

Minutes

DVD No. 363

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 Tuesday, January 19, 2016. Mayor Peggy Dunn presided.

**Councilmembers Present:** Jim Rawlings, Julie Cain, Lou Rasmussen, Carrie Rezac, Andrew Osman [joined at 7:36 P.M.], James Azeltine and Chuck Sipple

**Councilmembers Absent:** Debra Filla

**Staff Present:** Scott Lambers, City Administrator                      Patty Bennett, City Attorney  
Mark Andrasik, Info. Services Director                      Joe Johnson, Public Works Director  
Chief Troy Rettig, Police Department                      Chris Claxton, Parks & Recreation Director  
Mark Klein, Planning Official                      Richard Coleman, Community Dev. Dir.  
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 Troops 92, 282, 395, 396 and 449. All the scouts were working on their Citizenship in the Community merit badge. Mayor Dunn noted this was the largest amount of different troops to attend, and she thanked the scouts and leaders for coming and for their work towards Eagle rank.

2. **APPROVAL OF AGENDA**

Mayor Dunn pointed out that Consent Agenda Items 7.D. through 7.H. were continued to the February 1, 2016 Governing Body meeting.

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

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 Nos. 2015-51, 2015-52, and 2016-1
- B. Accept January 4, 2016 Governing Body minutes
- C. Approve 7<sup>th</sup> and Final Pay Request in the amount of \$91,150.48 to Wiedenmann, Inc., pertaining to the 2015 89<sup>th</sup> and Mission Road Storm Drainage Improvement Project [Project 80550]
- D. **Resolution No. 4550**, approving an Eligible Facilities Request for a one time increase in height of an existing wireless communication tower for Parkway Plaza – STC Five LLC, located north of 135<sup>th</sup> Street and west of Briar Street (PC Case 02-16) [*continued to the February 1, 2016 Governing Body meeting*]
- E. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – T-Mobile, located north of 135<sup>th</sup> Street and west of Briar Street (PC Case 01-16) [*continued to the February 1, 2016 Governing Body meeting*]
- F. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – Sprint Spectrum, LP, located north of 135<sup>th</sup> Street and west of Briar Street (PC Case 03-16) [*continued to the February 1, 2016 Governing Body meeting*]
- G. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – Verizon Wireless, LLC, located north of 135<sup>th</sup> Street and west of Briar Street (PC 04-16) [*continued to the February 1, 2016 Governing Body meeting*]
- H. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – AT&T, located north of 135<sup>th</sup> Street and west of Briar Street (PC 05-16) [*continued to the February 1, 2016 Governing Body meeting*]
- I. Declaration of Surplus Property: 2005 PD Dodge Caravan; last 4 VIN/1320; and 2010 PD Chev Impala; last 4 VIN/6008
- J. Fire Department Monthly Report
- K. Municipal Court Monthly Report
- L. Police Department Monthly Report

Councilmember Sipple requested Consent Agenda Items 7.A and 7.L. be pulled.

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

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

- A. Accept Appropriation Ordinance Nos. 2015-51, 2015-52, and 2016-1

Councilmember Sipple stated his wife was listed as a contractor providing services to the Parks & Recreation Department and he would recuse from voting.

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

J. Fire Department Monthly Report

Councilmember Cain asked for clarification of “Hosted Pavilions HOA Meeting” listed in the “Monthly Highlights” section of the report. Mr. Lambers stated Fire Chief Dave Williams was not present due to weather and schedule, but he would have Chief Williams contact Councilmember Cain tomorrow. Mayor Dunn stated Chief Williams had offered to provide safety presentations at any HOA meeting. The Fire Department is happy to provide this service and doing so allows mutual introductions between the Fire Department and residents. Councilmember Cain noted this was another example of exemplary service.

Councilmember Azeltine praised the format of the monthly Fire Department report. He added the format of monthly Police Department has been sufficient, but unchanged for at least nine years, and questioned if the format of the Police Department report could be revamped. Mayor Dunn stated the recent accreditation process was a partial impetus for the format of the Fire Department report.

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

L. Police Department Monthly Report

Councilmember Sipple inquired about three statistics for 2015 presented on the last page of the report. Crimes of aggravated assault/battery [17] and stolen autos [26] in 2015 were the highest in five years, and fraud offenses were three times higher than the average of the last four years.

Chief Rettig stated that in general, there was no cause for alarm. Aggravated assault/battery could be hard to predict, typically being domestic and spur of the moment. Car thefts tend to occur when a group becomes active, at which time other metro area communities experience a rise in theft as well. The number of thefts was high, but Leawood fared better than other cities. A portion of the 171 fraud offenses relate to identity theft during the income tax season, which was difficult to prevent and most likely the vast majority of suspects have never been to Leawood. For convenience, a statutory change in 2014 allowed for victims of this crime to report to any police department, so not all of this number may have been Leawood residents, but it is likely that a large portion were.

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

## 8. MAYOR'S REPORT

- A. Acceptance of \$1,800.00 monetary gift from the Cloisters Homes Association to the City's Police and Fire Departments

The City has again this year received a letter from The Cloisters Homes Association, providing a monetary donation of \$1,800.00 to the City's Police and Fire Departments. The gift is to thank the departments for services rendered and available to their residents. The gift is sincerely appreciated and will be split equally between the two departments.

**A motion to approve the acceptance of the monetary gift from the Cloisters Homes Association to the City's Police and Fire Departments was made by Councilmember Rasmussen; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 7-0.**

- B. Attended the KanCare Expansion Forum at Johnson County Community College sponsored by area Chambers of Commerce and health-related industries. Presenters included legislators, business representatives and a Kansas Hospital President/Chief Executive Officer. All attendees appeared to be in favor of expansion.
- C. The Leawood Chamber of Commerce hosted a legislative luncheon with panelists Kansas Senator Jeff Melcher and Kansas House of Representatives Barbara Bollier, Rob Bruchman, Stephanie Clayton and Jerry Lunn. Joining me at the event were Councilmembers Debra Filla, Lou Rasmussen, Jim Rawlings, Carrie Rezac and Chuck Sipple. Enclosed in your agenda meeting packet is a flyer with the Leawood Chamber's 2016 State Legislative Priorities that were distributed at the event.
- D. Westwood Mayor John Yé hosted the Johnson and Wyandotte Counties Council of Mayors January meeting. Presentations were made by Johnson County Community College President Joe Sopcich regarding Career and Technical Education in Johnson County, as well as by Greater Kansas City Healthcare Foundation President and Chief Executive Officer Dr. Bridget McCandless regarding Tobacco 21.
- E. Kansas Governor Sam Brownback and Lieutenant Governor Jeff Colyer attended a Johnson County Elephant Club luncheon at Leawood's Hereford House restaurant. There were 100 people who came to hear Governor Brownback's remarks touting that "Kansas is the best place to raise a family and the best place for small businesses."
- F. Attended a Leawood Chamber of Commerce ribbon cutting for Bloom located in Park Place. In November, 2015, Bloom was named "One in a Million" in the Kauffman Foundation's Startup Competition.
- G. Joined by Councilmembers Debra Filla, Lou Rasmussen and Chuck Sipple at the Conveners Reception where the City of Leawood served as one of a number of hosts. Introductions were made for all legislators identifying their committee assignments for the current session.
- H. Police Chief Troy Rettig and members of his leadership team joined me at the Martin Luther King, Jr. Legacy & Scholarship Awards Dinner last evening. Leawood Chamber of Commerce President Kevin Jeffries was also in attendance. This was sponsored by the NAACP Olathe, Overland Park and Leawood Chapter, formerly known as the NAACP Olathe Chapter. Johnson County District Attorney Steve Howe received the Legacy Award.

- I. Thanks to Public Works Director Joe Johnson and his crews for keeping us all safe on the streets during the winter storms.

**9. COUNCILMEMBERS' REPORT – None**

**10. STAFF REPORT – None**

***COMMITTEE RECOMMENDATIONS***

**11. PLANNING COMMISSION**

*[From the November 24, 2015 Planning Commission meeting]*

**Ordinance No. 2770**, approving a Zoning to R-1 (Planned Single Family Low Density Residential District), Preliminary Plan, and Preliminary Plat, located north of 151<sup>st</sup> Street and east of Mission Road. (PC Case 61-15) [ROLL CALL VOTE]

Applicant and representative of the developer, Dan Foster, Schlagel & Associates, PA, 14920 West 107<sup>th</sup> Street, Lenexa, displayed an aerial photograph with property boundaries, with Ironwoods Park to the north, 151<sup>st</sup> Street to the south, Overland Park to the east and Mission Road to the west. Part of the plat was previously approved in 1961 and has dedicated streets, including 150<sup>th</sup> Street. A KCPL high voltage power transmission line crosses the plat. The proposed plat would contain 52 single estate homes with lot size of ½ acre or greater, along with seven common tracts to be maintained by the Home Owners Association [HOA]. Access to the development would be from 150<sup>th</sup> Street off Mission Road, with a second access point close to a previous access point off 151<sup>st</sup> Street. A 25 ft. wide area between the development and Ironwoods Park to the north is proposed consisting of a 15 ft. tree preservation easement and 10 ft. utility easement. A green space with trail would connect homes to Ironwoods Park. Meetings were held with Parks & Recreation staff and agreements have been made with regard to erosion improvements in Ironwoods Park. All Planning Commission stipulations are acceptable.

Applicant and staff responses to questions provided the following additional information:

- A. Artisan home builder Tim Cunningham would be the developer. He has built homes in Leawood, but this would be his first development.
- B. As agreed to in Planning Commission Stipulation 14, a 10 ft. easement would be provided for the east side, to be maintained by the HOA. This would match the easement of the adjacent developer of Villas of Ironwoods in Overland Park. It was not known if this developer plans to erect a fence.
- C. All fencing within the proposed plat would be on the property lots and no perimeter fence for the plat has been proposed. It is not intended for the 25 ft. space between the lots and Ironwoods Park to be absorbed into property lots.
- D. The HOA would be responsible for maintenance of the 15 ft. tree preservation easement. The easement would be left to scrub brush and maintenance would be expected to be minimal, limited to removal of dead, diseased or invasive plants. Home owners could remove trees from their property only.
- E. HOA documents could contain language requiring replanting if a tree is removed from the 15 ft. tree preservation easement. Diversification of tree species would be an important factor in the selection of replacement trees.
- F. The City has no formal definition of tree preservation easement.

- G. The proposed trail within the right-of-way [ROW] from 150<sup>th</sup> Street west to Mission could only be 8 ft. wide asphalt in the front yard of two lots, as easements needed for a 10 ft. wide trail could not be obtained from home owners.
- H. A trail would run along the western edge of the dry retention basin in the power line tract. The area would be reseeded with native grasses, which would not be mowed or manicured.
- I. Stormwater retention would be in a wet basin with fountain in the southeast corner of the plat.
- J. Trails would be compliant with Americans with Disabilities Act [ADA].
- K. The developer to east has indicated they would like to connect to park, but that trail would be lengthy and installation would require some clearing of vegetation. No authorization has been given.
- L. Sidewalks for Mission Road are expected in plans for future four-lane expansion of Mission Road. Improvements of Mission Road from 135<sup>th</sup> to 143<sup>rd</sup> is planned for 2023 and improvements for this section of 143<sup>rd</sup> to 151<sup>st</sup> in 2025. Sidewalks would be located on the west side of Mission Road with a 10 ft. asphalt trail on the east side.
- M. No traffic volume or undivided street turn access issues are expected.
- N. No current need for construction through Ironwoods Park. Trail construction and park culvert improvements would require being on park property.
- O. Home construction would be phased, with Phase 1 planned for spring along the eastern edge which has the easiest access to sanitary sewers.

**A motion to approve Agenda Item 11. was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 7-0.**

## **12. OLD BUSINESS**

Potential referral to Planning Commission of change to LDO Section 16-4-5.9 regarding the parking of passenger vehicles on residential driveways.

Ms. Bennett stated that if there was a consensus of the Governing Body to want the LDO revision, the blank number of days in the draft would need to be completed. Ms. Bennett clarified the recent revision of the LDO had been in regard to license plate visibility, similar to the code of the City of Olathe. The current draft would regulate parking on driveways in residential districts for more than a specific period of time. “Continuously” is defined as no movement at all during a given period of time. Mayor Dunn thanked Ms. Bennett for her work.

Mr. Lambers stated verification and tracking of parking would be nearly impossible. The City does not have a mechanism for tracking over an extended period of time and cannot enter private property. Code Enforcement has many other responsibilities in regard to property maintenance. If a Courtesy Notice was issued by Code Enforcement, the vehicle could be moved slightly and the process would start all over again. He shares the frustration in regard to this issue and suggested the Governing Body determine a number of days for the draft and make referral to the Planning Commission. He would report results even if efforts were ineffective.

Councilmember Rasmussen pointed out a citizen complaint had been presented to the Governing Body 120 days prior and the vehicles of issue were still present. He stated the vehicles in that case were over the right-of-way and the tires could be marked with a puff gun. He stated the main issue was not parking, but storage, and storage would require a different definition of number of days and zoning application.

**A motion to complete the draft with 120 days and refer Agenda Item 12. to the Planning Commission was made by Councilmember Rasmussen; seconded by Councilmember Osman.**

Additional suggestions were made for completing the draft with 180 days and 90 days instead of 120 days, and rationales discussed. A suggestion was made to include a stipulation for registering an exception. Mr. Lambers stated that doing so would likely result in all residents filing for an exception. He stated resident notification via Courtesy Notice may produce some success, as good citizens would likely move the vehicle in question.

**A “Friendly Amendment” was made by Councilmember Rasmussen to revise his prior motion from 120 days to 90 days; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 7-0.**

**13. OTHER BUSINESS** – None

**14. NEW BUSINESS**

Resolution amending the City of Leawood’s Community Improvement District [CID] Policy and repealing Resolution No. 3930

Mr. Lambers stated the proposed revision was in response to a prior situation and the intention of the revision was to ensure the planning process was separate from the CID. The order of process would be planning first, followed by CID. With a final plan in place, the Governing Body could apply additional stipulations to receive public funds. He noted that a CID is different from a Special Benefit District for public improvements that become City property.

Discussion revealed the desire for staff to conduct research into the CID policies of the first class cities of Shawnee, Olathe and Overland Park, plus Prairie Village, as well have review and buy-in of the Economic Development Council.

Mr. Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce, was agreeable to review by the next Governing Body meeting.

**A motion to continue Agenda Item 14. until the February 1, 2016 Governing Body meeting was made by Councilmember Azeltine; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 7-0.**

Mayor Dunn reminded the Governing Body Work Session for review and update of City goals was scheduled for Monday, January 25, 2016, beginning at 6:00 P.M. Materials from Mr. Lambers, with primary focus on short-term goals, would be provided in advance of the session on Friday, January 22, 2016.

**ADJOURN**

There being no further business, the meeting adjourned at 8:49 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk