

Minutes

DVD No. 369

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, May 2, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Lou Rasmussen, Debra Filla, Andrew Osman and Chuck Sipple

Councilmembers Absent: James Azeltine

Staff Present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Richard Coleman, Comm. Dev. Director
Joe Johnson, Public Works Director
Theresa Lodde, Senior Accountant
Nic Sanders, Human Resources Director
Debra Harper, City Clerk

Patty Bennett, City Attorney
Mark Andrasik, Info. Services Director
Chief Dave Williams, Fire Department
Chris Claxton, Parks & Rec. Director
Chief Troy Rettig, Police Department
Cindy Jacobus, Assistant City Clerk

Others Present: Former Leawood Councilmember Carrie Rezac
Kaleb Lilly, Partner, Rubin Brown, LLP
Graham Ryan, Manager, Rubin Brown, LLP
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 with a musical accompaniment.
2. **APPROVAL OF AGENDA**

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 6-0.

3. **PRESENTATIONS/RECOGNITIONS**
Recognition Resolution No. 4621 of Ward Three Councilmember Carrie Rezac

Mayor Dunn thanked former Councilmember Carrie Rezac for attending. Mayor Dunn read the recognition resolution and presented the resolution, an inscribed crystal outstanding service award plaque, nameplate and Key to the City to Ms. Rezac. Mayor Dunn personally thanked Ms. Rezac for being an outstanding public servant and offered best wishes for her future endeavors.

Ms. Rezac thanked Mayor Dunn for her kind words and her husband, David, for being a supportive spouse. She stated it had been a privilege to have the opportunity to serve with a Governing Body that was passionate for and always focused on what is best for Leawood. The City Administrator and staff were extremely professional and knowledgeable, making her job much easier. She learned much from living in the City, work with volunteers and communication with residents, and Leawood is truly a distinct and special city.

The resolution was approved by all with a round of applause.

4. PROCLAMATIONS

**Women’s Lung Health Week, May 8-14, 2016
Bike to Work Week, May 16-20, 2016**

Mayor Dunn read both proclamations. She stated the City has quite a few employees who bike to work. Based on research conducted by Accountant Karry Rood who bikes to work, there are six Police employees and two Parks Maintenance employees who bike to work. Their stated reasons for doing so include a cardio workout, reduced carbon footprint, giving their vehicle a break, stress relief, excellent exercise and enjoyment. Mayor Dunn noted that Councilmember Sipple is an avid cyclist as well.

Parks & Recreation Director Chris Claxton accepted the Bike to Work Week proclamation. Mayor Dunn thanked Ms. Claxton for her work to create great bike paths and her cooperation with other departments on projects which accommodate cyclists such as street striping.

Councilmember Filla reminded and urged extra caution on “Bike and Walk to School Day,” this Wednesday, May 4; all but two local elementary schools are participating.

5. 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 called for citizen comments in order of their sign-in.

Mr. Sam Mann, 10127 N. Ditman Avenue, Kansas City, Missouri, spoke in regard to the City’s recent review of the Tobacco 21 initiative. He is the General Manager for Diebel’s Sportsmens Gallery in Camelot Court. Diebel’s is a company founded in 1954 and has been in the area for 62 years. They offer premium imported no-additive cigars which cost approximately \$6 to \$10 each, a product that can legally be sold to customers old enough to marry and to vote. Diebel’s is a small business with about 75% of sales from cigars and the Leawood store does not sell cigarettes. The majority of their customers are college-educated, who smoke for taste similar to wine-tasting, inhaling without getting nicotine in the blood system and without addition, and for relaxation and comradery. Eighteen to 20 year olds may smoke as a “rite of passage” or in celebration. He stated three documents from wearehealthykc.com website repeatedly mention cigarettes, but not cigars. Tobacco 21 would be an attack on his business and although cigarettes can be a problem, he implored the Council to exclude cigars from the initiative.

Dr. Edward Ellerbeck, 215 W. 53rd Street, Kansas City, Missouri, stated he was a physician at The University of Kansas Cancer Center and co-director of the Cancer Control & Population Health Research Program at The University of Kansas Cancer Center. He is passionate to reduce the cancer burden in the community, as it relates to cigarettes and tobacco products. Although not a Leawood resident, he did coach Leawood soccer for six years and believes Leawood is community dedicated to health and wellness. Of the 800 Leawood students that graduate from high schools each year, about 18% or 144 will become new smokers every year. About one-third of these will die from related disease. If we can raise the sale age from 18 to 21 and reduce the risk of starting to smoke by 20%, 10 lives would be saved each year in Leawood. Nicotine is more addictive per milligram than cocaine and starting age for smoking is a huge factor in the probability of being a life-long smoker. If you start smoking earlier, you will be twice as likely to become permanently addicted. Reducing exposure in high school means less likelihood of permanent addiction.

Ms. Nicole Brown, Johnson County Department of Health and Environment, 5431 W. 100th Street, Overland Park, Kansas, stated she had been a T-ball coach in the Leawood Parks & Recreation Department in the past and would speak about Tobacco 21. She stated there has been an explosion of e-cigarette use by youth and the impact cannot be underestimated as a public health concern. Use by 13 to 18 year olds rose from 1.5% to 16% in the last five years. There is heavy marketing of these products to youths and experimentation during this time period can lead to use of other traditional tobacco products in the future. Only about 40% of Johnson County 15 to 18 year old students think it would be hard to obtain tobacco products although they cannot now purchase; many get them from their 18 to 21 year old friends. Tobacco 21 would reduce access for 15 to 18 year olds. Ninety-five percent of smokers begin using tobacco products prior to turning 18. In a 2015 "Monitoring the Future" national study, 47% of eighth graders and 66% of tenth graders say tobacco products are easy to get from older-aged sources. Part of her 25 years in health has included speaking with local adults about their smoking status on an annual basis. Nearly one-half of smokers try to quit each year. Most smokers will make several attempts over many years. One of the best ways to help is to not begin to smoke in the first place. We need to protect our 13 to 18 year olds, and her department can be a resource and she would be happy to assist.

Mr. Scott Hall, 30 W. Pershing Road, Kansas City, Missouri, Greater Kansas City Chamber of Commerce, 30 W. Pershing Road, Kansas City, Missouri, stated that 145 cities have now passed Tobacco 21 that includes cigars. To his knowledge, each of the 145 cities included cigars in the definition. Cigars contain nicotine and cigar smoking leads to throat and mouth cancers and COPD [chronic obstructive pulmonary disease]. Excluding cigars would complicate and be a burden on law enforcement. He is available as a resource.

Mayor Dunn thanked those who had spoken and inquired if anyone else was present who wished to speak on the topic. She stated there was no ordinance on the agenda tonight and asked Mr. Lambers if a draft ordinance would be presented at the next Council meeting. Mr. Lambers replied the Council needs to provide their directive and suggested a Work Session be scheduled for Monday, June 6, 2016, for review and discussion of a draft ordinance based on the ordinance of Prairie Village and how the Council wants to proceed. He did not favor drafting the ordinance at a regular Council meeting as the Council would want to take into account the information presentation tonight on cigars, especially for business that sell cigars only and consider types of penalties and any other modifications. He stated the initiative was clearly aimed at cigarette use and the cost of cigars probably prohibits purchase by youth. Once an ordinance was drafted, the public would have a chance to view, and the ordinance could be presented at a subsequent Council meeting.

A motion was made by Councilmember Filla to schedule a Work Session on Monday, June 6, 2016, for review and discussion of a draft ordinance based on the Prairie Village ordinance; seconded by Councilmember Rawlings. The motion was approved by a unanimous vote of 6-0.

6. SPECIAL BUSINESS

A. Presentation of 2015 Annual Audit

Ms. Long stated the audit was complete and an unmodified report successfully implanting Governmental Accounting Standards Board [GASB] Statement No. 68. She stated Senior Accountant Theresa Lodde played an extremely important role in the process and was in attendance.

Mr. Kaleb Lilly, Rubin Brown, LLP, stated he would be reviewing auditor communications regarding GASB Statement No. 68, which relates to the Kansas Public Employees Retirement System [KPERs] and also the Single Audit report. He introduced Mr. Graham Ryan, Audit Manager.

Mr. Ryan stated the document “ViewPoints – Auditor Communications and Other Considerations Resulting from Financial Audit, City of Leawood, Kansas, For The Year Ended December 31, 2015” was required to be provided and he presented a brief summary of its contents. He stated the information presented was for the sole use of the Council and City management, and was not intended to be or should be used by any others.

The document begins with a letter thanking for the opportunity to be of continued service to the City, and notes excellent cooperation, and complete access to records and supporting documentation. Page 1 presents the members of the Rubin Brown Engagement Team. Page 2 states the audit had been conducted using generally accepted United States standards and standards applicable to financial audits contained in *Government Auditing Standards*. Page 3 provides the types of opinions issued by Rubin Brown. Page 4 describes the implementation of GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*, as amended by GASB Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date*. No other new accounting policies were adopted or existing policies changed during the report year.

Mr. Lilly reviewed the Management Judgments and Accounting Estimates, and Financial Statements Disclosures on Page 5, stating the two most important disclosures were Note 9 – Long-Term Liabilities, and Note 10 – Other Information (Commitments and Contingencies, Pension Plan, OPEB and Risk Management). OPEB would be other postemployment benefits that the City offers.

As presented on Page 6 there were no adjustments to the financial statements proposed, but there were two discrepancies that management deferred to post that would have decreased fund balance by about \$168,000. One item was a small piece of an accrued contractor payment that crossed time periods. The other item related to the fair value of investment. With interest rates on the rise, the value of investment crossed the lower threshold.

Mr. Lilly reviewed the New Accounting Pronouncements listed on Page 7. GASB Statement No. 72, *Fair Value Measurement and Application*, relates to investment portfolio disclosures by type of asset or liability reported at fair value by governments, similar to how private organizations already handle. Governments would be required to “level” or describe their how they fair value their securities, using one of three methods. This should not be a major implementation issue for the City. GASB Statement No. 72 would be effective for the December 31, 2016 financial statements.

GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions (OPEB)*, is almost a verbatim copy of GASB Statement No. 68 which related to pensions. This principally involves health care benefits provided after retirement and will result in a larger liability. This standard would be effective for the December 31, 2018 financial statement.

GASB Statement No. 77, *Tax Abatement Disclosures*, requires disclosure of the terms of any tax abatement and forgiveness such as for CIDs [Community Improvement Districts) or NIDs [Neighborhood Improvement Districts], for the government's own agreements and also those that are entered into by other governments, such as states or counties or schools, which reduce the reporting government's tax revenues. Mr. Lambers stated the City has a CID with a sales tax imposed and the City is not abating City tax revenue. Once the CID conditions of financial obligations are met, it goes away. An additional 1% is added to the City's sales tax and the 1% goes to the developer. Mr. Lambers inquired if this would be considered an abatement. Mr. Lilly stated he needed to research and verify, and would provide information at a future time.

Mr. Lilly stated the single audit of the City's 143rd Street program was conducted for approximately \$1.6 Million federal dollars that crossed the audit threshold. Public Works Director Joe Johnson assisted with this audit and there were no findings or issues.

Mr. Lilly stated because of GASB Statement No. 68 implementation, the City had to book \$20 Million due to KPERS liability, which is an estimate of the portion of deficient for the cost-sharing model fund. Mr. Lambers stated it was important to note the deficiencies have come from state actions not those of the City or employees, and he expressed the opinion that if the state would attempt to extract cities' liability that would result in a class action law suit.

Mr. Lilly clarified for Councilmember Rasmussen that the increased liability amount from 2014 to 2015 shown on schedules on Pages 9 and 66 of the actual audit report was for two reasons. For a single year finance presentation, which the City utilizes, there is discretion as to whether to restate in the NDA, which is not an audited document, the effect of GASB Statement No. 68 for the previous years. The KPERS statement is a snapshot of liability; it would be a major expense to KPERS to provide all the data and there just had be an initial data starting point.

Mayor Dunn was pleased and not surprised the audit team had received full cooperation from City staff, and complimented the professional conduct of the Rubin Brown audit engagement team. She thanked Ms. Long and Ms. Lodde for their effort.

- B. **Resolution No. 4618**, accepting the 2015 Comprehensive Annual Financial Report [Audit] for the City of Leawood, Kansas

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

- C. **Public Hearing** Petition for Vacation of Utility Easement, effecting Lot 9, Patio Homes at Hallbrook, First Plat, and Lot 9-A, Patio Homes at Hallbrook, Second Plat, a subdivision of land at 11408 High Drive located in the City of Leawood, Kansas [Residence of Scott & Mary Holland]

Mr. Rick Jones, Principal Architect, NSPJ Architects, 3515 W. 75th Street, Prairie Village, Kansas, stated he and builder Mr. Rick Standard, R.M. Standard Construction, would answer any questions. Mayor Dunn thanked them for their attendance.

A motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 6-0.

- D. **Ordinance No. 2780**, vacating a Utility Easement located within Lot 9, Patio Homes at Hallbrook, First Plat, and Lot 9-A, Patio Homes at Hallbrook, Second Plat, a subdivision of land at 11408 High Drive located in the City of Leawood, Johnson County, Kansas [Residence of Scott & Mary Holland] [ROLL CALL VOTE]

A motion to approve Agenda Item 6.D. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion to pass the ordinance was approved with a unanimous roll call vote of 6-0.

- E. **Resolution No. 4619**, accepting proposed assessments for tax year 2017 for construction of certain public and private road and parking lot related improvements and other such transportation related improvements approved by the City, located within 119th Street Development District [TDD], within the City of Leawood, Kansas; and authorizing and directing the City Clerk to give Notice thereof to the owners of properties within the District by publishing notice thereof and providing written notice to owners of property of such proposed assessments [ONE NINETEEN TRANSPORTATION DEVELOPMENT DISTRICT] [CIP #80456]

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

- F. **Resolution No. 4620**, accepting proposed assessments for tax year 2017 on lots, pieces, and parcels of ground in the City of Leawood, Kansas, for the purpose of paying for construction of improvements to Nall Avenue, 117th Street, Town Center Drive and Roe Avenue and construction of storm water improvements within the City of Leawood, Kansas; and authorizing and directing the City Clerk to give notice thereof to the owners of properties within the District by publishing notice thereof and providing written notice to owners of property of such proposed assessments [PARK PLACE DEVELOPMENT] [CIP #83196]

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

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. 2016-14 and 2016-15
- B. Accept April 18, 2016 Governing Body minutes
- C. Accept April 18, 2016 Governing Body Work Session minutes
- D. Accept April 11, 2016 Joint Governing Body/Leawood Foundation/Parks & Recreation Advisory Board Work Session minutes
- E. Accept March 10, 2016 Leawood Foundation minutes
- F. Approve Change Order No. 1 in the amount of \$3,740.00 to Jacor Contracting, Inc., pertaining to structural repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- G. **Resolution No. 4622**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$4,419,359.99, between the City and Phoenix Concrete & Underground, LLC, pertaining to the 2016 Curb Program & Residential Mill & Overlay [Project Nos. 80253, 70020, 70516, & 77019]
- H. **Resolution No. 4623**, reaffirming the City Administrator's decision to authorize an Independent Contractor Agreement in the amount of \$6,400.00, between the City and Warren Moore Painting, LLC, pertaining to repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- I. **Resolution No. 4624**, reaffirming the City Administrator's decision to authorize an Independent Contractor Agreement in the amount of \$13,593.75 between the City and Commercial Floorworks, Inc., pertaining to repairs located at the Leawood Aquatic Center, 10601 Lee Boulevard [Project # 74078]
- J. **Resolution No. 4625**, approving a Final Sign Plan for Root Professional Building – Wall Sign, located south of College Boulevard and east of Ash Street. (PC Case 40-16) [*from the April 19, 2016 Planning Commission meeting*]
- K. Declaration of Surplus Property; Parks Maintenance 1988 18' tandem axle, last 4 VIN/2029

A motion to approve the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0.

8. Mayor's Report

- A. Attended two legislative budget briefings with City Administrator Scott Lambers. The first was hosted by the Johnson County Republican Club in Leawood's Hereford House; the second was sponsored by the Johnson County Public Policy Council of which our Leawood Chamber of Commerce is a member. Chamber President Kevin Jeffries was also in attendance.
- B. Participated in the American Public Square program titled "The Crossroads of Religion and Politics." This was hosted by the Church of the Resurrection in Leawood, and Reverend Adam Hamilton was on the panel of presenters.

- C. Attended the Troop 10 Boy Scouts of America Eagle Court of Honor and had the pleasure of presenting the Citation Biography for Eagle Scout Thomas Brentano. You will recall Thomas was recognized in my January State of the City address. For his Eagle Scout project, he collected and shipped over 1,600 new and used children's books, raising more than \$400 for shipping costs. Fourteen boxes of books weighing nearly 600 pounds were shipped to Jhong Shan Elementary School in I-Lan, Taiwan, Leawood's Sister City to assist the students' learning of English. There were a total of 15 Boy Scouts that achieved the rank of Eagle at the ceremony. A total of 451 Boy Scouts from Troop 10 have attained Eagle rank since the troop was founded in 1975.
- D. Congratulations to the 2016 Employee Activity Committee for organizing and hosting a most enjoyable "Bring Your Child To Work Day."
- E. Thank you to Councilmember Debra Filla for recently representing Leawood at the "Seven Days" Patron event.
- F. Thanks also to Councilmember James Azeltine for providing welcome remarks at the NAACP Kansas State Conference hosted by Olathe, Overland Park, and Leawood NAACP.
- G. Our Leawood Fire and Police Departments were once again this year recipients of generous donations from the Leawood Woman's Club Philanthropic Fund. These contributions will be put to very good use and Fire Chief Dave Williams and Police Chief Troy Rettig have both written thank you letters.
- H. Thanks to Parks & Recreation Director Chris Claxton and her team for organizing a terrific trail clean-up event this past Saturday. Special thanks to Councilmember Chuck Sipple for rolling up his sleeves and chipping in.
- I. Reminders for two upcoming events: First is that the Leawood Stage Company will present "My Fair Lady" on May 5, 6 and 7 at 7:30 P.M. at the Church of the Resurrection in Leawood. Councilmember James Azeltine is a member of the cast. Second is the Leawood Arts Council Art Show and Reception co-sponsored by Eva Reynolds Fine Arts in her gallery in Parkway Plaza on Friday, May 13, from 5:30 P.M. to 7:30 P.M.
- J. Congratulations to Councilmember Debra Filla on the birth of a granddaughter, Ava LaVonne, who weighed eight pounds, one ounce.

9. COUNCILMEMBERS' REPORT – None

10. STAFF REPORT

Mr. Lambers stated he had received a telephone call this morning from Bond Counsel Mr. Bill Hess advising of his departure the law firm of Bryan Cave to work at Gilmore & Bell. Mr. Lambers stated the City would continue to utilize his services to complete the financial transactions for the remainder of the year. This would provide an opportunity to bid for service later this fall. He would be meeting with Mayor Dunn to discuss the process, which typically involves a committee, some elected officials and staff members.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION – None

12. OLD BUSINESS – None

13. OTHER BUSINESS – None

14. NEW BUSINESS

Ordinance No. 2781C, amending Article 2 of Chapter VI of the Code of the City of Leawood, Kansas, 2000, entitled “Wards” and repealing existing Article 2 of Chapter VI and other sections in conflict herewith

Mr. Lambers stated ward boundaries may need to be revised periodically based on changes in population. Currently, the City’s northern wards have less population than the southern wards. With the councilmember vacancy in Ward Three, it was agreed with Mayor Dunn this would be an opportune time to adjust ward boundaries to closer equality. If approved, the ordinance would shift certain precincts into Ward One and Ward Two, out of Ward Three and Ward Four. Precincts can only be moved, not split. The Kansas Supreme Court recently upheld a 10% population variance and that either natural or man-made barriers can result in ward population discrepancies. After the 2020 population survey results are available in 2021, Ward One boundary would most likely need to shift south to 435 Highway and stop, and the boundaries of all other wards shifted slightly south as well. At some future time, a Kansas Supreme Court decree may be needed in this regard.

A motion to approve Agenda Item 14. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion to pass the ordinance was approved with a unanimous roll call vote of 6-0.

ADJOURN

There being no further business, the meeting was adjourned at 8:41 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk