out and based on nationwide studies. On her recent visit, the area looked very nice. Per the inquiry of Councilmember Rawlings, Ms. Claxton said the dog park soft target opening date is Friday, September 12; it has been too wet to pour some concrete pads.

**A motion to approve Resolution No. 4306 was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

- L. **Resolution No. 4312**, approving a Revised Final Plat for Leawood Forest Estates 4<sup>th</sup> Plat, located north of W. 126<sup>th</sup> Street and west of Sherwood Street (PC Case 116-14) *[from the August 26, 2014 Planning Commission meeting]*

Councilmember Cain asked why the land is being re-platted. Mr. Klein replied a driveway and fence run along the property line and encroach on the adjacent lot, and this will resolve that issue. Mr. Klein confirmed and pointed out all parties have been in negotiations for some time.

**A motion to approve Resolution No. 4312 was made by Councilmember Cain; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

## **8. MAYOR'S REPORT**

- A. Sincere sympathies are extended to the family of Chris Schuetz, Parks & Recreation staff member that passed away at age 31 after complications from surgery. Chris majored in Parks & Recreation and came directly to the City after college, and was employed for 8 years. He was an arborist and also drove a snow plow in winter. Chris leaves a wife, step-daughter, parents and three brothers. A moment of silence was observed.
- B. Attended Leawood Chamber ribbon cutting for the Venue in Parkway Plaza at 135<sup>th</sup> and Roe. It is a lovely new event space that accommodates up to 350 guests and was opened by Julian Viso, who along with other investors, also owns Mio Italian Restaurant and Mio Pizzeria in the same shopping center.
- C. Thanks to Councilmember Azeltine for attending the Shawnee Mission Primary Care Leawood Chamber ribbon cutting at 151<sup>st</sup> and Nall in the Nall Valley Shops Shopping Center.
- D. Attended the Crescent Peace Society [CPS] Annual Eid Celebration and Awards dinner, where Mayor Dunn was honored with the Lifetime Achievement Award. Mayor Dunn accepted this recognition on behalf of the Leawood residents who symbolize inclusivity of the broad diversity within our community. CPS is a Kansas City area interfaith organization seeking to enhance the understanding of Muslim culture, which was founded by four Leawood residents in 1996 after the Oklahoma City bombing. Michael Copeland, Mayor of Olathe, received the Peace Award and Leo Morton, Chancellor of the University of Missouri – Kansas City and Leawood resident, received the Education Award.

## **9. COUNCILMEMBERS' REPORT – None**

## **10. STAFF REPORT**

## **COMMITTEE RECOMMENDATIONS**

### **11. IRONHORSE ADVISORY BOARD**

*[From the July 24, 2014 Ironhorse Advisory Board meeting]*

**Resolution No. 4313**, approving and authorizing the Mayor to execute a Second Amendment to that certain Golf Facility Management Agreement dated December 21, 2009, as amended on July 16, 2012, between the City and Troon Golf, LLC, pertaining to the management of Ironhorse Golf Club, 15400 Mission Road, extending the agreement until December 31, 2018

Councilmember Azeltine asked if representatives of Troon attended the meeting which occurred while he was unable due to attend due to his participation in the “Hello, Dolly” Leawood Stage Company production. Ms. Bennett replied that Troon management staff did attend. Mayor Dunn complimented the outstanding job being done managing Ironhorse Golf Club.

**A motion to approve Resolution No. 4313 was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

### **12. PLANNING COMMISSION**

*[From the July 22, 2014 Planning Commission meeting]*

A. Ordinance approving a Special Use Permit for Town Center Plaza – Macy’s – Sprint Antennas and Associated Equipment, located east of Nall Avenue and north of W. 119th Street (PC 98-14) [Roll Call Vote] - *CONTINUED TO THE OCTOBER 6, 2014 GOVERNING BODY MEETING*

B. **Resolution No. 4314**, approving a Revised Final Plan for Tomahawk Pointe – Euronet Parking Lot (Office: Financial Transactions), located north of College Boulevard and west of Mission Road (PC Case 99-14)

Mr. Phil Gibbs, Jr., Continental Consulting Engineers, 9000 State Line Road, Leawood, Kansas, requested approval of a Revised Final Plan to construct a parking lot at Tomahawk Pointe. He provided an overview of the company and gave a brief presentation describing the project.

Euronet is a \$1.7 Million money transaction company, with 4,000 employees worldwide and 110 employees in the Leawood world headquarters. At present, they have only 106 parking spaces and most days cars are parked along the lot end caps. The proposal is to add 10 spaces, though Leawood Development Code would allow 11.

Mayor Dunn asked if there was no room for 11 spots. Mr. Gibbs replied this layout is the most efficient without disturbing much of the parking lot. Councilmember Rasmussen mentioned that parking was on a land bank in the western portion and asked if this is already occupied. Mr. Coleman stated that it is.

Councilmember Rasmussen asked if these additional spots will eliminate parking in the driveway on Mission Road. Mr. Gibbs replied that it should with the exception of special times of the year when additional people are on-site, such as auditors. Councilmember Rasmussen asked about the

potential of courtesy parking in the lot to the immediate south of the building. Mr. Gibbs stated there is not an agreement with the tenants to the east or south to park. Mr. Coleman pointed out a cross-parking access easement exists between the two buildings, so anybody can park anywhere on the two-building parking side.

Councilmember Cain asked how many spaces would be ideal and Mr. Gibbs replied the company could use another 10 spaces. Mr. Gibbs pointed out employees have ample space in the building and the company could add additional employees.

Councilmember Cain asked if all opportunities were explored. Mr. Coleman replied they were and that adding parking on the site would be difficult. The west side has a restriction when originally developed to create a larger buffer between the residential and office use. They are close to the maximum parking ratio that the Leawood Development Ordinance [LDO] allows.

Mayor Dunn pointed out two successful corporations are located on that corner and would encourage them to stay.

**A motion to approve Resolution No. 4314 was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

- C. **Ordinance No. 2682**, amending Section 16-4-12, of the Leawood Development Ordinance [LDO] entitled “Wireless Communication Towers and Antennas”, pertaining to WIFI (PC Case 109-14) [Roll Call Vote]

Mr. Klein requested an amendment to the Leawood Development Ordinance entitled “Wireless Communication Towers and Antennas” on behalf of the City, and stated Agenda Items 12.C. and 12.D. are related.

This ordinance would address WIFI and allow administrative approval if the application meets certain conditions. If the conditions are not met, the application would be required to come through Planning Commission and City Council for approval.

Councilmember Azeltine asked if any WIFI equipment is currently on the outside of buildings and how it has been handled. Mr. Klein replied that Town Center Crossing has what is called a “lollipop mount”, a tube 4 to 5 feet in length that hangs off the building, and this will have to come into conformance. In regard to the proposed ordinance, Mr. Klein has spoken with industry members and they have indicated they can comply.

Councilmember Rezac asked about Article 4, Item 2, which notes that Mixed-Use [MXD] zoning is not permitted, but Page 10 notes an allowable area is Mixed-Use. Mr. Klein stated the intent is to give a list of exemptions allowed in the residential areas. It would be allowed in MXD and could be approved administratively if conditions are met, but would have to come through the planning process with a Final Plan if it did not. Item 2 is not disallowing anything in MXD zoning.

**A motion to approve Resolution No. 2682 was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous roll call vote of 6-0. (Councilmember Filla absent)**

- D. **Ordinance No. 2683**, amending Article 9, of the Leawood Development Ordinance [LDO] entitled “Definitions,” by adding Section 16-9-288A, entitled ‘WIFI’ (PC Case 110-14) [Roll Call Vote]

Councilmember Rezac inquired about the definition of WIFI that specifies a transmission/reception distance of a few hundred feet, and why the distance was incorporated into the definition in the event that technology changes. Mr. Klein stated he had researched a number of definitions and this is the current accepted definition for a local wireless area network (WLAN), based on the Institute of Electrical and Electronics Engineers 802.11 network standards.

Councilmember Rezac asked if there would be a benefit to exclude the distance so that it would not need to be changed at a later date. Mr. Coleman replied the reason WIFI only goes a few hundred feet is the power of the antennas and eliminating this could allow systems that are not WIFI, such as the Distributed Antenna Systems [DAS].

**A motion to approve Resolution No. 2683 was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 6-0. (Councilmember Filla absent)**

*[From the August 12, 2014 Planning Commission meeting]*

- E. **Resolution No. 4315**, approving a Revised Final Sign Plan for Cornerstone of Leawood – Revised Sign Criteria, located south of W. 135<sup>th</sup> Street and east of Nall Avenue (PC Case 11-14)

Mr. Kevin Campbell, Yaeger Architecture, Inc., 7780 W. 119<sup>th</sup>, Overland Park, Kansas, requested an approval of a Revised Final Sign Plan for Revised Sign Criteria at Cornerstone of Leawood. The sign criteria would be amended in regard to signage for the Charles Schwab building, under construction at the 135<sup>th</sup> and Nall. Overall sign size would change from 24 inches to 32 inches with multi-lines. The façade signage options would allow the owner to determine the side. The criteria would also allow mounting the sign to a structure other than the building.

**A motion to approve Resolution No. 4315 was made by Councilmember Cain; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

- F. **Ordinance No. 2684**, approving a Rezoning from AG (Agricultural) to R-1 (Planned Single Family Low Density Residential), Preliminary Plan, Final Plan, Preliminary Plat, and Final Plat for Sunset Heights Estate, located north of W. 141<sup>st</sup> Street and west of Kenneth Road (PC Case 87-14) [Roll Call Vote]

Mr. Daniel Taylor, 13920 Kenneth Road, Leawood, Kansas, requested a rezoning from Agricultural to Planned Single Family Low Density Residential because the home is currently in violation of setback requirements. The City Attorney advised against seeking a variance and suggested the rezoning, to Mr. Taylor’s chagrin.

Councilmember Cain asked if Mr. Taylor's chagrin was due to the other buildings [barn, garage and shed] on the land and Mr. Taylor stated the buildings are grandfathered. He continued by stating he simply liked the idea of the land being Agricultural because he would like to do organic farming, and it will be more limited with the new zoning. Mayor Dunn stated the new zoning will more accurately reflect the use.

**A motion to approve Ordinance No. 2684 was made by Councilmember Rasmussen; seconded by Councilmember Rezac. The motion was approved with a unanimous roll call vote of 6-0. (Councilmember Filla absent)**

### **13. OLD BUSINESS**

- A. **Ordinance No. 2685C**, amending Article I of Chapter II of the Code of the City of Leawood, 2000, entitled, 'Animal Control,' and repealing existing Chapter herewith [Roll Call Vote] [Continued from the July 21, 2014 and August 4, 2014 Governing Body Meetings]

Sgt. Kirt Yoder, City of Leawood Police Department, appeared for questions.

Councilmember Rezac asked about Page 8, Fences, Item C regarding invisible fences that states, "...it shall be unlawful to allow an animal, other than a domestic cat, to have an invisible fence as the sole means of confinement" and if that meant that a physical fence also would be required. Sgt. Yoder stated that a dog cannot be left in a yard solely confined by an invisible fence. Councilmember Cain asked that if a fence is not allowed in a front yard, a dog could not be unoccupied in the front yard at any time. Sgt. Yoder affirmed that is true.

Councilmember Cain referred to Page 5, Animal Abuse, Item 10, which states, "offering to give or giving a live animal as a prize or as a business inducement". Sgt. Yoder pointed out this is state law.

Councilmember Cain referred to Page 9, which refers to properly disposing of the remains of an animal, but it does not define proper disposal. Sgt. Yoder stated there are various companies that handle; the City of Leawood utilizes a contracted service.

Councilmember Cain asked about who would issue the citations. Sgt. Yoder stated that all citations issued by the City's Animal Control Officers require a mandatory court appearance and fines are assessed by the Court Judge.

Councilmember Cain referred to Page 20 of the red-lined document with strike-through of "This section shall include animals considered miniature or pygmy breeds including, but not limited to, Vietnamese pot-bellied pigs, miniature horses and miniature goats". She asked if they were once allowed and are now not disallowed. Sgt. Yoder stated these animals were never allowed and the sentence was stricken to remove a redundancy.

**A motion to approve Ordinance No. 2685C was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 6-0. (Councilmember Filla absent)**

- B. **Resolution No. 4316**, approving and authorizing the Mayor to execute a Right-of-Way Encroachment Agreement between the City and John L. Snyder and Diane P. Snyder, property owners, regarding the installation of a fence located on property west of and adjacent to 11912 Mohawk Road *[from the July 21, 2014 Governing Body meeting]*

Ms. Bennett stated this is a follow-up to the decision the Governing Body made a month prior.

**A motion to approve Resolution No. 4316 was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0. (Councilmember Filla absent)**

14. **OTHER BUSINESS** – None

15. **NEW BUSINESS** – None

The meeting was adjourned at 8:25 P.M.

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Deb Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk