

Minutes

DVD No. 355

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, September 21, 2015. Mayor Peggy Dunn presided.

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

Councilmembers Absent: Carrie Rezac

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
Brian Anderson, Parks Superintendent	Chief Dave Williams, Fire Department
Nic Sanders, Human Resources Director	Chris Claxton, Parks & Recreation Director
Chief Troy Rettig, Police Department	Joe Johnson, Public Works Director
Travis Torrez, Building Official	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 333.
2. **APPROVAL OF AGENDA**

Deb Harper pointed out agenda had been amended to add information to Agenda Items 9., 11. and 15.A.

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.

3. **CITIZEN COMMENTS**

Ms. Kate Hausman and daughter Rosie, 14508 Reeds, appeared before the Governing Body and asked that the crossing guard be approved for the corner of 143rd Street and Nall Avenue.

Mayor Dunn thanked them for coming and stated others who had signed in to address the Governing Body would be called upon to comment according to their agenda item of interest.

4. PROCLAMATIONS

**DIAPER NEED AWARENESS WEEK,
SEPTEMBER 28th – OCTOBER 4, 2015**

Mayor Dunn read the proclamation into the record. Mr. John Teasdale, Executive Director, and Jeana Van Sickle, Development Director, of Happy Bottoms accepted the proclamation. Mayor Dunn thanked them for their important work.

**5. PRESENTATIONS/RECOGNITIONS Accreditation of Fire Department from
Commission on Fire Accreditation
International**

Mayor Dunn read the accreditation plaque into the record and stated she and City Administrator Scott Lambers traveled to Atlanta on August 26th and were present for the Commission Hearing review. The review went very smoothly with few questions and the Commission Chairman made the motion for approval. The Commission's vote was unanimous and followed by an extended round of applause.

Chief Williams stated the entire Fire Department worked as a team for approximately 18 months on the accreditation application. The required documentation included data, standards of coverage and a self-assessment manual [SAM] which involved each department. Of the approximate 30,000 Fire Departments in the United States, about 10,000 are paid, and to-date accreditation has been granted to 218 agencies. As part of accreditation, in five years a report would need to be submitted and another appearance before the Commission would be required.

Chief Williams thanked Captain Jeremy Jones, Deputy Chief Wayne Harder, Battalion Chief Jarrett Hawley, Training Chief Colin Fitzgerald, Captain Scott Rutherford, Firefighter Andrew Harper, Firefighter Derek Boggs, Firefighter Austin Berry, Firefighter Aaron Ogilvie and Firefighter Joe Osterman. Lieutenant Kirk Gurske was in charge of the Strategic Plan. Chief Williams thanked the Council and the City Administration for their support.

Councilmember Sipple asked if any other Fire Departments in the Kansas City metropolitan area were accredited. Chief Williams replied Olathe, Overland Park and Lenexa in Johnson County, Kansas, and Central Jackson County in Missouri. They all work together to assist new applicants through the accreditation process.

Mayor Dunn complimented the impressive effort.

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. 2015-32, 2015-33, 2015-34, and 2015-35
- B. Accept minutes of the August 17, 2015 Governing Body meeting
- C. Accept minutes of the May 20, 2015 Leawood Foundation meeting
- D. Accept minutes of the May 27, 2015 Stormwater Management Committee meeting
- E. Approve 2017 Fiscal Budget Finance Calendar

- F. Approve purchase in the amount of \$22,363.15 from M & M Golf Cars, LLC, for the purchase of 3 turf utility vehicles for the Ironhorse Golf Course, located at 15400 Mission Road
- G. **Resolution No. 4496**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$291,274.40, between the City and Mega Industries Corporation, pertaining to the Leawood City Park Access Improvement Project, located at 10601 Lee Boulevard [Project # 71021]
- H. **Resolution No. 4497**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$31,235.00, between the City and ABCreative, pertaining to playground surfacing repairs at City Park, located at 10601 Lee Boulevard
- I. **Resolution No. 4498**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$23,169.83, between the City and Commercial Floorworks, Inc., pertaining to the installation of carpet at Fire Station No. 2, located at 12701 Mission Road
- J. **Resolution No. 4499**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$25,000.00, between the City and Precision Concrete Cutting Midwest, pertaining to repairs for Estates of Ironhorse, Village at Ironhorse, Pavilions of Leawood and Cherry Creek
- K. **Resolution No. 4500**, accepting a Permanent Sidewalk Easement from Leawood TCP, LLC, for property located at 119th & Rosewood, for completion of traffic signal pole [Project # 80252]
- L. **Resolution No. 4501**, accepting a Temporary Construction Easement from John D. and Lisa N. Swarts and James D. and Linda D. Craig, for property located at 4203 W. 151st Street, pertaining to the 151st Street Reconstruction Project
- M. Fire Department Monthly Report
- N. Municipal Court Monthly Report
- O. Police Department Monthly Report

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

8. MAYOR'S REPORT

- A. Compliments to Parks & Recreation Director Chris Claxton for hosting a lovely Leawood Chamber of Commerce After-Hours Social in the City Hall Oak Room. Councilmembers Lou Rasmussen, Chuck Sipple and James Azeltine were also in attendance.
- B. Traveled to Atlanta with City Administrator Scott Lambers to attend the Commission on Fire Accreditation International review of the Leawood Fire Department. Additional details are provided in the minutes, Agenda Item 5.
- C. Attended the 25th Blue Valley Education Foundation Community Breakfast celebrating 50 years and heard a very impressive report from interim Superintendent Dr. Al Hanna.
- D. Thanks to Councilmembers James Azeltine and Chuck Sipple for attending two Leawood Chamber of Commerce functions while I was traveling. The first was the ribbon cutting for The Urgency Room located in Parkway Plaza, and the second was for the New Member Debut at the September Chamber luncheon.

- E. Leawood's Sister City, the Gezer Region of Israel, hosted a delegation for their second Vineyard Extravaganza represented by Councilmembers Debra Filla, Lou Rasmussen and Jim Rawlings, along with several Sister City Committee members and a Blue Valley School District professional. Mayor Peter Weis was most gracious with his hospitality, and we all enjoyed the program which served to deepen our ties of cultural understanding as well as friendship.
- F. Thanks to now-retired Leawood Police Chief John Meier, Police Chief Troy Rettig, Fire Chief Dave Williams and their departments for hosting another very successful Community Open House at the Justice Center. There were 650 people in attendance. Councilmembers Lou Rasmussen and Jim Rawlings were also present.
- G. Rockhurst University hosted the second regional Meeting of the Mayors and County Chairs with guest speaker Dr. Jason Brown of the Federal Reserve Bank of Kansas City. Dr. Brown presented data regarding growth for Kansas City as compared to other metropolitan areas.
- H. Police Chief Troy Rettig and his department hosted a wonderful farewell reception for retiring Police Chief John Meier on September 17th. There was a huge crowd on hand to pay tribute to Chief Meier's fine leadership for the past 10 years. Councilmembers Andrew Osman, Jim Rawlings, Carrie Rezac and Chuck Sipple were also in attendance.
- I. Councilmember James Azeltine joined me at the Leawood Chamber of Commerce ribbon cutting celebrating Paddy O'Quigley's 25th anniversary. They began at the Camelot Court location for 22.5 years, and opened a second location at the Ironhorse Center about 4.5 years ago. We wish them much continued success.
- J. Congratulations are in order for the following:
 - a. Leawood resident Fred Logan who is to receive the Pinnacle Award from the Johnson County Library Foundation, for excellence in advocacy and public engagement.
 - b. Leawood's rank of third safest municipality in Kansas according to Federal Bureau of Investigation 2013 statistics based on reported crimes and population. Lansing, home of the state penitentiary, was the safest, followed by Prairie Village.
 - c. Nice press about the Leawood Dog Park in the August/September 2015 issue of *Kansas Government Journal*. Thanks to Parks & Recreation Director Chris Claxton for providing the information.
- K. Reminder that the United Way Campaign Kick-off will be Monday, October 5, 2015, at 8:00 A.M. in the City Hall Oak Room. All are invited to attend.

9. COUNCILMEMBERS' REPORT

Councilmember Debra Filla - Consideration of crossing guards at 119th & Mission Road and 143rd & Nall Avenue

Ms. Alicia Jennings, 9015 High Drive, Leawood, Chair of the Bicycle Friendly Committee and Sustainability Advisory Board member, asked for crossing guards at 119th Street and Mission Road, and 143rd Street and Nall. Guards would facilitate children walking safely to schools and encourage more pedestrian and bicycle traffic at these heavily traveled intersections. More than 1,000 students participated in walk-to-school days held in May and October last year. She asked that concerned attendees from both St. Michael the Archangel Parish School and Nativity Parish School stand. Ms. Jennings stated there are other such intersections in the City. Public Works Director Joe Johnson has been working with Brookwood Elementary School on potential traffic slowing structures.

Mr. Edward Baldwin, 5619 W. 144th Terrace, Overland Park, spoke about the heavily traveled intersection at 143rd Street and Nall Avenue and was in favor of crossing guards.

Mayor Dunn stated she had spoken with a parent over the weekend that was unaware a City would need to fund the crossing guard, not just provide permission. Since the 2015 budget for Leawood was complete, Mayor Dunn asked Mr. Lambers how this could be funded.

Mr. Lambers stated funding could be accomplished through a simple budget amendment. As a policy, cities do supply guards, but when there are cross-corporate entities it is usually the entity of the school. For St. Michael at 143rd and Nall, Overland Park would normally be asked to provide the guard, but to expedite this safety concern he was agreeable to a budget amendment to fund both the requested crossing guards in the 2015 budget and thereafter give Overland Park an opportunity to assist with the responsibility for St. Michael.

Councilmember Rasmussen recalled other instances in which the district was responsible for half of the cost of the crossing guards, and he wanted staff to research previous instances, including when there are abutting jurisdictions, to ensure all schools are treated the same.

Councilmember Azeltine asked about the potential cost for a crossing guard at St. Michael. Mr. Lambers estimated between \$5,000 and \$10,000 per year. Police Chief Rettig stated crossing guards are paid \$16.35 an hour with a minimum of one hour. Mr. Lambers stated area services are contracted through Securitas.

Councilmember Azeltine pointed out the speed limit difference of 30 miles per hour [MPH] on the Leawood side and 35 MPH on the Overland Park side at St. Michael, which adds to the need for a crossing guard.

Councilmember Osman was in favor of the proposal and to expedite, but asked that other border locations with potential varying speed limits be considered and any precedent be determined.

Councilmember Cain asked if one or two guards near St. Michael would be needed to cover east-west and north-south routes. Chief Rettig stated the number of guards would depend on a pedestrian count and that they are currently comfortable with one guard.

A motion to ask staff to bring an amended service contract to allow funding for crossing guards at 119th and Mission Road and 143rd and Nall through 2015 to the next Governing Body meeting, and a 2015 budget amendment and additional information to a subsequent meeting to fund these services was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 7-0.

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the August 5, 2015 Public Works Committee meeting]

Recommendation on LED Streetlight Policy

In Councilmember Rezac's absence, Mayor Dunn asked Public Works Director Mr. Johnson to make comments. Mr. Johnson stated the Public Works Committee met and approved the moving-forward of the proposed policy. The Governing Body had previously discussed funding to be done on an end-of-the-year basis once the City realized savings. At that time, payment would be made to the home owner associations [HOA]. The proposed policy would allow subdivisions with private street lights where the City pays the electricity, the ability to change high pressure sodium lights to light-emitting diode [LED] street lights. Mayor Dunn stated Councilmember Rezac's comments that she was pleased with the committee's work and that she was in full support of the recommendation.

In regard to the Hallbrook HOA request for upgrade of their 630 private street lights, Councilmember Rasmussen asked Finance Director Ms. Long how the contingent liability of approximately \$150,000 would be handled. Ms. Long stated she would have to confirm with the City auditors as to whether this would need to be booked as liability. Mr. Lambers stated that most likely the \$150,000 would need to be shown as a full outstanding amount to be expended even though actual amount would be lower. The following year, an adjustment would be made.

Councilmember Sipple asked Mr. Johnson when a HOA request was received, if the City would review to ensure the proposed lighting had the correct specifications, and if a separate utility meter for the street light network would be needed. Mr. Johnson replied the proposed policy states the lighting would either meet or exceed current and future City standards, the City would review cost/savings information, and separate utility meters already exist for street light networks for which the City pays the electricity bill. He added that for the Hallbrook request, the HOA had hired an energy specialist to make lighting specification recommendations. Councilmember Sipple questioned what would happen if an HOA were to revert back to high pressure sodium lights. Mr. Johnson stated this would be unlikely and cost-prohibitive as bulb head fixtures would need to be changed. Less maintenance cost could be expected with LED bulbs, which have a typical life of five to 10 years.

Councilmember Cain asked if the policy would be shared with the rest of the HOAs with private street lights and questioned if it would be a hardship for other HOAs to pay the 100% upfront costs. Mr. Johnson replied the policy could be shared with other HOAs and was written to allow partial payment and to be more manageable, which is different than the Hallbrook HOA second request letter dated September 16, 2015. He added there are many vendors that now supply LED lighting options and that Hallbrook had initiated their replacement independently.

Councilmember Azeltine expressed support for the policy.

Councilmember Osman asked about the difference between the policy, and Hallbrook HOA initial and second request letters.

Mr. Johnson replied the proposed policy is shared cost, with the City reimbursing the HOA on energy savings only, not maintenance expense. The HOA would be responsible upfront for cost of LED installation. Each year the City would review annual electricity savings to rebate the HOA until the actual construction cost, without any interest or financing the HOA may have incurred for installation, was reached. Thereafter, the City would retain all electrical cost savings. Typical electricity cost savings with LEDs would be estimated at 66% to 70%. Within the City there are 10 HOAs with 840 light fixtures with high pressure sodium bulbs, locations as follows: Hallbrook 630, Longwood Forest 24, The Woods 68, Hazelwood 29, Mission Farms 20, Mission Reserve 25, Normandy Place 6, Siena 38, Stone Ledge 8 and Villas of Leawood 18.

The original Hallbrook HOA letter requested \$100,000 from the City immediately to fund lighting replacement, with the City expected to save \$40,000 per year in energy cost. The new request letter states the HOA would pay all installation costs and that the City rebate its annual electrical cost savings to the HOA until the HOA has recovered its installation cost. Thereafter, the City would retain the electrical cost savings.

Councilmember Filla stated the HOAs get savings in maintenance and the City gets savings in the electricity; Mr. Johnson confirmed.

Mayor Dunn stated Councilmember Rezac said that if the HOAs did not participate in the savings of the maintenance, the City would be funding something that is not currently funded. The reimbursement of the electricity savings would be appropriate.

Councilmember Rasmussen wanted staff to be very clear on the policy and suggested HOAs seeking funding for installation cost approach a financial institution with their approved privately-owned street light LED replacement reimbursement policy with the City of Leawood.

Mayor Dunn invited attendees who had signed in on the topic to provide their comments.

Mr. Phil Hodes, 11637 Brookwood, Hallbrook, stated the City's proposed policy of reimbursements over time, "pay as you go", was not what Hallbrook was requesting. Future annual maintenance costs cannot be estimated. Hallbrook requests no upfront money and would pay the full cost of installation and requests reimbursement only to the extent of the savings incurred every year based upon electricity costs. Once the HOA had been reimbursed for the costs over 2.5 to 3 years, the City would recognize an annual savings of approximately \$40,000, indefinitely. The savings percentage being proposed in the policy might be suitable for a developer that would recognize a portion, but an established neighborhood like Hallbrook would not. His request is that the City reimburses savings each year up to \$145,000. He stated financing was not an issue and that their board would not approve the installation expenditure unless it was reimbursed by the City.

Mr. Jim Tiehen, 3401 College Boulevard, Hallbrook Manager, stated the HOA's prior presentation to the Public Works Committee included HOA annual maintenance cost of \$15,000. The real savings would be in energy cost. The City would reap benefits from energy savings after a three-year payback and HOA responsibility for future bulb replacement. Most HOAs do not have the wherewithal to pay installation upfront, and Hallbrook would require approval from their board. Hallbrook felt the City could pay 100% of the cost of the replacement, but understood the City did not have money in the budget to pay upfront. If the pro-rata share policy was approved, Hallbrook would most likely not replace the lights.

Councilmember Azeltine asked if the initial Hallbrook estimate of \$150,000 to replace the lights with LED was accurate. Mr. Tiehen replied the amount had decreased to \$140,000. Councilmember Azeltine asked if the home owners would accept an estimated \$333 HOA assessment to fund. Mr. Tiehen stated it was possible, but that street lights are a fraction of all HOA costs.

Councilmember Osman stated since the poles are private, they are not the responsibility of the City. Since the City pays the electricity cost, the City has a fiduciary responsibility to recognize cost savings. For the City to reimburse the LED cost is a courtesy, even though the energy savings benefit the City. Councilmember Filla clarified that the electric savings would be reimbursed, and the maintenance savings would also be realized by the HOA. She asked Mr. Lambers if a Special Benefit District [SBD] or Transportation Development District [TDD] could be used to assist with financing. Mr. Lambers replied that SBDs apply only to City-owned facilities, and a TDD would involve bonding and additional insurance costs. His recommendation was to pay the full amount and make the same offer available for all HOAs.

Mayor Dunn clarified that Hallbrook HOA was asking for \$140,000, to be paid in increments. She stated that within the City, only a small number of lights had been replaced with LED because of the cost.

Councilmember Cain stated that she favored providing \$140,000 as requested by Hallbrook and therefore, disapproved of the proposed policy.

Mr. Lambers reminded that policy would set a precedent. Applications would be reviewed by staff and then submitted to the Public Works Committee. He stated that similar to TDD and Capital Improvement Projects, the City would certify the actual costs, usually by a cost range. The certification would be performed by Mr. Johnson upon completion of the work.

A motion to amend the proposed policy to allow for 100% reimbursement of HOA installation cost was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.

12. PLANNING COMMISSION

[From the April 28, 2015 Planning Commission meeting]

- A. Ordinance approving a Revised Preliminary Plan for Ranch Mart, located north of 95th Street and east of Mission Road (PC #61-13) **[ROLL CALL VOTE]** - *[Continued from the June 1, 2015, July 6, 2015, and August 17, 2015 Governing Body meetings]* - **CONTINUED TO THE OCTOBER 5, 2015 GOVERING BODY MEETING**

[From the July 28, 2015 Planning Commission meeting]

- B. Ordinance amending Section 16-4-6.13 of the Leawood Development Ordinance [LDO] entitled "Permanent Sign Regulations" and repealing existing Section 16-4-6.13 and other sections in conflict herewith (PC Case 138-14) **[ROLL CALL VOTE]**

Mr. Klein, Planning Official, reviewed the proposed amendment and its relationship to Agenda Item 12.C. He recalled that a few months prior, the Governing Body had approved a revision to the definition of window signage which excluded signs placed 3 ft. or further away from a window.

Currently, the Leawood Development Ordinance [LDO] states a total of 5% of the storefront façade can have signage. Agenda Item 12.C. proposes to remove window signs from the 5% equation. Often tenants have limited facades so that just their wall signs use the entire 5% limit. The Planning Commission had discussed this item several times and ultimately recommended a maximum of 20% of the contiguous window area to be allowed for signage. Staff recommended 5% because it had originally been used in the LDO.

Mr. Coleman stated the 5% had been erroneously omitted from the ordinance several years ago, but this percentage had been used for over 20 years and it had served the City well. Mr. Coleman added he and Mr. Leonard Corsi of Town Center Plaza had reviewed facades in Town Center Plaza and they believe the 5% could be met with some adjustments in sign placement and because wall and window sign requirements have been separated, resulting in a potential increase in overall signage. Mr. Coleman stated if the Council felt strongly about increasing the percentage, he and Mr. Corsi were both in favor of a 10% maximum.

Mayor Dunn invited Mr. Corsi to comment. Mr. Len Corsi, 5000 W. 119th Street, Town Center Plaza Manager, stated that the one to two businesses in Town Center Plaza which exceeded the 5% limit could be modified to meet the proposed 5% maximum by moving signs back at least 3 ft. from the windows. He felt the new proposal would be an improvement. Mayor Dunn asked if Town Center Crossing would be a similar situation. Mr. Corsi replied he believed it would.

Mayor Dunn emphasized the City's desire for a non-cluttered appearance and stated 10% might be a nice compromise.

Councilmember Cain question if staff was asking to oppose the Planning Commission's recommendation of 20%. Mr. Coleman replied the staff recommendation was 5% and that 10% would be acceptable, either of which would require an override vote of the Planning Commission's recommendation.

Councilmember Cain stated she was in favor of the 5% maximum because of sign clutter, including signs placed in the ground. Mr. Coleman replied yard signs are covered by a different section of the ordinance. Councilmember Cain asked to discuss these at a future time.

Councilmember Osman complimented staff for working with a developer, as many developments contain national chain stores with mass-produced marketing material that does not take into consideration individual city codes. He stated a 10% maximum would be a good compromise to accommodate business.

Councilmember Sipple pointed out that input had not been solicited from small retail merchants in other parts of the City. He stated the City should be considering retailers' opinions as much as possible and also with regard to pending development of the 135th Street corridor, and other municipalities were even more generous or did not have sign restrictions. Appearances and taste should not be mandated by the City, but rather allow a small business person to succeed in Leawood. Mr. Coleman replied that many businesses would state they never have enough signage, and that appearance and taste were not being mandated, only size.

A motion to approve Item 12.B. with the restriction on the maximum window signage of 10% of the contiguous window area was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion failed with a roll call vote of 4-3, as a super-majority vote of 6 votes was needed for override of the Planning Commission's recommendation. For: Councilmembers Azeltine, Filla, Osman and Rawlings; Opposed: Councilmembers Cain, Rasmussen and Sipple.

A motion to approve Item 12.B. with the restriction on the maximum window signage of 5% of the contiguous window area was made by Councilmember Cain; seconded by Councilmember Rasmussen. The motion failed with a roll call vote of 4-3, as a super-majority of 6 votes was needed for override of the Planning Commission's recommendation. For: Councilmembers Cain, Rasmussen, Filla and Azeltine; Opposed: Councilmembers Rawlings, Osman and Sipple.

Mayor Dunn suggested a continuation of the item until all Councilmembers were present, which would enable her to vote as well.

Councilmember Azeltine asked for reasons from those with nay votes on both motions.

Councilmember Sipple would like to lessen restrictions, so that small merchants could do what would be best for business and to bring in customers. He stated the ordinance was not punitive, just restrictive, and should not be based on a large shopping center.

Councilmember Osman stated he had only voted nay on the second motion calling for 5% maximum as he felt 10% was a good compromise and would still be aesthetically appealing. Small retailers would benefit from the 10% maximum, where 5% could hinder them. The 20% recommended by the Planning Commission was egregious. He questioned whether any retailer or office user had stated this percentage was needed or if this was time-sensitive. Mr. Coleman replied no one had questioned. Mayor Dunn added that staff had been working on this for two years and wanted to encourage a timely decision.

Mayor Dunn stated Councilmember Rezac had been in favor of the 10%, and she would have supported it as well based on Mr. Corsi's feedback. The 20% recommendation by the Planning Commission was not data-driven.

Councilmember Filla pointed out some retailers would not exercise restraint if not given limits, and she would be in favor of 10%.

Councilmember Cain inquired if the size of the business could determine the percentage of signage allowed, which would better accommodate small businesses without over-signing larger businesses.

Mayor Dunn suggested a remand the item back to the Planning Commission to allow them have the benefit of the discussion, including Mr. Corsi's testimony, and to know 20% was not supported by the Governing Body. Mr. Lambers suggested a remand to the next Planning Commission meeting which would be in November. Alternately, the agenda item could be continued to the October 19th Governing Body meeting to have benefit of a full Council vote and could be remanded, if needed, at that time.

Councilmember Rawlings stated he would like to allow more than 5%, but wanted visual examples of compliant and non-compliant signage to be available at the October 19th meeting.

Councilmember Rasmussen stated Ranchmart should be considered as well.

Councilmember Sipple appreciated the concept that would allow for different percentages based on business size. He also asked for input from small merchants before the issue would be discussed again.

Councilmember Azeltine inquired if any problems could arise if the signage allowances differ based on business size. Ms. Bennett replied signage difference would need to be defined appropriately and that it could be difficult to define the business based on size.

A motion to continue Agenda Item 12.B. to the October 19, 2015, Governing Body meeting was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.

- C. **Ordinance No. 2748**, amending Section 16-4-6.3 of the Leawood Development Ordinance [LDO] entitled “Office, Commercial and Industrial Signage in Planned Districts” and repealing existing Section 16-4-6.3 and other sections in conflict herewith (PC Case 95-15) [ROLL CALL VOTE]

Mr. Klein, Planning Official, reviewed the proposed amendment, which removes the window signage from the calculation of the maximum 5% of the overall façade. Staff recommended approval of the amendment.

Councilmember Azeltine questioned if there would be any benefit to delaying the vote on the amendment due to consideration of the previous item, Agenda Item 12.B. Mr. Klein replied that an approval could help future discussion.

Councilmember Rasmussen stated this liberalizes the ordinance.

A motion to approve Item 12.C. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous roll call vote of 7-0.

13. OLD BUSINESS – None

14. OTHER BUSINESS – None

15. NEW BUSINESS

- A. Ordinance amending the Code of the City of Leawood, Kansas, 2000, § 4-906 entitled, 'International Residential Code for One-and Two-Family Dwellings amended; Section R105.3, Application for Permit,' and § 4-912 entitled, 'International Residential Code for One-and Two-Family Dwellings amended; Section R106.1, Submittal Documents' and repealing existing Sections 4-906 and 4-912 and other sections in conflict herewith [ROLL CALL VOTE]

Mr. Anderson, Parks Superintendent, reviewed the amendment which would revise the Building Construction Code to address tree protection on residential lots to be rebuilt or remodeled 25% or greater. A Tree Protection Plan [TPP] would be required to be completed by a certified arborist or a landscape architect. The TPP would help streamline building permitting and the review process for staff, and could include educational materials regarding methods for tree preservation during construction and ways to avoid damage. Mr. Torrez stated the proposed amendment does not prevent home owners from removing any tree on their private property as they desire, even if the certified arborist or landscape architect believed a tree could be saved. Removal would only need to be documented in the TPP.

Councilmember Rasmussen asked about restrictions for tree removal. Mr. Anderson stated the intention was not to prohibit a construction project or tree removal, but the TPP would be required for trees that could possibly be saved or are not part of construction activities.

Councilmember Osman stated the plan and daily penalties for violations had many ambiguities. Mr. Anderson stated the purpose of a TPP was education of all involved in the project. Councilmember Osman inquired if a TPP would be required if a home was being razed, to show the trees to remain and the trees to be removed. Mr. Torrez replied that demolition would be followed by rebuild, which would require a TPP. Ms. Bennett stated fines appear in two places in the Building Code. She stated a daily fine of \$500, imprisonment and/or and a stop work order could be issued. Councilmember Osman recommended providing a pamphlet to the home owner so that expectations are clear.

Councilmember Filla pointed out the brochure states that homes are constructed in the midst of trees to take advantage of the aesthetic and environmental value of wooded lots and that wooded property can be worth as much as 20% more than those without trees. People like trees, as evidenced in Old Leawood. Communication with the home owners is important to recognize what is happening with the mature trees.

Councilmember Rawlings agreed with the brochure and felt that most developers would want to leave as many trees as possible, but expressed concern that a burden would be placed on the developer or home owner by requiring a certified arborist or landscape architect to prepare the TPP. He stated the brochure presented in the meeting documentation packet would provide sufficient information and options to the involved parties.

Councilmember Sipple asked if the City would monitor the trees that are to be saved during the construction process. Mr. Anderson stated once a TPP is approved, permits would be issued. Construction monitoring would be similar to erosion control, with inspections about once a month or in response to complaints.

Councilmember Cain asked for an estimate of cost to create the plan. Mr. Anderson stated cost would depend upon the size of the project and the amount of time spent by the certified arborist or landscape architect, but estimated \$500 to \$2,000. Councilmember Filla stated that the Leawood HOA member responsible for their HOA trees estimated \$350.

Councilmember Cain asked how remedies would be handled and when the fine for non-compliance would end. She questioned if requiring such plan would result in even more aggressive removal of trees to avoid non-compliance issues and penalties. The plan should address and define remedies, and seems cost prohibitive. She felt the City's initial tree preservation effort should be through education.

Councilmember Osman spoke about a constituent who had pointed out all the permits needed for a small area of work. He questioned if a TPP would be required for a project that would not affect the yard or impede on trees or tree canopies. Mr. Anderson stated the ordinance indicates a limited disturbance line. Mr. Torrez stated if all construction would occur inside the disturbance line, including placement of constructions materials, a TPP would not be required.

Mayor Dunn pointed out that her contractor created a plan to save a tree on her lot, not an arborist.

Councilmember Azeltine asked if other cities have such plans. Councilmember Filla stated Mission Hills in Kansas and Webster Groves in Missouri have plans, and builders and contractors that do not abide by a TPP could be fined and precluded from doing business in the City.

Mayor Dunn invited attendees who had signed in on the topic to provide their comments.

Mr. Mack Colt, 21225 W. 96th Terrace, Lenexa, Homebuilder, appeared and spoke about the proposed plan. Over the last 13 years, he has performed a total of 44 rebuilds and remodels, and 31 teardowns. His first teardown in Leawood was in 2002. To his knowledge, no trees that were saved in his projects have died. His initial reaction was requiring a plan created additional paperwork and more cost. His largest concern was what was not stated in the plan: who would review, what must be included in the plan in order to be approved and the extent of tree protection that would be required. No sample TPP has been created, so it was difficult to know what would be required. Another concern would be potential cost to haul dirt off-site, only to return it later to the site. He understood the City's desire to minimize destruction of trees and encouraged the City to further define plan requirements.

Councilmember Filla stated if all home builders were like Mr. Colt, there would not be a problem.

Mr. Kit Starr, 3020 W. 84th Street, Starr Homes, stated he appreciated Mr. Torrez providing the proposed Tree Protection Plan to him in advance, and that he was favor of the plan in spirit and personal property rights. He was concerned about the numerous gray areas in the plan, small lot clearances, trucking costs, drainage correction work and enforcement issues. He pointed out ordinances should apply to all, including new property owners and home owners wanting to install a pool or widen a driveway. He encouraged further discussion and revision of the plan, and would be happy to participate.

Councilmember Rawlings asked to simplify the process, by only providing the home owner with an educational brochure at the time of permitting.

Mr. Lambers stated the issue could be continued to a Governing Body Work Session on December 7, 2015, which would still allow adoption prior to the first of the year, whether through ordinance or on a volunteer basis. He felt one of the major issues was sanctions.

Mayor Dunn was surprised by the plan penalties and was not interested in charging home owners thousands of dollars. She felt the educational process had come a long way through the Sustainability Advisory Board and many good builders know how to preserve trees. She agreed with Councilmember Cain that a home owner or builder might remove trees to not be in violation and risk a fine.

Councilmember Osman requested that developers be allowed to provide input on the topic. Mayor Dunn stated that Work Sessions are not open for public comment, but written communications could be exchanged in advance.

A motion to continue the issue to a work session in December 7, 2015, was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.

- B. Consideration of proposal and request for Work Session for Ranchmart CID, located at 95th & Mission Road

Staff Comment: It is the position of the City Administrator that both proposal and request for the Work Session should be rejected

Mayor Dunn stated that emails had been exchanged between the applicant's attorney and the City Administrator, and there was no Community Improvement District [CID] application at this time.

Mr. Lambers stated there was a very strong sense from the Governing Body that before a Work Session on the topic would be held, an application was desired. He stated the applicant cannot submit a CID because one of the required application forms states the applicant has read and agrees to comply with the City's CID policy. Mr. John Petersen, Attorney for Ranchmart, has indicated the applicant cannot submit based on their desire to include interest cost, which is precluded by the City's amended CID policy.

Mr. Lambers stated he and Mr. Petersen had discussed utility burial and Mr. Petersen had indicated that if associated costs could not be reimbursed upfront, the overall project would not move forward as they are under no obligation, or they may not build Phase 2. Also, the applicant does not want to comply with the LDO for landscaping and for parking lot lighting.

Mr. Lambers stated Kansas City Power & Light requires upfront money to bury power lines with an estimated cost of \$1.5 Million.

Mr. Lambers stated the situation was at an impasse. The developer wants public taxpayer subsidy and does not want to comply with the LDO.

Mayor Dunn wanted to gauge interest of the Council to allow funding for the \$1.5 Million, without interest, for burial of power lines to occur through a CID. She stated that in prior conversation, Councilmember Rezac was in favor.

Councilmember Rasmussen was in favor and felt it was consistent with the long-term goal of the City to underground utility lines as much as possible. He also felt that a lot of the space is taken up by utility poles on sidewalks.

Councilmember Filla was willing to entertain the idea, but would also like to see applicant commitment to all phases of the plan.

Councilmember Azeltine was in favor, but asked if a TDD could be utilized for the undergrounding because it could work with a sales tax. Mr. Lambers replied that it could be done with a CID as well. The sales tax is appealing because other people pay it.

Councilmember Osman was in favor. He recalled the Camelot Court CID was funded 75% by the applicant and 25% by City, and questioned if there was a potential for modifying the percentage for a Ranchmart CID. He stated that tenants and residents are all frustrated with the situation. Mayor Dunn replied that prior discussions had suggested the percentage should be less and not more, to not reward an applicant that has let a development deteriorate. Mr. Lambers stated that if the applicant would comply, \$5 to \$7 Million of public subsidy would be possibly provided for the development.

Mayor Dunn thanked the Councilmembers and stated there was a unanimous consent for the \$1.5 Million for undergrounding as an upgrade worthy of taxpayer subsidy of a private development. Mr. Lambers stated the five to seven year time frame was also a deciding factor. Mayor Dunn replied the time frame was very generous. There was also unanimous consensus regarding the timeframe.

Mayor Dunn requested Mr. Lambers provide Mr. Petersen with the results of the Governing Body discussion.

ADJOURN

There being no further business, the meeting adjourned at 11:00 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk