Regular Meeting

THE LEAWOOD CITY COUNCIL

February 15, 2016

Minutes

DVD No. 365

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, February 15, 2016. Mayor Peggy Dunn presided.

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

Councilmembers Absent: Jim Rawlings

Staff Present: Patty Bennett, City Attorney
Chief Troy Rettig, Police Department
Mark Klein, Planning Official
Nic Sanders, Human Resources Director
Joe Johnson, Public Works Director
Debra Harper, City Clerk

Chief Dave Williams, Fire Department
Mark Andrasik, Info. Services Director
Richard Coleman, Community Dev. Dir.
Chris Claxton, Parks & Recreation Director
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.

2. APPROVAL OF AGENDA

Mayor Dunn pointed out the amended agenda in regard to a minor address revision for Agenda Item 11.B.

A motion to approve the amended agenda was made by Councilmember Rasmussen; seconded by Councilmember Sipple. 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.

Mayor Dunn stated Mr. Jeffries had signed in to speak on Agenda Item 12 and confirmed it was acceptable to wait until the topic was discussed later in the meeting.

4. PROCLAMATIONS – None

5. PRESENTATIONS/RECOGNITIONS – None
The next regular meeting of the Leawood Governing Body will be Monday, March 7, 2016

6. SPECIAL BUSINESS – None

7. CONSENT AGENDA

A. Accept Appropriation Ordinance Nos. 2015-55, 2016-4 and 2016-5
B. Accept February 1, 2016 Governing Body minutes
C. Accept February 1, 2016 Governing Body Work Session minutes
D. Accept November 12, 2015 Sustainability Advisory Board minutes
E. Accept November 4, 2015 Bicycle Friendly Committee minutes
F. Accept October 27, 2015 Leawood Arts Council minutes
G. Accept October 7, 2015 Public Works Committee minutes
H. Accept September 22, 2015 Leawood Arts Council minutes
I. Accept 2016 Governing Body Goals & Objectives
J. Approve Change Order No. 4 in the amount of $10,581.30, to Miles Excavating, Inc., pertaining to the 143rd Street Improvement Project between Nall Avenue and Windsor Street [Project # 80162] [KDOT Project # 46 N-0426-01]
L. Approve Co-op Bid in the amount of $21,530.00 from American Equipment Company for the purchase of [1] PW Replacement Swap Loader mounted body; 10’ Coates Replacement Plow Unit 452; and 2016 Plow & Dump Body
M. Approve Co-op Bid in the amount of $26,250.00 from Landmark Dodge for the purchase of [1] 2016 Police Dodge Charger
N. Approve Co-op Bid in the amount of $21,797.00 from Roberts Auto Plaza for the purchase of [1] Police Chevy Malibu
O. Resolution No. 4558, approving the City’s Stormwater Management Plan for compliance with the State Permit to discharge stormwater under the National Pollutant Discharge Elimination System [NPDES]
P. Resolution No. 4559, accepting new Public Infrastructure [storm sewers, street lighting, and vehicle bridges] in connection with the Leawood Heritage Storm Drainage Channel and corresponding roadway located near 87th & Ensley Lane, in accordance with GASB-34 Guidelines of Reporting Inventory of Assets [Stormwater Improvement Project DB-04-027] [Project # 77014]
Q. Resolution No. 4560, accepting new Public Infrastructure [streets] in connection with the 2015 Design Build Street Project [81st Street west of Lee Boulevard; Meadow Lane from 81st Street to 83rd Street; and Meadow Lane south of 114th Street], in accordance with GASB-34 Guidelines of Reporting Inventory of Assets [Project # 70018]
R. Resolution No. 4561, accepting new Public Infrastructure [streets] in connection with the 2015 Arterial Mill & Overlay Project [8700 blk. of Cherokee Lane], in accordance with GASB-34 Guidelines of Reporting Inventory of Assets [Project # 72061]
S. Resolution No. 4562, accepting new Public Infrastructure [bridge] in connection with the Glen Abbey Development, located at 143rd & Juniper, in accordance with GASB-34 Guidelines of Reporting Inventory of Assets
T. Resolution No. 4563, accepting new Public Infrastructure [storm sewers] in connection with the Stormwater Improvements located on Mission Road between 89th Street and 92nd Street, in accordance with GASB-34 Guidelines of Reporting Inventory of Assets [Project # 80550]
U. **Resolution No. 4564**, approving a Final Sign Plan for Tomahawk Creek Office Park – Philadelphia Insurance – Wall Sign, located north of 114th Street and west of Tomahawk Creek Parkway. (PC Case 137-15) *from the January 26, 2016 Planning Commission meeting*

V. **Resolution No. 4565**, approving a Final Plan for a Change to the Façade of a Tenant Space for Mission Farms – Nourish Restaurant, located south of 105th Street and east of Mission Road. (PC Case 08-16) *from the January 26, 2016 Planning Commission meeting*

W. **Resolution No. 4566**, approving a Revised Final Plat for Leawood Heritage – Second Plat, located north of Cherokee Lane and east of Ensley Lane (PC Case 10-16) *from the January 26, 2016 Planning Commission meeting*

X. **Resolution No. 4567**, approving a Revised Final Plan for Tomahawk Creek Office Park – Kansas City Orthopedic Institute (KCOI) Rooftop Unit Replacement, located south of College Boulevard and west of Tomahawk Creek Parkway (PC Case 11-16) *from the January 26, 2016 Planning Commission meeting*

Y. **Resolution No. 4568**, approving a Revised Final Plat for Leawood Heritage – Lot Split of Lot 26, located north of 89th Street and west of Ensley Lane (PC Case 13-16) *from the January 26, 2016 Planning Commission meeting*

Z. Fire Department Monthly Report

AA. Municipal Court Monthly Report

BB. Police Department Monthly Report

Councilmember Cain requested Consent Agenda Item 7.D. 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.

D. Accept November 12, 2015 Sustainability Advisory Board minutes

Councilmember Cain thanked Sustainability Board Member and City Administrative Graphics Tech Marica Putman for implementing a new easy-to-read meeting minute format. Ms. Putman works very hard on various meetings throughout the year, including the annual Home Owner Association [HOA] Meeting to occur this year on February 25, 2016 at The Lodge and Sustainability Meetings. Councilmember Filla added that Ms. Putman drafted the format on her own initiative. Councilmember Cain suggested other individual committees adopt the meeting minute format. Ms. Claxton would ensure Ms. Putman was made aware of the comments.

A motion to approve Consent Agenda Item 7.D. was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.
8. **MAYOR’S REPORT**
   A. Roeland Park Mayor Joel Marquardt hosted the February Johnson & Wyandotte Counties Council of Mayors at their newly remodeled City Hall. In addition to updates on the legislative session, we discussed Tobacco 21 for the second consecutive month. Included in your agenda packet is a letter from Lougene Marsh of the Johnson County Department of Health and Environment regarding Tobacco 21. I have attended a number of meetings on this topic, and we have received additional materials from Dr. Roy Jensen, Director of the Kansas University Cancer Center, in regard to the importance of the Kansas City region’s approval of Tobacco 21 to achieve the next level of National Cancer Institute designation. The Unified Government of Wyandotte County, Kansas City, Independence and Olathe have adopted Tobacco 21 policies.

   A motion to schedule a Governing Body Work Session on Monday, April 18, 2016 at 6:00 P.M., to discuss all information received, including communication from residents on this topic, was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 7-0.

   B. Attended the Leawood Chamber of Commerce ribbon cutting for Three Dog Bakery located in Camelot Court. This business began over 26 years ago in Kansas City, and this is the second location in the metro region. There are over 40 franchises across the United States and Canada, as well as in Hong Kong. We wish them much success.

   C. On behalf of the City of Leawood, our sympathies to the family of former City Councilmember Gary Bussing on the passing of his mother, Dorothy Bussing. She was 92 years old.

   D. Congratulations to Leawood resident Julia Huff, an 8th-grader at Leawood Middle School. She is the Kansas winner of Google’s 8th annual Doodle 4 Google art competition. The winners from 52 other state and territories were selected from 100,000 entries and five finalists will be chosen. We wish her luck.

   E. Reminder that there will be a Public Meeting on the 135th Street Community Implementation Plan on Thursday, February 18, 2016, from 6:00 to 8:00 P.M. at The Lodge in Ironwoods Park. The City is hosting the meeting in coordination with the Mid-America Regional Council [MARC].

   F. Reminder that the Arti Gras Opening Night Reception of the juried art show will be Friday, February 26, 2016, from 6:00 to 9:00 P.M. in the Oak Room of City Hall. This wonderful event is a fundraiser for the Leawood Foundation in collaboration with the Leawood Arts Council.

9. **COUNCILMEMBERS’ REPORT**

   Councilmember Filla  
   8th Annual Sustainability Summit & HOA Dinner,  
   February 25, 2016

Councilmember Filla hoped all HOAs would be represented at the meeting and requested Governing Body members advise her of their attendance, regardless of whether representing an HOA or not. This year’s keynote speaker is Dr. Cathie Lavis, Associate Professor of Landscape Management, Kansas State University. This enjoyable meeting includes a raffle and will be catered by Taco Republic.
10. STAFF REPORT

On behalf of Johnson County, Mr. Lambers stated the county would be hosting a meeting on the Johnson County Courthouse replacement in the Oak Room of City Hall on Monday, March 14, 2016 from 5:30 to 7:00 P.M. Johnson County is conducting meetings in all districts on this project. The replacement project has been estimated to cost $350 to $400 Million and a 10-year sales tax of a ¼ cent, that voters must approve, has been proposed. A portion of the sales tax would be shared with all municipalities.

Johnson County Wastewater is working to schedule neighborhood meetings in regard to the proposed wastewater treatment plant expansion project.

COMMITTEE RECOMMENDATIONS
11. PLANNING COMMISSION
[from the January 26, 2016 Planning Commission meeting]

A. Ordinance No. 2771, approving a Rezoning from RP-3 (Planned Cluster Attached Residential District) to RP-2 (Planned Cluster Detached Residential District), Preliminary Plan and Preliminary Plat for LeaBrooke Town Manors, located north of 148th Street and west of Kenneth Road (PC Case 75-15) [ROLL CALL VOTE]

Mr. Judd Claussen, Phelps Engineering, Inc., 1270 N. Winchester Street, Olathe, KS, made a presentation on behalf of the applicant, Mr. Dan Taylor, who was also in attendance. The property was zoned in 2003 and is currently RP-3, Planned Cluster Attached Residential. The undeveloped portion of the property was planned for 69 tri-plex units. In response to the housing market, a rezoning to RP-2, Planned Cluster Detached Residential, is proposed for 30 single-unit villa lots. The street network would remain largely the same, mostly north-south, with the addition of two cul-de-sacs. Access to Kenneth Road would be via 148th Street. The applicant is agreeable to all stipulations. If approved, street construction would commence later this year, followed by construction of the units.

Applicant, Mr. Dan Taylor, 3141 Merriam Lane, Kansas City, KS, stated a combination of 1.5 story and reverse 1.5 story villas are planned, with probably a greater number of reverse 1.5 story villas with basements, mostly on the east side based on lot grading. The villas would have two or three car garages, with entry on either front or side. Price would be mid-to-upper $400,000. Landscaping maintenance would be provided, but not a full maintenance program to cover items such as painting, roof and stucco like the current townhomes.

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

B. Ordinance No. 2772, approving a Revised Preliminary Plan and Final Plan for Parkway Plaza – Huber Dental, located south of 137th Street and west of Roe Avenue (PC Case 131-15) [ROLL CALL VOTE]
Applicant Mr. Jeff Skidmore, Schlagel & Associates, PA, 14920 W. 107th Street, Lenexa, KS, on behalf of Huber Dental stated the proposed plan is for new construction of a 3,600 sq. ft. one-story dental office building in the southwest corner of the 134th and Roe, on a triangular-shaped lot in Parkway Plaza Shopping Center. The proposed office would have the same general architecture and building materials as other buildings in the development. The site was originally approved for 5,500 sq. ft. and the remaining 1,400 sq. ft. would be maintained in case of a future second phase expansion. There are no definite plans at this time, but expansion would be to the south into the drive lane. All stipulations are agreeable.

A motion to approve Agenda Item 11.B. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The ordinance was passed with a unanimous roll call vote of 7-0.

C. **Resolution No. 4569**, approving a Revised Final Plan for Villa Milano – Gate, Access Road and Retaining Wall, located south of 137th Street and east of Mission Road (PC Case 07-16)

**Staff Comment:** *It is the position of the City Administrator that the gated access road requirement should remain in place, but be deferred until Mission Road is improved in 2025.*

Architect Mr. Bill Prelogar, NSPJ Architects, 3515 W. 75th Street, Prairie Village, KS, stated the applicant and owner, Mr. Rick Oddo of Villa Milano, LLC, and engineer, Mr. Jeff Skidmore of Schlagel & Associates, were also present. Mr. Prelogar stated the City Staff Report presented the three discussion points in a concise manner.

The first request is for approval of the addition of two inch x two inch square, black, coated wire safety mesh to the three pair of entrance gates that control access to the development. The mesh complies with the Americans with Disabilities Act.

The second item is an issue of rebuilding a retaining wall in the southeast area of the property where there is a box and storm drain to the pond. The proposed revision would align a limestone wall with the box culvert. Working with City Staff, a satisfactory design has been determined that relocates the fence behind the retaining wall.

The third request would remove the future emergency drive that would connect from the southwest portion of the development to Mission Road. The City Staff Report documents the positions of the City Fire and Public Works Departments, and that of the applicant. The area that would have been used for this right-in/right-out on to Mission Road is proposed to be an open dog park. The applicant agrees to the stipulation to provide pedestrian access to Mission Road with a gate and sidewalk in the location of the previously proposed drive.

Mr. Prelogar stated the very successful development is completely built and full of residents, and there is virtually no traffic impact on 137th Street. A traffic study revealed that even with addition of a right-in/right-out access to Mission Road would reduce traffic light wait time for only 4/10th of a second. The proposed removal of the future drive preserves public open space, provides a current pedestrian connection to Mission Road and is favored by both Villa Milano and Leawood Meadows residents. Taking action now eliminates dependence of Villa Milano and Leawood Meadows upon future work to on Mission Road and its sidewalks scheduled to begin in 2025. The Planning Commission voted six to two in favor of the revised plan.
Mayor Dunn stated a member of the Planning Commission who lives in Tuscany Reserve voted against the removal of the future drive and recalled it was Tuscany Reserve residents who felt traffic having another access to Mission Road would be beneficial. The reason behind that Planning Commissioner’s vote and the City Administrator’s recommendation was because once Mission Road is widened to four lanes, there could be a different traffic pattern and actual traffic counts could be conducted. Mr. Klein agreed with Mayor Dunn and stated Tuscany Reserve residents were concerned that traffic would be pushed to 137th Street. Mr. Prelogar agreed and added that there had been some concern expressed by the Fire Department ought to have the access, but it was subsequently decided the area would be served by the fire station to the north of 135th Street rather than south of 135th Street.

Councilmember Rasmussen recalled the reason for the future access drive to Mission Road was to alleviate the traffic conditions that occur during Sunday service times for the large church on 137th Street and questioned if traffic study had conducted. He questioned why the applicant had not complied with the construction of the original retaining wall.

Mr. Johnson stated the City had not performed a traffic study for 137th and Roe, and 137th and Mission. The concern relating to church traffic may have been before Roe was extended to 143rd Street. Roe and Nall Avenues are main entrance points to the church now. Mr. Coleman stated the non-compliant retaining wall was noted upon inspection, but the reason for non-compliance is not known. The wall would be revised from concrete split-face block retaining wall to a limestone mass retaining wall. The current crushed stone shown on Page 2 of the Staff Report would be removed and replaced with green vegetation. A detailed rendering of the revised construction of the retaining wall is shown on Page 3 of the Staff Report.

Councilmember Sipple favored the dog park and removal of the drive which would probably be a gated and could potentially cause back-up of traffic on Mission awaiting the gate during a right-in turn, but expressed concern about the proposed sidewalk and gate, inducing pedestrian traffic to walk on grass along Mission Road.

Mr. Rick Oddo, President of Oddo Development, 15431 W. 100th Terrace, Lenexa, KS, stated the sidewalk gate could be locked if the City desired. If approved, the sidewalk would be installed immediately so an occupancy certificate could be obtained. Residents of Tuscany Reserve were not contacted about removal of the access drive, but future developments to the south would probably not favor the access to Mission Road. The dog park would be approximately 150 ft. long by 75 to 80 ft., with fencing on two sides and a the proposed sidewalk along the trees on the north end.

Mr. Coleman stated the gate could be locked and users provided a passkey. Once through the gate, pedestrians would walk about one block to reach the trail. Councilmember Sipple stated pedestrians must walk about one city block south of the proposed gate to access a sidewalk currently on the west side of Mission Road. There is no sidewalk within 100 ft. to 200 ft. of the proposed gate. Councilmember Filla stated there are areas in the City without sidewalks and pedestrians walk on grass, and the proposed sidewalk was beneficial for access to the park.

Mayor Dunn clarified that sidewalks would be installed along Mission Road in from 135th to 143rd in 2023 and 143rd to City limits in 2025 when the road was widened, and that if the proposed access drive to Mission Road was removed from the plan it could not be added back in the future. She noted agreement to the Planning Commission addition of the sidewalk and gate access when there is no sidewalk on Mission.
A motion to approve Agenda Item 11.C. with all Planning Commission stipulations and without the City Administrator’s recommendation was made by Councilmember Filla; seconded by Councilmember Azeltine. The ordinance was passed with a roll call vote of 5-2; Nay votes from Councilmembers Rezac and Cain.

Councilmember Rezac stated it would be prudent to wait until 2025 to provide the opportunity to assess the condition of the area and whether the access road was needed.

Councilmember Cain stated there had been a large amount of deliberation and the access drive to Mission Road would probably not be needed in the future, but there could be additional traffic once Mission Road was widened and 135th Street developed.

Mayor Dunn stated she was hopeful that come 2025, the decision would not be regrettable. She did not favor removal of the drive until Mission Road was fully developed.

12. OLD BUSINESS

Resolution No. 4570, amending the City of Leawood’s Community Improvement District [CID] Policy and repealing Resolution No. 3930 [continued from the January 19, 2016 Governing Body meeting] – CONTINUED FROM THE FEBRUARY 1, 2016 GOVERNING BODY MEETING

Ms. Bennett stated the proposed policy was essentially the same as the previous draft. However, this draft provides for preliminary development plan approval first, then a Council Work Session to touch base on requests, and ultimately final plan approval would come through and if the Council was favorable it would come through with a development agreement and CID petition. This could be at the same meeting, but those would come after the final development plan approval agenda.

Mr. Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce, 13451 Briar Street, Suite 201, Leawood, KS, stated the Economic Development Council [EDC] had reviewed the proposed draft CID policy at its meeting on Friday, February 12, 2016, and questions were received from several EDC members, as follows:

A. Section 7 – Consideration, Page 8, Item 11. Can the Council impose stipulations after final plan, when a goal of the proposed CID policy revision was to give certainty to all parties that the final plan incorporated all provisions to meet the CID requirements? What would be examples of other stipulations?

B. Section 6 – Procedure, Page 5, Item B – Application Process. What is the resolution process or what remedies exist if the CID applicant and the City Administrator cannot come to agreement of applicability of some items in the CID application?

In response to Question B, Mr. Lambers stated that as part of the CID application process, the applicant is required to sign/acknowledge they have read and agree to abide by the CID policy. If there are inconsistencies, the remedy would be to request a Council Work Session to request changes to the CID policy.
In response to Question A, the timing of the final plan and the timing of the CID application is not necessarily concurrent. If a CID application is received 6 months after final plan, there may have been changes and the City reserves the right to reflect that.

Mayor Dunn stated the CID process, even when all requirements are met, this is still considered case-by-case with give-and-take, and may require stipulations to warrant receipt of public subsidies. This happened numerous times with Camelot Court. Mr. Lambers stated that final plan and CID application ran concurrent, and the applicant felt the final plan review constituted the CID review and the City disagreed with that conclusion. The proposed draft clearly separates the processes until the preliminary plan has been approved, and then the final plan and CID could move forward concurrently. Mayor Dunn added there could always be a revised final plan.

Councilmember Azeltine expressed concern about subjectivity of interpretation of the CID policy. Mr. Lambers stated CID application review would be conducted openly and he would provide reasons for any applications not favorably considered. He stated he would mostly likely allow applications with “gray areas” to move forward with those areas noted, without administratively stopping the process unless there were clear violations of policy.

Councilmember Osman suggested a language change to Section 6 – Procedure, Page 5, Item B – Application Process. “If the City Administrator determines that the proposed CID…” could be changed to read “If it is determined that the proposed CID…” He interprets the current proposed draft text to be at sole and exclusion opinion of the City Administrator and the change to would provide some flexibility for Staff and Council input. Mr. Lambers stated any application deemed to not meet the policy requirements, the City Council would be informed and reasons provided.

Mayor Dunn stated her appreciation of the term “preliminary consideration” in the sentence in Section 6 – Procedure, Page 5, Item B – Application Process, that states “If the City Administrator determines that the proposed CID meets the criteria and objectives of the policy, a Governing Body work session will be scheduled to review the CID application for preliminary consideration.” This may curtail some of the past problems and allows some Governing Body dialogue and the ability to direct staff.

Councilmember Rezac thought the draft was an improvement for both the City and developers.

Mayor Dunn stated she hoped the comments had provided answers to the EDC questions brought forth by Mr. Jeffries, and that responses would be documented in the meeting minutes. She thanked Mr. Lambers and Ms. Bennett for their work on the proposed CID policy.

A motion to approve Agenda Item 11.C. was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved a unanimous vote of 7-0.

13. OTHER BUSINESS – None
14. NEW BUSINESS

Mayor Dunn stated the agenda for the March 7, 2016 Governing Body meeting would contain an item requiring a motion to schedule a Governing Body Executive Session on March 28, 2016, at 6:00 P.M. for a Personnel Matter - City Administrator’s Annual Review.

ADJOURN

There being no further business, the meeting adjourned at 8:39 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk