

Minutes

DVD No. 357

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, October 19, 2015. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Julie Cain, Carrie Rezac, Lou Rasmussen, Debra Filla, 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	Chris Claxton, Parks & Recreation Director
Chief Dave Williams, Fire Department	Nic Sanders, Human Resources Director
Chief Troy Rettig, Police Department	Joe Johnson, Public Works Director
Debra Harper, City Clerk	Cindy Jacobus, Assistant 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. Mayor Dunn thanked the scouts, and expressed her hope they would attend and show support at the upcoming large Eagle Scout Court of Honor.

2. **APPROVAL OF AGENDA**

Mayor Dunn noted the addition of a report under Agenda Item 10. Staff Report. City Attorney Patty Bennett would provide an update on the Dorset Manor Home Owners Association Petition in regard to the residence on 103rd Street.

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 8-0.

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.**

4. **PROCLAMATIONS** – None

5. **PRESENTATIONS/RECOGNITIONS** – None

6. **SPECIAL BUSINESS** – None

7. **CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance No. 2015-39
- B. Accept minutes of the October 5, 2015 Governing Body meeting
- C. Accept minutes of the October 5, 2015 Governing Body Work Session
- D. Accept minutes of the August 11, 2015 Parks & Recreation Advisory Board meeting
- E. Accept minutes of the August 5, 2015 Public Works Committee meeting
- F. Approve Change Order No. 1 in the amount of \$8,180.00 to 4-Gen Construction, Inc., pertaining to wood rot repairs at Fire Station No. 2, located at 12701 Mission Road
- G. Approve Change Order No. 1 in the amount of \$150,000 to O'Donnell & Sons Construction, pertaining to the 2015 Arterial Mill & Overlay Program [Project # 72061]
- H. Approve Change Order No. 2 in the amount of \$8,000 to Freeman Concrete Construction, LLC, pertaining to the 2015 Curb Program and Mill & Overlay Project [Project Nos. 80252 - 2015 Curb Repair/Replacement Program; 72024 - Arterial Street Mill & Overlay; 70515 - 2015 Sidewalk Repair/Replacement; 70018 - Residential Mill & Overlay; and 76036 - Replace Parking Lot/Fire Station No. 3, located at 14801 Mission Road]
- I. **Resolution No. 4516**, approving the 2016 Human Service Fund Recommendation Report from United Community Services of Johnson County [UCS] and the City of Leawood's participation for an amount not to exceed \$11,500
- J. **Resolution No. 4517**, approving a Federal Emergency Management Agency [FEMA] Matching Grant Request in the amount of \$70,000, with a match of \$7,000 to replace the Diesel Exhaust Systems at Fire Station No. 2, located at 12701 Mission Road, and Fire Station No. 3, located at 14801 Mission Road
- K. Fire Department Monthly Report
- L. Municipal Court Monthly Report
- M. Police Department Monthly Report

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

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

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

- C. Accept minutes of the October 5, 2015 Governing Body Work Session

Councilmember Rasmussen asked City Clerk Debra Harper if the minutes had been revised as discussed; Ms. Harper confirmed.

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

M. Police Department Monthly Report

Councilmember Filla noted the amount of zero stolen autos for the month of September. Police Chief Rettig stated this was good news, but Leawood had no suspects in custody in regard to many of the vehicles reported stolen in the prior months.

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

8. MAYOR'S REPORT

- A. On behalf of the City of Leawood, condolences and sympathies to the families of Kansas City, Missouri, fallen Fire Fighters Larry Leggio and John Mesh. Sympathies also to the families of two Leawood residents:
 - 1. Marvin Gibian – Founding member of the Leawood Chamber of Commerce and a member of the Leawood Rotary as well as the Leawood Foundation Board of Directors.
 - 2. Dr. Rich Davis – Prominent Kansas City psychiatrist who created the nationally best-selling K.C. Masterpiece barbeque sauce. He was the founding chairman of the Board of the Youth Volunteer Corps of America, the founding chairman of the Alliance for Epilepsy Research Board, and co-founder of the Entrepreneur of the Year Awards.
- B. Joined City Administrator Scott Lambers, Police Chief Troy Rettig and other Police Department leadership at the 12th Annual Johnson County Fall Forum to support the Metropolitan Organization to Counter Sexual Assault [MOCSA].
- C. Councilmember Andrew Osman joined me at the Leawood Chamber of Commerce ribbon cutting for RBC Wealth Management. We welcomed them to their beautiful new space in Pinnacle V along Tomahawk Creek Parkway. This new Class A office building is already 69% leased.
- D. Congratulations to Councilmember James Azeltine on his election to the Kansas City Area Development Council [KCADC] Board of Directors for the 2015-2016 board year representing the City of Leawood. Thank you for serving.
- E. GO ROYALS!

9. COUNCILMEMBERS' REPORT

Councilmember Osman - Review exceptions for fire sprinkler system requirements with a comparison of other area cities

Councilmember Osman requested that staff be directed to review City policy compared to other municipalities in regard to fire suppression in new and renovated buildings, both residential and commercial, to ensure no ambiguities exist.

A motion to refer to staff and have a report brought back to the Governing Body within two weeks was made by Councilmember Osman; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

10. STAFF REPORT

City Attorney Patty Bennett - Dorset Manor Home Owners Association Petition – Update on residence on 103rd Street

Ms. Bennett stated that on Friday, October 16, 2015, she and City Administrator Scott Lambers met with a representative of the property owner, the owner's attorney and the owner's contractor at the property. The representative was forthcoming and stated she planned to demolish the three structures on the property and remove dead trees, but would save as many of the healthy trees as cost allows. The work would progress from the center to the perimeter.

Ms. Bennett stated the owner had requested 120 days to complete the work and, historically, code enforcement issues had been resolved in a timely manner. Mr. Lambers stated the 120-day clock would start from the day of issuance of land disturbance and demolition permits.

Councilmember Rasmussen inquired if the clean-up would include trash and removal of dead trees intertwined with the perimeter fencing. Ms. Bennett stated she did not see trash present on the day of her visit and that dead trees would be removed.

Mayor Dunn thanked Ms. Bennett for her work. She asked if there would be communication back to the Dorset Manor Home Owners Association [HOA]. Mr. Lambers stated an update would be provided to the HOA after permits are issued.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the July 28, 2015 Planning Commission meeting]

- A. **Ordinance No. 2754**, 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) *[CONTINUED FROM THE SEPTEMBER 21, 2015 GOVERNING BODY MEETING]* [ROLL CALL VOTE]

Mayor Dunn stated this item had been discussed at the September 21, 2015 Governing Body meeting, when all councilmembers were present except Councilmember Rezac and a super-majority vote was required if override of the Planning Commission was needed. At that meeting, discussion had focused on whether to remain with the 5% recommended by staff and what had been used in the past, but erroneously omitted from the code during revision, or to increase to 10% as a result of a tour of Town Center Plaza [TCP] by Community Development Director Richard Coleman and TCP General Manager Leonard Corsi and in compromise to the 20% recommendation of the Planning Commission. Councilmember Rezac stated she had spoken with Mr. Coleman and read the minutes from the September 21, 2015 meeting.

Councilmember Rasmussen asked if photographs requested of Ranchmart had been taken. Mr. Klein stated photographs of Ranchmart had not been taken, but some others had been and not all photographs were included in the meeting documentation. Other photographs were taken at Nall Valley Shops, Plaza Point and TCP. Mayor Dunn stated the photographs included in the meeting documentation were helpful.

Mayor Dunn asked Mr. Klein to clarify revisions to the window signage calculation. Mr. Klein stated a few months ago 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. On September 21, 2015, the Governing Body had approved removal of window signage from the calculation of the maximum 5% signage on the overall façade. The Planning Commission had recommended a maximum of 20% of the contiguous window area to be allowed for signage. Staff had recommended 5% of the window area as previously utilized, but staff would be comfortable with an increase to a maximum of 10% of the window area. An example of a contiguous window would be a bank of windows on one side of a door, with windows on the opposite side of door being considered a separate area. The intent of the proposed amendment was to limit visual clutter and prevent larger signs from being placed within smaller contiguous window areas, by limiting window signage to 20% of the contiguous window area rather than 20% of the entire window area.

Councilmember Sipple requested examples of percentage calculations. Mr. Klein reviewed specific window signage compliance from photographs as follows: Banana Island 8% (least non-compliant), Glacé 16.8%, Papa Murphy's Pizza 21.2% and Game Stop 37% (most non-compliant). He displayed other photographs of storefronts with signage that could potentially be moved 3 ft. back away from the window, positively impacting window signage compliance. He added physical objects and displayed products are not considered signage.

Mayor Dunn inquired if the non-compliant photographs depicted entire window non-compliance or contiguous window non-compliance. Mr. Klein replied most of the examples presented are non-compliant calculated on both entire window area and contiguous window area, with a higher non-compliance percentage for individual windows.

Mayor Dunn recalled a comment from Mr. Coleman and Mr. Corsi at the September 21, 2015, Governing Body meeting that few of the TCP shops were non-compliant, and that tenants appreciated less visual clutter. Mr. Klein stated many would become compliant with a few changes such as movement of signage 3 ft. further back away from windows.

Councilmember Rasmussen asked if McDonalds signage had been reviewed. Mr. Klein stated signage at the Camelot Court McDonalds probably would be non-compliant with 5%, 10% or 20% calculation.

Councilmember Rawlings expressed concern about the amount of signage at Ranchmart Sarpino's Pizza and the entirely covered sliding doors at Price Chopper, and inquired how the code would be enforced. Mr. Klein stated some issues may be resolved by use of signage placed 3 ft. or further from windows or doors. Businesses would need education in regard to the amended ordinance. Enforcement would be based on the percentage approved by the Governing Body and application of the 3 ft. set-back. Over time, staff should become comfortable with visual assessment, followed by formal calculation and remedy through code enforcement, as necessary. The typical enforcement process is a courtesy notice with 10 days to remedy. Thereafter, a citation may be issued if the issue was not resolved.

Councilmember Sipple reminded that at the September 21, 2015 Governing Body meeting, he had spoken about consideration of other retail shopping centers and smaller shops that may use a larger percentage of window for advertising. He reiterated his desire to support the success of small entrepreneurs and questioned if staff had alternative suggestions in this regard. Mr. Klein stated smaller storefronts generally have less window area that is used more. Staff considered using two percentages for consideration, but all windows vary and staff felt this would be difficult to enforce.

Councilmember Cain noted most shops were non-compliant even with recently approved amendments; over the 20% recommended by the Planning Commission. If the definition was further relaxed from 5% to 10%, there would still be violators. She stated her appreciation of Councilmember Sipple's regard for smaller businesses and a desire to make some allowance for these shops that may be located further from a traffic-way.

Councilmember Osman was in favor of the 10%, for both lifestyle shopping centers of big-box stores with large footprints such TCP and Town Center Crossing, and small retail shopping centers such as Ranchmart and 151st Street. He stated Glacé at 16% non-compliance should be able to reduce to 10%.

Councilmember Rezac noted that in her conversation with Mr. Coleman he had alleviated her concern of a distinction between graphics, which can even be part of branding and architecture, and signage; he had stated graphics would be part of a final plan. Based on her review of Planning Commission and Governing Body meeting minutes and visual examples with calculations, she stated 10% would be a good balance, providing a higher percentage for businesses while mindful of the goal for a visually-uncluttered City.

Councilmember Filla favored 10%, stating the proposal would double the percentage currently permitted and there would be the opportunity to make adjustments in the future. If 20% was approved and a reduction was needed, it would be far more difficult to back down.

Mayor Dunn suggested a January 1, 2016 timeframe for resolution on any courtesy notices for non-compliance; Mr. Lambers agreed. Mayor Dunn thanked the Planning Department for their work over the past few years in this regard.

A motion to override the Planning Commission's recommendation of 20% with reduction to 10% of the contiguous window area, provide education, and immediate courtesy notices providing a remedy timeline of January 1, 2016 was made by Councilmember Filla; seconded by Councilmember Azeltine. The ordinance was passed with a super-majority roll call vote of 7-1; nay vote from Councilmember Cain for reasons previously stated.

[From the September 22, 2015 Planning Commission meeting]

- B. Resolution approving a Revised Final Plan for Church of the Resurrection Prayer Walk and Playground, located south of 135th Street and east of Nall Avenue [PC Case 98-15]

Applicant Mr. Dick Cooper, Church of the Resurrection, 13720 Roe Avenue, stood and stated Reverend Adam Hamilton could not be present. Mr. Dan Entwisle, Staff Member, Managing Executive Director for Programming and Ministries, was present. Mr. Cooper stated the prayer walk and playground had always been part of the project, but the design was not ready one year ago.

Mayor Dunn stated the finished project should be lovely.

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

12. OLD BUSINESS

Ordinance amending § 8-522 of the Code of the City of Leawood, Kansas, 2000, entitled 'International Property Maintenance Code Section; Section 302.8 Motor Vehicles' and repealing existing § 8-522 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Bennett stated that at the October 10, 2015 Governing Body meeting, a code amendment related to parking in driveways, the ability to view vehicle license plate/tag and operability and provide enforcement, similar to the code of a neighboring city, was discussed. The proposed amendment would incorporate this into City code.

Councilmember Rasmussen stated the proposed amendment would not address his concern of vehicles warehoused on driveways for years, as the vehicles of concern are both pointed towards the garage and registrations are current. He stated his desire was for staff to provide a definition for warehousing on driveways that would be different from parking.

Mayor Dunn stated when she had viewed the driveway of concern, two cars were parked in tandem; one license plate was blocked and one car appeared as if it would not run. She asked Ms. Bennett to confirm if a plate was visible, there would be no need to prove operability. Ms. Bennett stated this was true as long as the vehicle appears in an operable condition, i.e., tires fully inflated, etc. Mr. Lambers stated if vehicles were parked in tandem or backed into a driveway, one or more of the vehicle plates would be obscured and the ordinance would apply.

Councilmember Filla stated she was in favor and inquired what would happen if a vehicle was deemed inoperable. Ms. Bennett stated the owner would be given 15 days to prove a vehicle was operable. If inoperable, the owner would be cited for the inoperable vehicle. Ms. Bennett estimated court fines would range from \$50 to \$200.

Councilmember Filla expressed concern that if a vehicle plate was visible and tires were inflated, the vehicle would be deemed operable and questioned why the City could not request proof of operability regardless. She stated a definition of operable was needed. Ms. Bennett stated the problem in doing that would be any vehicle sitting in a driveway might be operable and where to draw the line on operable; an example, would be parking on a driveway overnight.

Ms. Bennett stated at the prior Governing Body meeting the Council was presented with a possible change in the Leawood Development Ordinance that would have provided a storage time limit with the number of days decided by Council, but enforcement was deemed problematic. If a vehicle is parked on the street more than 24 hours, a Police Officer may chalk mark the tires. Driveways are private and chalking cannot be done.

Councilmember Rezac recalled the neighbors who had notified Councilmember Rasmussen of the issue of concern had stated the vehicles had not been moved for 60 days, and she questioned if the City could then question operability. Ms. Bennett stated that is not part of the proposed ordinance or any ordinance on the books.

Councilmember Rasmussen stated the house of concern is not occupied, there is a critter problem on the property, and the vehicles may or may not be owned by the property owner.

A motion to have staff review the situation and provide suggested changes to City ordinances was made by Councilmember Rasmussen; seconded by Councilmember Osman.

Mayor Dunn recalled that Ms. Bennett had provided another alternative previously, but that it had been too intrusive. She stated that the best method may lie between what Councilmember Rasmussen was trying to effect and less intrusive.

Councilmember Filla stated the proposed ordinance was worthy of passage, then could proceed from there; Mayor Dunn agreed. Councilmember Osman rescinded his second of Councilmember Rasmussen's motion. Councilmember Rasmussen rescinded his motion.

A motion to approve Agenda Item 12. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 8-0.

Councilmember Rasmussen inquired when the ordinance would become effective. Mr. Lambers and Ms. Harper confirmed the ordinance would be effective Tuesday, October 27, 2015.

Councilmember Rasmussen asked if Code Enforcement would then go to the location of concern and if there would be a report; Mr. Lambers confirmed.

13. OTHER BUSINESS – None

14. NEW BUSINESS – None

ADJOURN

There being no further business, the meeting adjourned at 8:21 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk