

Minutes

DVD No. 350

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, June 15, 2015. Mayor Peggy Dunn presided.

**Councilmembers Present:** Julie Cain, Jim Rawlings, Lou Rasmussen, Debra Filla, Carrie Rezac and Chuck Sipple

**Councilmembers Absent:** James Azeltine and Andrew Osman

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Richard Coleman, Comm. Dev. Director	Chief Dave Williams, Fire Department
Mark Klein, Planning Official	Karl Weinfurter, Info. Services Specialist II
Chief John Meier, Police Department	Chris Claxton, Parks & Rec. Director
Joe Johnson, Public Works Director	Kim Curran, Recreation Superintendent
Nic Sanders, Human Resources Director	Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk	

**Others Present:** Kevin Jeffries, Leawood Chamber of Commerce President

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn pointed out the addition of a stipulation for Agenda Item 11.D. Councilmember Debra Filla added Agenda Item 9.B., Councilmembers' Report - Report on the Community Garden.

**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.**

**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.**

Mayor Dunn stated the three citizens who had signed in to speak on Agenda Items 11.A. and 11.B. would be called upon to provide their comments when the agenda items were discussed.

**4. PROCLAMATIONS – None**

5. **PRESENTATIONS/RECOGNITIONS** – None

6. **SPECIAL BUSINESS**

- A. Public Hearing One Nineteen Transportation Development District Assessments  
[Project # 80456]

Mayor Dunn opened the public hearing; no one was present to speak.

**A motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 6-0.**

- B. **Ordinance No. 2735**, levying assessments for tax year 2016 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of construction of certain public and private road and parking lot related improvements and other such transportation related improvements, located within 119th Street Development District [TDD], within the City of Leawood, Kansas [One Nineteen Transportation Development District] [Project # 80456] [ROLL CALL VOTE]

**A motion to approve Agenda Item 6.B. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The ordinance passed with a unanimous roll call vote of 6-0.**

- C. Public Hearing Park Place Development Improvement District Assessments  
[Project # 83196]

Mayor Dunn opened the public hearing; no one was present to speak.

**A motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 6-0.**

- D. **Ordinance No. 2736**, levying assessments for tax year 2016 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of paying for construction of improvements to Nall Avenue, 117<sup>th</sup> Street, Town Center Drive and Roe Avenue and construction of storm water improvements within the City of Leawood for establishment of an Improvement District, pursuant to K.S.A. § 12-6a01, et seq., and the City's Home Rule Authority of Article 12, Section 5 of the Kansas Constitution, located in Park Place Development [Project # 83196] [ROLL CALL VOTE]

**A motion to approve Agenda Item 6.D. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The ordinance passed with a unanimous roll call 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. 2015-20 and 2015-21
- B. Accept minutes of the July 30, 2014 Stormwater Management Committee
- C. Accept minutes of the February 19, 2015 Ironhorse Advisory Board meeting
- D. Accept minutes of June 1, 2015 Governing Body meeting
- E. Approve purchase in the amount of \$56,768.03 from Danko Emergency Equipment for hydraulic rescue tools for the Fire Department
- F. Approve purchase in the amount of \$38,826.98 from Jerry Ingram Fire & Rescue for 17 sets of Fire Department Bunker Gear
- G. **Resolution No. 4465**, approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$40,058.00, between the City and Securitas Security Services USA, to provide School Crossing Guard Services
- H. **Resolution No. 4466**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$60,300.00 between the City and Overland Concrete Construction, Inc., pertaining to the 2015 Golf Cart Path Repair at Ironhorse Golf Club, located at 15400 Mission Road [Project # 71021]
- I. **Resolution No. 4467**, approving and authorizing the Mayor to execute an Independent Contractor Agreement for an amount not to exceed \$11,000.00 between the City and James Martin, d/b/a/ ArtinKC, pertaining to the Leawood Justice Center Public Art
- J. **Resolution No. 4468**, approving and authorizing the Mayor to execute a Grant Agreement in the amount of \$162,500.00 [Grant: \$72,500.00; City match: \$90,000.00] between the City and Mid America Regional Council [MARC] for the implementation of the 135<sup>th</sup> Street Plan [MARC's Sustainable Places Program]
- K. **Resolution No. 4469**, approving a Revised Final Plan for Villas of Highlands Ranch – Perimeter Fence, located north of 138<sup>th</sup> Street and west of Kenneth Road (PC 49-15) [from the May 26, 2015 Planning Commission meeting]
- L. Fire Department Monthly Report
- M. Municipal Court Monthly Report
- N. Police Department Monthly Report

Councilmember Cain requested Consent Agenda Item 7.G. be pulled.

Councilmembers Filla and Rezac requested Agenda Item 7.J. be pulled.

Mayor Dunn requested Agenda Item 7.L. be pulled.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0.**

- G. **Resolution No. 4465**, approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$40,058.00, between the City and Securitas Security Services USA, to provide School Crossing Guard Services

Councilmember Cain applauded the City for providing school crossing guard services and for the recommendation to continue with the same company used for the 2014-2015 school year, although not the lowest bid. Chief Meier stated a future goal was a 2-year service contract, once 143<sup>rd</sup> Street project construction was complete and an accurate number of guards needed could be determined.

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

- J. **Resolution No. 4468**, approving and authorizing the Mayor to execute a Grant Agreement in the amount of \$162,500.00 [Grant: \$72,500.00; City match: \$90,000.00] between the City and Mid America Regional Council [MARC] for the implementation of the 135<sup>th</sup> Street Plan [MARC's Sustainable Places Program]

Councilmember Rezac thanked Mr. Coleman for inclusion of the MARC application in the agenda packet, which provided a concise outline of the 135<sup>th</sup> Street Plan. Mr. Coleman stated that project management and payments would be administered by MARC, which was a change from prior MARC grant agreements. Ms. Beth Dawson, Senior Planner at MARC, would provide daily management and meet with committees.

Councilmember Filla thanked Mr. Coleman for obtaining additional MARC funding. Mayor Dunn stated it was rare for a City to receive two MARC grants for a project.

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

- L. Fire Department Monthly Report

Mayor Dunn pointed out seven items listed in the "Monthly Highlights" section of the report that build good public relations for the City, such as Leawood Lions Club activities, school events, neighborhood block parties, and child car seat installation. Chief Williams stated the Fire Department considers these actions part of their job and that he would share Mayor Dunn's comments with his team.

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

## 8. MAYOR'S REPORT

- A. Olathe Mayor Michael Copeland hosted the Johnson & Wyandotte Counties Council of Mayors at their beautiful new Community Center. The center is a state-of-the-art facility with an indoor aquatics component. The June meeting was scheduled as a wrap-up discussion with our legislative delegations. However, since they had not yet adjourned their session, we only had a few of our representatives attend. All expressed frustration with lengthy proceedings. There was unanimous consent to send a letter on behalf of the entire Council of Mayors to the legislation in opposition of the proposed tax lid on city and county governments. That letter was sent the next morning by Council of Mayors Chairman Rick Boeshaar.
- B. Community Development Director Richard Coleman and members of the Planning Department and the Planning Commission joined me, Councilmember Chuck Sipple and City Administrator Scott Lambers at the Mid-America Regional Council's 19<sup>th</sup> Annual Regional Assembly and Regional Leadership Awards. Updates were provided on progress being made on the roadmap to a stronger region. Five key areas included transportation, natural environment, local government services, economy and workforce, and creating opportunity for all.
- C. Congratulations and appreciation are in order to all who worked and supported the Leawood Foundation fundraiser showcasing the movie "Jayhawkers" at the AMC Town Center 20. Thanks go to Foundation Chair Alice Hawk and her Board of Directors, City Clerk and Staff Liaison Deb Harper, City Administrator Scott Lambers, and Parks & Recreation Director Chris Claxton and her great team. Thank you to Councilmembers Debra Filla, Andrew Osman, Jim Rawlings, Chuck Sipple and James Azeltine, as well as Police Chief John Meier and Fire Chief Dave Williams, for their support. Having Kip Niven and Justin Wesley, who played Dr. Phog Allen and Wilt Chamberlin respectively, present for the event was very special. The funds raised will provide seed money for the all-inclusive playground equipment at City Park.
- D. Congratulations to Arts Council Chair Mary Tearney, the Art in Public Places Initiative, Parks & Recreation Director Chris Claxton and Cultural Arts Coordinator April Bishop for the lovely dedication of "Variance," a sculpture by internationally acclaimed artist Albert Paley who was in town from New York. Councilmembers Andrew Osman and Chuck Sipple, as well as City Administrator Scott Lambers, joined me for the celebration. Pieces by Albert Paley can be found in the collections of many major museums including the Metropolitan Museum of Art in New York, the Museum of Fine Arts in Boston, the Museum of Fine Arts in Houston, and the Victoria and Albert Museum in London.
- E. Reminder that the Budget and Finance Committee Meeting will be held on Monday, June 22, 2015. A light supper will be available at 5:30 P.M. before the meeting begins at 6:00 P.M.
- F. Reminder that the Leawood Arts Council and Leawood Fine Art will host an art exhibit and reception featuring local artists on Friday, June 26, 2015, from 5:30 P.M. to 7:30 P.M. at the new location of the Leawood Fine Art Gallery at 11709A Roe Avenue in Camelot Court.

**9. COUNCILMEMBERS' REPORT**

- A. **Councilmember Rasmussen** – Recommendation from the Park & Recreation Advisory Board regarding expansion of social media for program activity updates

Councilmember Rasmussen gave a brief background and invited Ms. Claxton and Ms. Curran to provide additional information and answer questions.

Ms. Curran is the primary Facebook Administrator and Ms. Claxton posts in Ms. Curran's absence. The City has approximately 497 Facebook followers. Changes made by Facebook have resulted in delayed appearance of news feed postings by the City. Staff would like approval for Parks & Recreation to add Twitter to the City's social media program to facilitate real-time sharing of information. Communications would be one-way / outbound only; an example use would be closures of the Leawood Dog Park. Since Facebook and Twitter use the same platform, postings would be simultaneous.

**A motion to amend the Park & Recreation Advisory Board recommendation to approve only the use Twitter in addition to Facebook for one-way /outbound communication by Parks & Recreation was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0.**

- B. **Councilmember Debra Filla** – Report on the Community Garden

Councilmember Filla presented several photographs of the temporary Community Garden, which currently has 16 plots, each 4 ft. x 14 ft. Nine of these plots have been assigned. Plot borders were constructed and installed by Parks Superintendent Brian Anderson and his staff, who wisely managed their time to prepare the garden for the growing season in conjunction with other responsibilities. In the future, a community work day would be scheduled for gardeners to perform a larger portion of preparation tasks. Currently, City labor and expenses are being tracked.

Twenty yards of compost was donated by Town & Country disposal service and was spread. Ace Hardware has offered to donate unsold tomato plants to the Community Garden, and any tomatoes harvested from these plants would be donated to local food banks.

Positive feedback from the area has been received. One gardener has requested a second plot and Leawood Firefighters may be interested in applying for one or two plots as well. Ms. Claxton is processing applications for plots in the order received.

**10. STAFF REPORT – None**

## **COMMITTEE RECOMMENDATIONS**

### **11. PLANNING COMMISSION**

*[From the May 26, 2015 Planning Commission meeting]*

- A. **Ordinance No. 2737**, approving a Special Use Permit [SUP] for a Sport Court with lighting for the Myers Residence – Sport Court, located at 14600 Mission Road (PC Case 33-15) [ROLL CALL VOTE]

Mr. Jeffrey Myers, 14600 Mission Road, stood and provided background on the SUP request. He stated he owned 20 acres containing 400 trees. The nearest neighbor is to the north, with 400 ft. from the closest sport court light pole to that residence. The height of the light poles had been reduced to conform to City code and light fixtures had been shielded. The City had inspected the project and verified code had been met. He requested the SUP term be extended from the proposed two years to 20 years. Mr. Myers stated the process had been on-going for 6 months, requiring approximately 200 man-hours expended by him and his builder, and resulting in 60 pages of documentation.

Mr. Cory Childress, 13211 Windsor Street, Builder, Evan-Talan Homes, stood and stated his sincere belief all had been done within reason to rectify concerns.

Mr. Tom DeBacco, 14550 Mission Road, stood and provided reasons for opposition to the proposed SUP. Although his residence is located on 10 acres and the Myers own 20 acres, the homes are located close together. He stated if the required permits would have been pulled for the project, he would not be here tonight. Mr. DeBacco referenced Page 3 of the Staff Memo, regarding fence construction without permit noted by the Planning Commission. Page 3 also states “Adjacent to the northern common property line, the applicant is has planted a double row of Norway spruce trees, which range in height between 9’ and 12’ in height.” Mr. DeBacco stated the applicant had planted only three spruce trees and if the additional spruce trees were planted to shield light, the issue would be resolved and he would be able to enjoy his backyard as would the Myers.

Mayor Dunn and Councilmember Rasmussen requested clarification from staff as the overall landscape plan drawing L301 depicts 15 trees. Mr. Coleman stated he had visited the property on Friday [June 12, 2015] and noted three spruce trees, each 12 ft. to 15 ft. in height. Mr. Coleman suggested the oversight in the staff report was due to a typographical error of “proposed” vs. “planted.” He confirmed his staff would enforce the addition of 12 trees as approved.

Councilmember Rasmussen inquired and Mr. Coleman confirmed that if the Council approves the SUP and a formal complaint was received by Mr. Coleman that the required trees had not been planted, Mr. Coleman would inform the applicant they were in violation of the SUP. If the violation was not resolved voluntarily by the applicant within a certain time, the SUP would be revoked and become a legal matter.

Councilmember Rasmussen inquired and Mr. Coleman confirmed the required trees would need to be a minimum of 6 ft. in height.

Councilmember Sipple asked if Mr. DeBacco would be satisfied if all 15 trees were planted and growing. Mr. DeBacco confirmed and stated the trees would reduce the visibility of the light poles when coming up his driveway and from his yard.

**A motion was made by Councilmember Cain to require 12 additional trees be planted as originally approved and to approve the SUP with a two year term; Councilmember Filla seconded.**

Mayor Dunn stated the Planning Commission approval included 12 additional trees and a SUP term of two years. Therefore, an override vote by the Council would not be required.

The term of the SUP was discussed. It was noted the Planning Commission recommendation of two years came about as a “temperature check,” allowing time to ensure issues were resolved. At the end of two years Mr. Myers could ask for an extension of the term, surrounding property owners would be notified, staff would recheck lighting and trees, and the extension request would be presented to the Planning Commission and Council. However, a typical SUP term of 20 years would be appropriate with shielding of both the light fixtures and poles to resolve lighting issues.

**Based on discussion of approved plan requirements and SUP term, Councilmembers Cain and Filla rescinded their original motion.**

**A motion was made by Councilmember Cain to amend the SUP term from two years to 20 years and approve Agenda Item 11.A.; seconded by Councilmember Filla. The ordinance passed with a unanimous roll call vote of 6-0.**

- B. **Resolution No. 4470**, approving a Final Plan for 103<sup>rd</sup> Street and State Line Road – Larson Building Company Corporate Headquarters, located at the northwest corner of 104<sup>th</sup> Street and State Line Way (PC Case 48-15)

Mr. Jim Kiely, 344 E. 2100 Road, Wellsville, Chief Executive Officer, Larson Building Company, stood and gave a presentation on the proposed renovation of property at 10346 State Line Road, which sits on the creek at Interstate 435 and State Line. Mr. Kiely stated Mr. Bob Del Popolo, Del Popolo Architecture, was present but Mr. Lance Larson, President, Larson Building Company and resident of Leawood, could not be present due to family matter.

Mr. Kiely displayed Larson-built homes in Leawood, and current building photographs and renderings of the remodeled building which would serve as the company headquarters. Natural stone would be used on the lower wainscoting of the building, with acrylic-coated cementitious stucco in two colors above. The parapet wall height would be raised approximately 6 ft. as it sits down low, building entrance would move to the west side near the larger parking lot, and four couple of parking slips on the east would be rotated and reduced to two slips to allow backing into a common parking lot versus into the drive aisle. These parking slips would be for executive parking.

Councilmember Sipple inquired about anticipated customer traffic and employee parking needs. Mr. Kiely stated the building would have an interior design showroom and he estimated there would be a maximum of five clients on-site at any given time. With four or five employees, there would be ample parking.

Councilmember Rasmussen pointed out that since the lot and a portion of the building was subject to flooding, this impacts the amount that can be spent on renovations. Mr. Coleman stated this had been discussed with the applicant.

Councilmember Cain noted the current 2% signage requirement of the Business Park District and hoped the signage percentage might increase to 5% in the future.

Mayor Dunn noted Stipulation No. 22, which would require an override vote for language related to the 10-year term of Final Plan approval, which mirrors Kansas Statute and begins once permits are issued.

**A motion to approve Agenda Item 11.B. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a vote of 6-0.**

- C. **Resolution No. 4471**, approving a Final Plan and Final Plat for Mainstreet – Assisted Living/Skilled Nursing Facility, located east of Nall Avenue and south of 143<sup>rd</sup> Street (PC 54-15)

Applicant Mr. Curtis Petersen, 6201 College Boulevard, Polsinelli PC, stood for questions. At the request of the Councilmember Cain, he displayed samples of the proposed building exterior materials. Stone, brick and four stucco colors would be used, including “Clay Red” stucco. Mr. Petersen stated from 143<sup>rd</sup> Street, the red stucco would be visible on 18% of the main elevation north side, 13% of east and west side, and 43% of the back south side. If approved, expected opening would be August or September 2016.

Councilmember Sipple inquired if any Interact Citizen Meeting attendees from Grace of Leawood Assisted Living or Highland Villas had expressed concerns on the proposed plan. Mr. Petersen stated they had not and meeting minutes do not reflect any discussion of the red stucco.

Mayor Dunn noted Stipulation No. 23, which would require a super-majority vote for new language related to the 10-year term of Final Plan approval, which mirrors Kansas Statute and begins once permits are issued.

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

- D. **Ordinance No. 2738**, approving a Preliminary Plan and Final Plan for Town Center Plaza – Restoration Hardware (Retail: Furniture), located north of W. 119<sup>th</sup> Street and east of Nall Avenue (PC Case 55-15) [ROLL CALL VOTE]

Mayor Dunn recused from voting due to the appearance of a conflict of interest and exited Council Chambers. Presiding Officer Lou Rasmussen assumed control of the meeting.

Mr. Brian Suiter, WP Glimcher, stood and stated he represented the landowner and was not the applicant. He introduced Rob Edington, Design Director Restoration Hardware, and architect George Melara, Nelsen Partners, Inc. Mr. Suiter stated that based on a better building prototype of a Restoration Hardware store recently opened in West Hollywood, California, the applicant wished to revise their building plan. The proposed plan would have more open flow and space [36%], and the appearance of less vertical mass achieved through building terracing and an open rooftop, accessed by a grand staircase and elevator. The West Hollywood store utilized decomposed granite for front entrance and rooftop flooring, but for improved safety in wet conditions this flooring may change to large pavers. The previous design located the building closer to Dean & DeLuca and 119<sup>th</sup> Street.

Councilmembers Cain and Sipple noted building mass remains towards 119<sup>th</sup> Street, and were concerned about development that “walls in” 119<sup>th</sup> Street. Councilmember Sipple requested an elevation view from 119<sup>th</sup> Street looking north. Mr. Melara stated he did not have the elevation from 119<sup>th</sup>, and that the highest point was now towards the center of building with majority of bulk on 119<sup>th</sup>.

Councilmember Rasmussen referred to the new stipulation that was identified at the beginning of the meeting. He confirmed both Mr. Suiter, as a representative of Glimcher, and the applicant Restoration Hardware, were in agreement with this stipulation.

Councilmember Rasmussen addressed staff in regard to pedestrian access improvements from Town Center Drive to Roe and Nall. He stated the Council had attempted to make these a prime objective for the past two years, without success. Mr. Coleman stated the improvements were being handled on a case-by-case basis, and the process of creating a pedestrian network for the area had been hampered by management changes at Dean & DeLuca and identification of the appropriate tenants for open building space by Glimcher.

Councilmember Rasmussen stated on behalf of a growing number of Ward 2 constituents, after tonight’s voting he would be unable to cast affirmative votes for future plans of owner Glimcher until pedestrian access for the area was improved.

Councilmember Rasmussen noted Stipulation No. 22, which would require a super-majority vote for new language related to the 10-year term of Final Plan approval, which mirrors Kansas Statute and begins once permits are issued.

**A motion to approve Agenda Item 11.D. was made by Councilmember Rawlings; seconded by Councilmember Filla. The ordinance passed with a unanimous roll call vote of 6-0.**

**12. OLD BUSINESS** – None

**13. OTHER BUSINESS** – None

**14. NEW BUSINESS**

Mayor Dunn re-entered Council Chambers and thanked Councilmember Rasmussen for his service as Presiding Officer.

Mayor Dunn reminded the Budget and Finance Committee Work Session was scheduled for Monday, June 22, 2015.

**ADJOURN**

There being no further business, the meeting was adjourned 9:23 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk