

Minutes

DVD No. 339

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M., on Monday, January 5, 2015. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Julie Cain, Debra Filla, Carrie Rezac, James Azeltine (arrived immediately after roll call) and Chuck Sipple

Councilmembers Absent: Lou Rasmussen and Andrew Osman

Staff Present:	Scott Lambers, City Administrator	Marcy Knight, Assistant City Attorney
	Dawn Long, Finance Director	Mark Andrasik, Info. Services Director
	Mark Klein, Planning Official	Richard Coleman, Planning Director
	Chief John Meier, Police Department	Chief Dave Williams, Fire Department
	Joe Johnson, Public Works Director	Nic Sanders, Human Resources Director
	Chris Claxton, Parks & Rec. Director	Brian Anderson, Parks Superintendent
	Deb Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

Others Present: None

1. **PLEDGE OF ALLEGIANCE** – The meeting began with Mayor Dunn leading the pledge of allegiance.

2. **APPROVAL OF AGENDA**

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with unanimous vote of 6-0.

3. **CITIZEN COMMENTS**

Mayor Dunn stated several citizens had signed in to comment on specific agenda items, and each would be called upon to speak at the appropriate time.

4. **PROCLAMATIONS** – None

5. **PRESENTATIONS/RECOGNITIONS** – None

6. **SPECIAL BUSINESS**

Request for time extension for damaged building unrepaired for three [3] months located at 4109 W. 110th Terrace, pursuant to § 16-4-2.4, of the Leawood Development Ordinance [LDO] Home Owner: Dr. Bernard Levi

Mr. Philip Gibbs, Civil Engineer, Owner of Continental Consulting Engineers, 9000 State Line, Leawood, spoke about the request as an adjacent neighbor. He thanked the Fire Department for the response to the fire at the house in August, 2014. He expressed confusion about the lack of progress on the house, asked about the plan for repair or replacement, and offered to help in any way he could.

Mr. Coleman briefly explained the situation. The fire occurred in August, demolition occurred without a permit, and a citation was issued. The homeowner obtained a demolition permit on October 30, 2014, and that permit expired on December 25, 2014. The homeowner's insurance representative submitted an initial claim of less than 75% of cost and the claim has not been settled. Of concern is the house has non-conforming set-back issues, and if unaddressed in 180 days [February 12, 2015], these will expire. The homeowners were granted continuances on the citation until March 4, 2015. City staff discussed an extension of the demolition permit to coincide with the court date to allow for resolution of insurance issues and building permit submittal.

Councilmember Cain asked if both sides have a set-back issue. Mr. Coleman replied that it seems to be on both sides.

Councilmember Sipple asked if other neighbors or the Homeowners Association [HOA] had complained about the situation. Mr. Coleman replied that one other call had been received expressing concern.

Councilmember Filla asked if the house would be completely or partially torn down. Mr. Coleman stated the current intention is to rebuild the house. A portion could be completely demolished and rebuilt; part of the building is salvageable.

Councilmember Azeltine asked when the extension for the demolition permit was applied for. Mr. Coleman stated it was before Christmas.

Councilmember Sipple asked if the City had ever extended similar permits because of burned out buildings. Mr. Coleman replied there have been similar difficult situations in the past, but resolution of this situation has taken longer than most. Mr. Lambers pointed out that the similar situations have been the result of a dispute between the insurance company and the property owner.

Mr. Stewart Stein, 3749 W. 105th Street, Leawood, attorney for the homeowner, stated the home was originally built by Ambassador Homes, and Dr. Levi is currently working with the company to hopefully rebuild the house. The situation is a conflict with the insurance company [USAA], which insures retired servicemen and has no local representative. An engineer from Norton & Schmidt has a different opinion than the insurance company as to what needs to be done to rebuild the house. The situation was exacerbated before Christmas when the demolition permit extension was applied for, and the set-back issue came to light.

The fire occurred on August 12th, but response from the insurance company was not until three months later. The insurance company paid for relocation and removal of goods, as well as a contractor to seal the house. The contractor decided to do some demolition, but did not obtain a permit from the City. When the City discovered the demolition, a citation was issued. The demolition has made it more difficult to rebuild the house. The insurance company is taking the position that 75% of the house is demolished and 75% should be resurrected, and does not take into consideration code changes. The homeowners would prefer for the house to be completely demolished, but question if the house can be

rebuilt in the same location. There are unrelated foundation issues that need to be addressed, and if the insurance company acknowledges problems with the foundation, it will be a total rebuild.

Mr. Stein stated he had put the insurance company on notice and asked them to engage counsel.

Mayor Dunn asked Mr. Coleman if the legal non-conformance deadline passes, could the homeowner look to the Board of Zoning Appeals [BZA]. Mr. Coleman replied that an application could be made to the BZA, and it would take 30 to 45 days from application to BZA meeting.

Mr. Stein stated he would like to have a date to take to the insurance company, but the future of the situation and how long each step might take is unknown. He felt building plans could not be approved by March 4, 2015, and stated he was anxious to comply with the City's requirements.

Mayor Dunn pointed out that the next Council Meeting before the requested extension date is February 16, 2015.

Councilmember Filla questioned why the demolition permit would be extended to March 4, 2015, when the legal non-conformance expiration on February 12, 2015 was the real issue. She asked about the possibility of submitting plans so they would be ready and awaiting insurance company approval.

Mr. Stein replied the cost of creating building plans is high, and plans would be different if they were built on the existing foundation versus a new foundation. Plans are being discussed, but not formally developed at this time. He stated confidence that the City would approve the plans with modifications to the current code, but the foundation issue is still in question with the insurance company. Mr. Stein stated when there is confirmation that the insurance company will pay for a new foundation, plans would be submitted.

Councilmember Rezac asked if the Council would have the authority to extend the 180-day non-conformance deadline. Mr. Coleman stated he did not think so, as this is part of the LDO.

Mr. Lambers stated an application for a house to be built in the same place would be supported before the BZA if the legal non-conformance deadline expires. Councilmember Rezac confirmed the BZA would then have the authority to accept the set-backs, but the Council did not have the authority to extend the deadline. Mr. Coleman affirmed and stated the LDO requires the request for an extension as presented.

Councilmember Azeltine asked for a timeline estimate for the legal process. Mr. Stein stated the court has granted two extensions based on the actions of the insurance company's contractor.

Mayor Dunn asked Mr. Lambers about a continuance until the March 16th Council Meeting in order to allow action to be taken after the court date. Mr. Lambers suggested the March 2nd Council Meeting date, because the court date of March 4th is in regard to demolition only and is a separate issue. The results of the March 2nd Council Meeting could then be taken to the March 4th court date.

Mayor Dunn offered sympathies for the loss and the issues.

A motion to approve Agenda Item 6. and grant the extension to March 2, 2015, was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.

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. 2014-48, 2014-49, and 2014-50
- B. Accept minutes of December 15, 2014 Governing Body meeting
- C. Approve payment in the amount of \$17,549.08 to League of Kansas Municipalities, for 2015 Dues and Subscriptions
- D. Approve 7th and Final Payment, in the amount of \$450.00, to Lose & Associates pertaining to Phase I of Revised Master Plan [Parks & Recreation Department]
- E. Approve 1st and Final Pay Request in the amount of \$26,319.00, to Precision Concrete Cutting Midwest, for work conducted on the Sidewalk Trip & Hazard Fall Repair Project
- F. **Resolution No. 4387**, approving and authorizing the Mayor to execute a Letter of Understanding in the amount of \$10,000, between the City and Johnson County Human Services pertaining to the 2015 Johnson County Utility Assistance Program
- G. **Resolution No. 4388**, approving and authorizing the Mayor to execute Addendum No. 3 to that certain Professional Engineering Service Agreement, dated November 19, 2007, in the amount of \$14,759.00, between the City and Burns & McDonnell, pertaining to the design of 143rd Street from Nall to east of Mission Road [Project # 80162]

Councilmember Azeltine requested Consent Agenda Item No. 7.A. be pulled.

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

- A. Accept Appropriation Ordinance Nos. 2014-48, 2014-49, and 2014-50

Councilmember Azeltine asked about the \$39,000 for purchasing cards from Commerce Bank that was combined with the Annual Award Dinner and employee gifts on Page 2 of Appropriation Ordinance No. 2014-48.

Ms. Long stated the amount covers various items, including the Delta Insurance premium for the month, and software does not separate vendors within Commerce. Mr. Lambers stated the charges are on purchasing cards used by City staff, not gift cards.

A motion to approve Consent Agenda Item 7.A. was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 6-0.

8. MAYOR'S REPORT

- A. Best wishes to all for a Happy New Year!
- B. Items included in the meeting documentation packet for your information:
 - 1. Leawood Chamber of Commerce 2015 State Legislative Priorities that were approved by the Leawood Chamber Board of Directors at their last board meeting.
 - 2. 2015 Johnson County Public Policy Council State Legislative Platform approved by 10 local Chambers of Commerce in Johnson County. This platform was approved by the Greater Kansas City Chamber of Commerce Board of Directors at their December board meeting.
- C. Joined Police Chief John Meier at the Corinth Elementary D.A.R.E. graduation. This program was conducted by Office Randy Wiler, who does a great job with the students. Others from the Police Department's leadership team were also in attendance.
- D. Reminder that our Governing Body Goal-setting Work Session will be Monday, January 12, 2015, beginning at 6:00 P.M.
- E. Since we will observe the Martin Luther King, Jr., holiday on Monday, January 19, 2015, our next City Council Meeting will be Tuesday, January 20, 2015.

9. COUNCILMEMBERS' REPORT

Councilmember Filla gave a report on safeguarding the City's trees, and reviewed the following documentation:

- 1. Photographic compilation by Martha Conradt of teardowns in the City. The trees being removed are not minor. Developers are making decisions, with which we all live.
- 2. List of the benefits of trees.
- 3. Email from Mr. Michael Sypher, Subject: "Architecture Review Process", and a reply from the architect building the home on High Drive referenced by Mr. Sypher.

Leawood is not alone in the number of acres of nature lost to development. In the United States, it is estimated that 10 Million acres of forest between 1982 and 1996 were developed and 26 Million acres projected to be developed by 2030. Trees provide economic benefits to the community in property values, cooling, and carbon exchange. Removal by non-certified arborists can cause power disruption. She called for changes in the LDO, and continued outreach and education about the value of trees to the eco-structure.

Councilmember Rezac asked if the Sustainability Committee had discussed the topic. Councilmember Filla replied she had not taken the issue to the committee, but they support in theory, and that the Council would have the ability to act.

Councilmember Rezac questioned what decisions could be made without research and discussion by the Sustainability Committee. She asked what information would be presented at a Council Work Session on this topic.

Mr. Lambers stated many significant issues are raised by Councilmember Filla's report. He felt the first step would be to have dialogue in a Work Session to determine a direction and guide staff research.

Councilmember Filla pointed out the Mid-America Regional Council [MARC] had a workshop on such ordinances in the St. Louis area.

Councilmember Azeltine stated the request is broad and expressed concern with the Council acting as a perpetual committee. He preferred to refer the issue to the Sustainability Committee first, for the committee to make specific recommendations and have a defined topic for the Council Work Session.

Councilmember Cain disagreed with Councilmember Azeltine. She felt the topic discussion should begin with the Council and City staff because the Sustainability Committee is not familiar with the LDO or with what other cities are doing. As a member of the Sustainability Committee she is aware that the committee has had ongoing dialogue regarding the issue, and that the committee would be in favor of discussion by Council.

Mayor Dunn recognized the citizens who had signed in to speak on the topic.

Ms. Martha Weber Conratt, 8625 Overhill Road, Leawood, appeared and stated she had lived in Leawood for over 14 years and had served on the Sustainability Advisory Board for 2-1/2 years. As such, she has had the opportunity to work with City staff and elected officials, and feels the services received in Leawood are top-notch.

Ms. Conratt stated residential trees in Leawood require additional attention, especially north of 103rd Street. Trees are a selling point, provide shade and wildlife habitat, absorb both air and noise pollution, and assist with stormwater run-off. She identified three issues:

1. Care of existing trees. Trees are at risk from Emerald Ash Borer [EAB], pine and maple wilt. Extreme trimming and excessive dirt piled over roots are issues as well.
2. Excessive removal of trees. Home sales and tear-downs will increase.
3. Diversification of new tree plantings.

She stated many cities employ arborists, and did not feel the issue should be left to HOAs or to the Sustainability Committee, but rather to City staff experts.

Mr. Bruce North, 8025 Lee Boulevard, Leawood, spoke about the topic as a Leawood HOA Board Member, responsible for the tree maintenance contract in North Leawood. He strongly supported the recommendation for the City to investigate what can be done. He felt the trees make the area one of the most desirable in Kansas City. Mr. North stated there are currently no provisions in deed restrictions or in the Leawood HOA or Leawood Estate HOA guidelines to deal with the protection of the trees, only for the management and replacement of each HOA's 2,700 street trees. The average diameter of a street tree is 28 inches and the average canopy is 60 ft., which is far above anything in the MARC urban profile. He expressed the outrage of neighbors regarding developers cutting down trees to add a driveway or a deck, and stated the Leawood HOA increased their dues without objection to fund efforts to combat the EAB.

Mr. Glenn Darrow, 8900 Pawnee Lane, Leawood, stated there were 12 back yard tree teardowns in 2014, and Council support is necessary to preserve the trees.

Councilmember Filla added there is a significant amount of custom building occurring, and such building can require the removal of trees.

Mayor Dunn stated, and Mr. Lambers agreed, that a Work Session would be a starting point to provide staff direction on how to proceed. This is not a simple issue and involves privately-owned trees. Mayor Dunn hoped a tree replacement policy with regard to removal of mature trees would be part of the discussion.

A motion to schedule a Council Work Session at a date to be determined to discuss the topic of safeguarding the trees in Leawood was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.

10. STAFF REPORT

Mayor Dunn gave a reminder that the State of the City Address for the 2014 activities will be presented on Thursday, January 29, 2015, from 11:30 A.M. to 1:00 P.M. at The Lodge in Ironwoods Park. The event will be catered by Mio, an Italian Trattoria, and the Parks & Recreation Department will take reservations. The address will be sponsored by the City and not the Leawood Chamber of Commerce.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the November 25, 2014 Planning Commission meeting]

Resolution No. 4389, approving a Revised Final Plan for Church of the Resurrection – Window, located east of Nall Avenue and south of 137th Street [Case 159-14]

Rev. Adam Hamilton, Senior Pastor at the Church of the Resurrection, Leawood, appeared and spoke about the plans for the stained glass window. He showed images, gave an overview of the project, and stood for questions.

Judson Studios, a leading art glass studio based in Los Angeles, is designing the window. Mr. Julian Zugazagoitia, Director of The Nelson-Atkins Museum of Art, is a member of their Design Committee. The techniques used in etching and fusing the glass will make the window a unique, handmade work of art.

The window will be 35 ft. tall, 90 ft. wide, 3,400 square feet total, making it the largest stained glass window in the United States when complete. The window presents images of the biblical narrative, from creation to the end of the bible, then to images of Martin Luther King, Jr., Mother Theresa and the Kingdom of Heaven. The window also includes the Kansas native bird and sunflowers.

The window panels are 4 ft. wide and 5 ft. tall. There will be a wall of clear glass and space, to protect the window from outside elements. Both quartz and LED lighting will be utilized, according to City's regulations. During the day, the window will not be as visible as at night. Yellow quartz lighting from the outside will be used to light the window for daytime and evening services. Fuchsia and blue LED lighting from the inside will facilitate night viewing.

Each congregation member will be invited to buy one square foot of the window for fundraising.

Mayor Dunn asked about the LED lighting at night. Rev. Hamilton replied the window would be quartz-lit from the backside so it could be seen from the Sanctuary at night, and would be lit from inside the Sanctuary with LED lighting so it could be seen from 135th and Nall.

Councilmember Cain asked if the window would be leaded glass and stated that Prairiefire looks like leaded glass, but is not. Rev. Hamilton replied each individual piece of glass would be leaded or be a material that looks like leading, made with a current technique.

Councilmember Rezac asked how long it would take to install the window. Rev. Hamilton replied the building will open just before Easter, 2017, and the window will be installed prior to that time, about 1-1/2 years. The manufacturer is installing extra kilns to complete the project. This company has completed the window at the Catholic church at the University of Southern California, and they have been contracted to do stained glass work with Disney. They are hoping this project would be one for which their firm was remembered.

Councilmember Cain asked about film crews documenting the process. Rev. Hamilton replied two different filmmakers approached Judson Studios about making a documentary covering the production. The crews are working on grants to fund the filming, and may like to include a part of this meeting in their documentary.

Mayor Dunn stated the window is magnificent, appreciated the explanation of the vision, and wished much success with fundraising.

A motion to approve Agenda Item 11. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0.

Councilmember Filla thanked Mr. Dick Cooper, applicant with the Church of the Resurrection, who came to the Sustainability Committee meeting and shared the activity at Earth Core, and plans to attend the upcoming Sustainability Summit. The hope is that other places of worship will attend and create a circle of connection.

12. OLD BUSINESS – None

13. OTHER BUSINESS – None

14. NEW BUSINESS – None

ADJOURN

The meeting was adjourned at 8:56 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk