

Minutes

DVD No. 354

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, August 17, 2015. Mayor Peggy Dunn presided.

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

**Councilmembers Absent:** None

**Staff Present:**

Scott Lambers, City Administrator	Patty Bennett, 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
Nic Sanders, Human Resources Director	Chris Claxton, Parks & Recreation Director
Deputy Chief Troy Rettig, Police Dept.	Joe Johnson, Public Works Director
Karl Weinfurter, Info Serv. Specialist II	Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk	

**Others Present:** Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. **PLEDGE OF ALLEGIANCE** – Led by Boy Scouts from Troop 10.

2. **APPROVAL OF AGENDA**

**A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.**

3. **CITIZEN COMMENTS**

Mr. Mike Lampton, 10519 Manor Road, Leawood, appeared to speak about Agenda Item 11.E., which addresses driveways. He distributed information packets regarding an ongoing issue. He stated the driveway of the house at 10524 Manor Drive has been used to store the same cars for 20 years, at a house that has been empty for 10 years. No licensed drivers have lived in the house the entire time. Mr. Lampton and other neighbors would like something done about the cars.

4. **PROCLAMATIONS** **National Welcoming Week, September 12-20, 2015**

Mayor Dunn read portions of the proclamation into the record and stated the proclamation would be sent to the requestor.

## 5. PRESENTATIONS/RECOGNITIONS

### **Recognition Resolution No. 4489 of Police Chief John Meier**

Mayor Dunn read the resolution into the record in honor of Chief Meier's dedicated service and retirement, and also read the inscription of a cut-glass plaque. She presented Chief Meier with the Recognition Resolution and plaque, expressing the greatest appreciation for his years of service.

Chief Meier introduced his wife and thanked the Council and all City staff. He was grateful for a job that he enjoyed, and commended the Police Department for their quality personnel and work. Chief Meier thanked everyone for their friendship and support.

Mayor Dunn expressed gratitude for Chief Meier's tremendous leadership and thoughtful response to Leawood citizens. She stated a reception would be held in honor of Chief Meier's retirement in the Oak Room of City Hall on September 17, followed by a private gathering with Councilmembers.

**A motion to approve Agenda Item 5. was made by Councilmember Filla; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.**

## 6. SPECIAL BUSINESS

### **A. Approve Appointment of Deputy Chief Troy Rettig as new Police Chief [Effective September 18, 2015]**

Mayor Dunn introduced Deputy Chief Troy Rettig and stated he had come highly recommended to become the new Chief of Police on September 18, 2015.

**A motion to approve Agenda Item 6.A. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.**

### **B. Administer Oath of Office to Police Chief Troy Rettig**

Mr. Harper administered the Oath of Office. Dept. Chief Rettig introduced his family. He thanked the Council and Mr. Lambers, and stated he considered himself fortunate to have worked for the City for 22 years. He expressed appreciation for the continued support of the Council, staff and Leawood citizens, as well as for the Police Department's commitment to excellence.

Mayor Dunn offered congratulations.

## 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. 2015-29, 2015-30 and 2015-31
- B. Accept minutes of August 3, 2015 Governing Body meeting
- C. Accept minutes of June 11, 2015 Sustainability Advisory Board meeting
- D. Accept minutes of the July 1, 2015 Public Works Committee meeting
- E. **Resolution No. 4490**, approving and authorizing the Mayor to execute a Benefit Broker Agreement between the City and Holmes Murphy & Associates

- F. **Resolution No. 4491**, approving and authorizing the Mayor to execute an Insurance Broker Agreement between the City and Arthur J. Gallagher & Company for property/liability insurance purposes
- G. **Resolution No. 4492**, approving and authorizing the Mayor to execute Amendment No. 1 to the City of Leawood's Administrative Services Agreement between the City and ICMA-RC
- H. **Resolution No. 4493**, approving and authorizing the Mayor to execute a Banking Services Agreement between the City and Commerce Bank to provide certain banking services to the City of Leawood for a term ending in 2020
- I. **Resolution No. 4494**, approving and authorizing the Mayor to execute a KC Bobcat non-finance governmental roll out agreement for the purchase in the amount of \$37,198.00 of a Bobcat Skid-Steer Loader [IT4] [with \$9,500.00 trade-in]
- J. Declaration of Surplus Property:[1] 2006 Bobcat S300 Skid-Steer Loader [PW Unit # 476] last 4 VIN/2658; P&R 4-eight-foot serpentine tables; and [37] sets Fire Department Personal Protective gear [bunker coat & pants] and [50] SCBA face pieces
- K. Fire Department Monthly Report
- L. Municipal Court Monthly Report
- M. Police Department Monthly Report

Councilmember Azeltine requested Consent Agenda Item 7.E. be pulled.

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

Councilmember Filla requested Consent Agenda Item 7.M. be pulled.

**A motion to approve the remaining items on the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- E. **Resolution No. 4490**, approving and authorizing the Mayor to execute a Benefit Broker Agreement between the City and Holmes Murphy & Associates

Councilmember Azeltine thanked Mr. Lambers and staff for putting the Benefit Broker out for bid. He asked if the "Estimated Administrative Fee paid to consultant directly from BCBS [Blue Cross Blue Shield]" listed on the chart of direct and indirect costs was passed on to the City by the consultant. Mr. Sanders replied the fee was not a direct cost to the City, but it was a dollar amount paid for services and every broker receives such a fee.

Mr. Jarret Schmidt and Mr. Jeff Spencer with broker Holmes Murphy & Associates introduced themselves.

**A motion to approve Consent Agenda Item 7.E. was made by Councilmember Azeltine, seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.**

- G. **Resolution No. 4492**, approving and authorizing the Mayor to execute Amendment No. 1 to the City of Leawood's Administrative Services Agreement between the City and ICMA-RC

Councilmember Rasmussen asked if the addition of a Roth IRA investment option would increase benefit costs, complicate the deduction plans, and if payroll deductions were post-tax. Mr. Sanders replied there was no additional administration fee for the Roth IRA plan and confirmed deductions would be post-tax.

Councilmember Rasmussen pointed out a degree of nervousness within many organizations about fiduciary responsibility to employees in terms of choice of investment vehicles. He noted the agreement did not contain language addressing that responsibility.

Mr. Sanders stated the initial ICMA Retirement Corporation [ICMA-RC] services agreement was executed in the late 1970s. He would be reviewing the agreement in this regard and would come before the Council with any revisions. He stated that fiduciary responsibility had been added to the City's property/casualty insurance.

Councilmember Azeltine asked if the current plan was in compliance with Employee Retirement Income Security Act [ERISA] Section 404(c) and the plan sponsor's responsibility to educate participants as to their options. Mr. Sanders replied he would be pushing ICMA-RA to take more responsibility than in the past. He would encourage ICMA-RA to provide more one-on-one meetings with participants and to handle benefits enrollment, currently handled by staff.

Councilmember Azeltine stated retirement plan services are an extremely competitive business, and he inquired how long ICMA-RC has been utilized by the City and when it was last bid. Mr. Sanders replied the plan's inception was in the late 1970s and the choice of retirement plan vendor is determined by the City. He was not aware if the plan had been bid and stated the City would plan to do so moving forward.

Councilmember Rasmussen pointed out many organizations have been criticized for not overseeing administrative costs associated with the employees' utilization of investment vehicle options. He inquired who selected the various investment options. Mr. Sanders replied options are selected by the ICMA-RC Administrator and the funds are managed by various companies not only one. There are a variety of funds, including target retirement date, high-risk and real estate.

Mayor Dunn asked Mr. Lambers if it would be appropriate to consider a request for proposal or a request for quote for employee retirement plan services. Mr. Lambers replied that an evaluation could be made after surveying other cities to see if they have similar or different plans.

**A motion to approve Consent Agenda Item 7.G. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

M. Police Department Monthly Report

Councilmember Filla noted the number “All Other Offenses” had increased by 25 over last month and was the highest in five months. Deputy Chief Rettig replied the increase was due to a significant number of car break-ins and gave a reminder to lock vehicles and ensure all valuables are out of sight.

**A motion to approve Consent Agenda Item 7.M. was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

**8. MAYOR’S REPORT**

- A. Thank you to Councilmember Chuck Sipple for standing in for me during my travels at two Leawood Chamber of Commerce events. The first was a luncheon for the debut of new Chamber members for the past month. The second was the ribbon-cutting for Villa Milano located at 137<sup>th</sup> and Mission Road.
- B. Upcoming Parks & Recreation events to add to the calendar, as follows:
1. Leawood Chamber of Commerce After Hours Mingling, Wednesday, August 19, 4:30 to 6:00 P.M., Oak Room of City Hall. Learn about Parks & Recreation activities and compete for prizes. Appetizers and beverages will be served.
  2. Truckin’ It in the Park, Saturday, August 29, 5:00 to 9:00 P.M., City Park-far east parking lot. Ten food truck vendors will have food and drink available for purchase, including adult beverages for those 21 and over. Music supplied by Elisah Israel and AZ-One (Reggae) and HotHouse (dance) bands. Admission to the event is free and dogs welcome on a leash. There will be a food truck selling canine treats. A large turnout is expected based on 28,700 shares about the event on social media and 680 attendance replies.
  3. Back to School Celebration at the Oxford School, Saturday, August 29, 10:00 A.M. to 2:00 P.M., Ironwoods Park. Activities include a concert by Mr. Stinky Feet, Go Big Yo-Yo Pro Spinners Workshop, crafts, games and homemade ice cream.
  4. 25<sup>th</sup> Annual Labor Day 5K Walk/Run, Monday, September 7, starting at 7:30 A.M., City Park. Visit [www.mykcsports.com](http://www.mykcsports.com) to register. After-race pancake breakfast included with registration and provided by the Leawood Lions Club.
  5. 11<sup>th</sup> Annual Doggie Dunk, Tuesday, September 8, 5:00 to 7:00 P.M., Aquatic Center. Fee of \$3 per dog for residents and \$5 per dog for non-residents.
  6. Police and Fire Department Open House, Wednesday, September 9, 5:00 to 8:00 P.M., Leawood Justice Center. Activities include police cars, fire truck, crime scene processing, seatbelt convincer, motorcycle and canine unit demonstrations, food and refreshments.
  7. New Moon Festival, Saturday, September 12, 6:30 to 9:30 P.M., Prairie Oak Nature Center-Ironwoods Park. Planned activities include night safari, campfire, sky tour of constellations and light refreshments. Fee of \$10 for residents and \$12 for non-residents.
- C. Congratulations to Public Works Director Joe Johnson, the contractor, sub-contractors and all involved in the construction and re-opening of 143<sup>rd</sup> Street and Mission Road in advance of the school season.

## 9. COUNCILMEMBERS' REPORT

### A. Councilmember Filla-Sustainability Speaker Series, Saturday, September 19, 2015

Councilmember Filla spoke about the second installment in the Sustainability Speaker Series, featuring Ms. Jennifer Gunby, Community Energy Program Manager-Kansas City, and Ms. Mary English, President, Small Steps Energy Solutions, to be held in the Oak Room at City Hall. Leawood was chosen as one of 10 cities to be involved in the Kansas City Energy Project to work on reducing energy usage. Legislation is being promoted to label buildings with an energy rating, similar to estimated miles per gallon for automobiles. Ms. English will present Weatherproofing 101. Home owners will learn practical ways to save energy and money in preparation for winter. Councilmember Filla stated she would distribute additional information as available.

The Self-Propelled Leawood Master Plan will be shared at the Leawood Chamber of Commerce Open House. Businesses will be encouraged to be bicycle-friendly.

Reminder to save the date for the 8<sup>th</sup> Annual Sustainability Dinner with home owner associations on Thursday, February 25, 2016, at the Ironwoods Lodge.

### B. Councilmember Osman-Report on Leawood Honor Guard

Councilmember Osman stated on August 10, 2015, he, along with about 39,000 other people including a number of residents, witnessed a fabulous presentation of flags by the Leawood Police and Fire Honor Guard at the Kansas City Royals game. There was a large reception held afterward.

## 10. STAFF REPORT – None

## ***COMMITTEE RECOMMENDATIONS***

### 11. PLANNING COMMISSION

*[From the April 28, 2015 Planning Commission meeting]*

- A. Ordinance approving a Revised Preliminary Plan for Ranch Mart, located north of 95<sup>th</sup> Street and east of Mission Road (PC #61-13) **[ROLL CALL VOTE]** - *[Continued from the June 1, 2015 and July 6, 2015 Governing Body meetings]* **CONTINUED TO THE SEPTEMBER 21, 2015 GOVERNING BODY MEETING**

*[From the July 28, 2015 Planning Commission meeting]*

- B. **Resolution No. 4495**, approving the Planning Commission's recommendation to deny a request for a Revised Final Plan for changes to the façade for Town Center Crossing – Mitchell Gold + Bob Williams, located south of 119<sup>th</sup> Street and east of Roe Avenue (PC Case 76-15)

Mayor Dunn pointed out the topic was discussed at length by the Planning Commission, and much thoughtfulness went into the Planning Commission's recommendation.

Councilmember Osman inquired if the denial was for the all-stucco façade. Mr. Klein confirmed and stated masonry on the 6 ft. bottom portion of the storefront was originally approved.

Councilmember Osman stated he had reviewed Planning Commission meeting minutes and viewed both Town Center Plaza and Town Center Crossing. He stated the single material facade was intended to blend in, but amongst the other unique facades having articulation and varied color schemes, it stood out as creative and high-end. Stores desire a creative branded entrance to their shops and the façade was a great touch. Councilmember Osman stated the appearance of the overall development needs to be evaluated beyond what is called for in the original plan.

Councilmember Rezac agreed with Councilmember Osman, stating the building center stood out and was elegant. She felt the Planning Commission’s denial was to avoid a precedent for the potential of an all-stucco façade in future development.

**A motion to approve Agenda Item 11.B was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.**

- C. **Ordinance No. 2744**, amending Section 16-2-7 of the Leawood Development Ordinance [LDO] entitled “Table of Uses” and repealing existing Section 16-2-7 and other sections in conflict herewith, pertaining to medical outpatient care facilities (PC Case 89-15) [ROLL CALL VOTE]

Mr. Klein stated the proposed amendment would allow medical outpatient care facilities in SD-O, Planned Office districts. Hospitals are allowed in SD-O with an approved Special Use Permit [SUP]. Medical outpatient care facilities use is currently allowed in SD-CR, Planned General Retail, and SD-NCR2, Planned Neighborhood Retail 2, districts as a “Planned Use.” The proposed amendment would allow medical outpatient care facilities in SD-O with a 20-year SUP.

Councilmember Azeltine suggested each page of the Table of Uses contain the footnotes currently found only at the very end of the table.

**A motion to approve Agenda Item 11.C. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The ordinance was passed with a unanimous roll call vote of 8-0.**

- D. **Ordinance No. 2745**, amending Section 16-4-5.4 of the Leawood Development Ordinance [LDO] entitled “Required Parking Ratios,” pertaining to health clubs and repealing existing Section 16-4-5.4 and other sections in conflict herewith (PC Case 90-15) [ROLL CALL VOTE]

Mr. Klein stated the intent of the amendment was to adjust the ordinance to a ratio closer to current use for health clubs in other cities. The amendment was precipitated by a business looking at the former HyVee site and based on staff recommendation.

Councilmember Osman asked for examples of other municipalities’ parking ratios. Mr. Klein replied most were 1 parking space per 200 sq. ft. or 250 sq. ft. Overland Park utilizes a zoning parking ratio.

Councilmember Osman stated he had made inquiries to other municipalities with large facilities such as fitness centers in regard to parking ratios. He had been advised by Overland Park and Lenexa that their basic ratio is 4 parking spaces per 1,000 sq. ft. He was told by Lifetime Fitness on Metcalf that they had no parking issues, but actually an overage or “sea of parking.” Councilmember Osman showed aerial photographs of various fitness centers with nearly empty parking lots during self-deemed peak hours. He wanted to consider the issue further to ensure future business development is not turned away because of parking.

Mr. Coleman stated the business interested in the HyVee site was amenable to the proposed ratio, which is actually lower than other municipalities and studies by International Traffic Engineers. A parking lot is considered full at 90% capability because of driver perception. Peak parking hours vary at the fitness centers and parking could be impacted by near-by businesses.

Councilmember Filla pointed out that some fitness center visitors might cycle, run or walk to the facility.

Mayor Dunn asked if there is cross parking at the center; Mr. Coleman confirmed.

Councilmember Sipple asked if a health club was still being considered for the former HyVee site. Mr. Klein stated a business approached the City about four weeks ago and there had been no further contact. Their required parking ratio was very similar to a grocery store. If the parking ratio is 1 per 100 sq. ft., all the parking at the site would be taken for one use.

Councilmember Rezac appreciated ratio review and upgrade to current standards based on research and use in other cities. Councilmember Osman agreed and stated that if other municipalities are analyzed, he would like to have examples from the first-class cities.

**A motion to approve Agenda Item 11.D. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 8-0.**

- E. **Ordinance No. 2746**, adding a new Section 16-9-91(a) of the Leawood Development Ordinance [LDO] entitled “Driveway, Residential” and repealing other sections in conflict herewith (PC Case 91-15) [ROLL CALL VOTE]

Mr. Coleman stated Agenda Items 11.E. and 11.F. work together. Agenda Item 11.E. provides for a recently identified omission of a driveway definition. Agenda Item 11.F. was in regard to paved areas used primarily for parking of vehicles.

Councilmember Rasmussen asked to continue the item so that driveway parking could be addressed. He stated from 89<sup>th</sup> Street to 121<sup>st</sup> Street, there have been houses where all types of vehicles have been essentially stored on driveways. He referred to the documentation provided earlier by Mr. Lampton and stated that City Code Enforcement needs to be able to differentiate between temporary and permanent parking. Currently, cars must only be operable and licensed to be parked in a driveway. The definition of a driveway was inadequate because it states that a driveway is to be used for the parking of vehicles, and parking was not defined. Councilmember Rasmussen expressed concern that parking issues would worsen if additional paved areas are permitted.

Councilmember Filla pointed out that Councilmember Rasmussen had identified a problem, but she recommended moving forward with the proposed amendment because the definition of the driveway as presented in Agenda Item 11.E. would not address the potential for a front yard to become a parking lot. She pointed out that parking cannot be prohibited on a driveway.

Councilmember Osman asked for clarification about a vehicle that is operable and licensed, if an owner must prove that the vehicle can be moved, and if the license needs to be in the current calendar year. Mr. Coleman replied that a vehicle must have a current license and staff can request the owner to start the vehicle. He was not aware of vehicles sitting for 20 years, but that a few residents have antique licensed cars parked on a long-term basis in driveways and garages.

Mayor Dunn asked for clarification that Agenda Item 11.E. was proposed to modify the residential driveway definition and Agenda Item 11.F. was proposed to address concrete pads used for possible storage; Mr. Klein confirmed.

Mayor Dunn pointed out that other municipalities may be able to provide input because the problem occurs throughout the metropolitan area.

Councilmember Osman stated that recreational vehicles and boats are regulated. He was aware of a resident who receives a courtesy notice from Code Enforcement if the resident does not move a parked boat after two days. Councilmember Osman stated his hope that the same consideration could be given to the problem cars.

Councilmember Azeltine suggested the possibility that an uninhabited house could be restricted from storing parked cars.

**A motion to direct staff to draft a proposal that would permit enforcement procedures to address warehousing cars on residential driveways was made by Councilmember Rasmussen; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.**

**A motion to approve Agenda Item 11.E. was made by Councilmember Azeltine; seconded by Councilmember Filla. The ordinance was passed with a roll call vote of 6-2; nay votes from Councilmembers Rasmussen and Osman.**

- F. **Ordinance No. 2747**, amending Section 16-4-5.3 of the Leawood Development Ordinance [LDO] entitled “Design Standards,” pertaining to driveways and parking pads in residential areas, and repealing existing Section 16-4-5.3 and other sections in conflict herewith (PC Case 93-15) [ROLL CALL VOTE]

Mr. Klein stated the intent of Agenda Item 11.F. was to limit the amount of concrete in a front yard and ensure large pads would require approval from the Director of Community Development, in order to consider drainage and screening.

Councilmember Azeltine inquired if there was an ordinance that limits the time a car may be parked on the street, and he suggested that driveways that are located in a right-of-way could be addressed with such an ordinance. Ms. Bennett stated Leawood’s ordinance has a 24 hour limit and any repositioning of the vehicle could be just a slight amount.

Councilmember Osman asked about the area of 400 sq. ft. to park vehicles and how the area is calculated with regard to circular driveways and basketball goal pads, as he would like to evaluate other possible scenarios to achieve the appropriate ordinance language. Mr. Coleman replied the pad area would be in addition to a circular driveway. Mr. Klein stated a sport court would be limited to a rear yard and a driveway that provides access from street to garage that contains a basketball goal would be considered a driveway. A basketball goal on a larger pad could be considered a sport court and would not be permitted in a front yard.

Councilmember Rezac questioned if the last sentence of the first paragraph of the staff memo that states the amendment does not restrict parking on residential driveways should be removed. Mr. Klein replied the intent was to draw a distinction between parking cars in a driveway and access to the garage, and extra paved parking.

Mayor Dunn pointed out that storage was the issue rather than parking. Councilmember Rasmussen reiterated that parking was not defined.

Councilmember Cain asked staff if parking was defined in the ordinance. Mr. Klein stated Article 9 of the Leawood Development Ordinance defines parking lot, parking space and off-street parking.

Councilmember Sipple asked if cars parked on a pad would need to be operable and properly licensed; Mr. Klein confirmed.

**A motion to approve Agenda Item 11.F. was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The ordinance was passed with a roll call vote of 6-2; nay votes from Councilmembers Rasmussen and Osman.**

**12. OLD BUSINESS** – None

**13. OTHER BUSINESS** – None

**14. NEW BUSINESS** – None

#### **ADJOURN**

There being no further business, the meeting adjourned at 9:08 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk