

Minutes

DVD No. 374

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, July 18, 2016. Mayor Peggy Dunn presided.

**Councilmembers Present:** Jim Rawlings, Chuck Sipple, Julie Cain, Debra Filla, Lisa Harrison and James Azeltine

**Councilmembers Absent:** Andrew Osman

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Richard Coleman, Comm. Dev. Director	Deputy Chief Kevin Cauley, Police Dept.
Joe Johnson, Public Works Director	Captain Dale Finger, Police Department
Nic Sanders, Human Resources Dir.	Dawn Long, Finance Director
Karl Weinfurter, Info. Services Specialist II	Chris Claxton, Parks & Recreation Dir.
Mark Klein, Planning Official	Chief Dave Williams, Fire Department
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**

**2. APPROVAL OF AGENDA**

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

**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 confirmed with the citizen who had signed in that he would address the Council when Agenda Item 11.A. was discussed.

**4. PROCLAMATIONS**

**Recognition of Fire Captain John Hinman,  
Life-saving fire evacuation incident**

Mayor Dunn asked Fire Chief Dave Williams and Fire Captain John Hinman to come forward. She read the proclamation into the record. She congratulated Captain Hinman for his leadership and valor. Captain Hinman stated he had last been before the Governing Body 10 year ago when he was promoted to captain. He introduced his wife Becky and two sons.

Fire Chief Williams stated he had not been surprised to receive the letter notifying of Captain Hinman's actions. He is a fine person, who does whatever it takes to help and repeatedly steps up to improve the department. Captain Hinman is a benefit to the department and a pleasure to work with.

Mayor Dunn stated her appreciation that Captain Hinman's family could attend and she thanked Chief Williams for sharing the story and providing the opportunity to recognize Captain Hinman's heroic and inspiring efforts in a public meeting.

**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. 2016-25 and 2016-26
- B. Accept July 5, 2016 Governing Body minutes
- C. Accept July 5, 2016 Governing Body Work Session minutes
- D. Accept June 14, 2016 Parks & Recreation Advisory Board minutes
- E. Approve Mayoral Appointment of Kenny Johnston to Sustainability Advisory Board for a term ending in 2018
- F. Renewal of Cereal Malt Beverage License for Gordon Biersch Restaurant, located at 11652 Ash Street
- G. Renewal of Cereal Malt Beverage License for Ra Sushi Bar Restaurant, located at 11638 Ash Street
- H. Renewal of Cereal Malt Beverage License for Talk of the Town, located at 5201 W. 135<sup>th</sup> Street
- I. Approve bid award for the purchase of office supplies with National Joint Powers Alliance [NJPA] with Staples Advantage for a 4-year term – *CONTINUED FROM THE JULY 5, 2016 GOVERNING BODY MEETING*
- J. Approve payment in the amount of \$59,225.00 to Leawood Chamber of Commerce for remaining 2016 balance, in accordance with the 2016 Economic Development Agreement
- K. Second & Final Pay Request in the amount of \$11,647.10 to Mega Industries Corporation, pertaining to the Tomahawk Creek Parkway Bridge & Trail Improvement Project [Project # 71023]
- L. First & Final Pay Request in the amount of \$271,250.41 to Vance Brothers pertaining to the 2016 Slurry Seal Program [Project # 70019]

- M. **Resolution No. 4658**, calling for a public hearing to be held on Monday, August 15, 2016 at 7:30 P.M., or as soon thereafter as may be heard, to consider the 2017 Fiscal Budget for the City of Leawood, Kansas
- N. **Resolution No. 4659**, approving and authorizing the Mayor to execute a Construction Agreement, in the amount of \$340,432.35 between the City and Landscapes Unlimited, pertaining to the 2016 Ironhorse Bunker Renovation Project [Project # 71023]
- O. **Resolution No. 4660**, approving and authorizing the Mayor to execute a Community Service Agreement between the City and Blue Valley Unified School District No. 229, pertaining to the assignment of School Resource Officers [SRO]
- P. **Resolution No. 4661**, approving a Final Sign Plan for First Federal Bank of Kansas City, located at 8000 State Line Road (PC Case 63-16) [*From the June 28, 2016 Planning Commission Meeting*]
- Q. Declaration of Surplus Property- 2006 Ford Escape [Unit # 9802] City Asset # 1240; last 4 VIN/0961: 2010 Chev. Impala [Unit # 9165] City Asset # 1481; last 4 VIN/7206
- R. Fire Department Monthly Report
- S. Municipal Court Monthly Report
- T. Police Department Monthly Report

Councilmember Filla requested Consent Agenda Items 7.C. and 7.D. be pulled.  
 Councilmember Sipple requested Consent Agenda Item 7.N. be pulled.

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

- C. Accept July 5, 2016 Governing Body Work Session minutes

Councilmember Filla noted Item 28 of the minutes stating "...no portion of Fire Station No. 1 is worth saving." was not unanimous and there had been no study conducted to verify. At her recent review, the 25 ft. by 20 ft. original structure currently has trucks sitting on it, slab is perfect and walls are solid, so it is worth consideration. Mr. Lambers stated the minutes should be revised to reflect that this statement was his opinion. Mayor Dunn stated the revision would be a Friendly Amendment to the minutes.

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

- D. Accept June 14, 2016 Parks & Recreation Advisory Board minutes

Councilmember Filla asked for an update on the inclusive playground grant deadline. Ms. Claxton stated the deadline for the matching equipment grant rather than matching grant dollars, was extended by the sponsor to include a submittal from western Kansas. The revised deadline to hear about grant award would be this Friday, July 22, 2016. She would advise of the outcome.

**A motion to approve Consent Agenda Item 7.D. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0.**

- N. **Resolution No. 4659**, approving and authorizing the Mayor to execute a Construction Agreement, in the amount of \$340,432.35 between the City and Landscapes Unlimited, pertaining to the 2016 Ironhorse Bunker Renovation Project [Project # 71023]

Councilmember Sipple asked Ms. Claxton if an estimate of any budget impact and a plan to manage the course during construction had been developed. Ms. Claxton stated Troon Management had given notice of construction to sponsors of tournaments occurring after October 3<sup>rd</sup> of this year. This is not the busiest time of year for the course. She had not talked with Troon in regard to any budget impacts. As many course holes will be kept open as possible. She added the clubhouse expansion project would be happening at the same time as bunker renovation. If the bunker renovation was approved, Troon would then meet with the contractor to determine further details. Councilmember Sipple requested to receive a copy of Troon's management plan.

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

## **8. MAYOR'S REPORT**

- A. On behalf of the City of Leawood, our sincere sympathies to all families and friends of victims in recent tragedies in Nice, France; Dallas, Texas; and Baton Rouge, Louisiana. My thanks to Leawood Police Officers Chris Rues and Ron Hulsey who drove to Dallas for the funeral services of the Dallas Police Officers. The show of support for our first responders, particularly our Police Department, has been heartwarming in the aftermath of these tragic events. Public safety is the number one priority for our Leawood residents, ranked ahead of all other municipal services. Deputy Police Chief Kevin Cauley and Captain Dale Finger are here tonight. I thank them and Police Chief Troy Rettig for their leadership and ask that you express our appreciation to each member of your department for their dedication to the safety of our community.
- B. Councilmembers Julie Cain and Chuck Sipple joined me at the Art Exhibition and Awards Reception for the First Annual Natural Reflections Plein Air Event held at the Better Homes & Gardens Real Estate Kansas City Homes at Mission Farms. This event was co-sponsored by the Leawood Arts Council and the Leawood Parks & Recreation Department. My thanks to both groups, Art Council Chair Mary Tearney and Parks & Recreation Director Chris Claxton for their work organizing the event.
- C. City Administrator Scott Lambers and I attended the Israeli Scouts Tzofim Friendship Caravan production at the Jewish Community Center. This talented group of performers is on a multi-state tour in the United States and makes our community one of their stops annually.
- D. Attended the Leawood Chamber of Commerce's ribbon cutting for the new Barefoot Beach Bums located in Town Center Plaza. They have one additional store in Parkville, Missouri. We wish them much success.
- E. Congratulations to Leawood Stage Company Chair Dennis Maddux and his entire board on a terrific production of "Once Upon a Mattress." I had the pleasure of attending on Saturday evening and greatly enjoyed the show. The cast, orchestra, production and technical staff all did a superb job. There are three more opportunities to view it this week on Thursday, Friday and Saturday evenings at 8:00 P.M.
- F. Congratulations also to Leawood fourth grader Brooke Petro who recently won her second Braille Challenge, an academic competition for visually impaired students from the United States and Canada put on by the Braille Institute of Los Angeles. I had the pleasure of honoring Brooke at my State of the City address a few years ago.

9. COUNCILMEMBERS' REPORT – None

10. STAFF REPORT – None

**COMMITTEE RECOMMENDATIONS**

11. PLANNING COMMISSION

*[From the May 24, 2016 Planning Commission Meeting]*

- A. **Ordinance No. 2793**, approving a Revised Preliminary Plan and Revised Final Plan for Pinnacle II – Parking Garage Expansion, located north of 115th Street and west of Tomahawk Creek Parkway (Case 49-16) [ROLL CALL VOTE]

Mr. Greg Shannon, Block Real Estate Services, 700 W. 47<sup>th</sup> Street, Kansas City, Missouri, stated Block owns both Pinnacle Buildings on Tomahawk Creek Parkway. A potential client for the former CBIZ building requested an increased parking ratio. This is a forward-looking proposal; there has been no formal request for quote or proposal from the prospective client and no contact in the last 60 to 90 days, which can be typical. An internal decision was made at Block to work with the City to see if it is an option to add another level to the parking garage should the potential client lease space in Pinnacle II building.

Councilmember Cain thanked Planning Commissioner Strauss and the applicant for the addition of two bicycle racks to encourage alternative transportation methods in Self-Propelled Leawood [bicycle-pedestrian plan]. She inquired if existing garage issues experienced during heavy rains would be addressed in the project. Mr. Shannon replied use of the garage had significantly decreased with CBIZ's departure. Future timeframe for mitigating those issues had not been determined, but the issues could be addressed if construction moves forward.

Mr. Klein confirmed to Councilmember Cain that a Code Enforcement Courtesy Notice had been issued for stressed and dying trees and another Courtesy Notice had been issued for other items. These have been discussed with the applicant. Mr. Shannon stated replacement trees would be planted in late September when temperatures should be cooler and Emerald Ash Borer [EAB] injection treatments are scheduled when temperatures are below 90 degrees. Councilmember Cain noted there is a large amount of EAB information posted on the City's website.

Councilmember Rawlings inquired if the proposed parking expansion would occur if the potential client did not become a tenant. Mr. Shannon confirmed it would not, and stated that addition of another level of parking would not benefit leasing activities. Parking is currently above requirements.

Mr. John Nobles, 11345 Buena Vista, Leawood, Vice President of The Woods Home Owners Association [HOA] and Head of the HOA Architectural Review Committee, stated he resides behind the parking lot and has found an office building to be a good neighbor; workers leave in the evening and are not on-site during weekends. He thanked Block company and Mr. Shannon for acknowledging and addressing the HOA's three previous concerns, but an additional concern had been noted in the process. One of the potential tenants is a call center and a full-service call center would operate 24 hours, seven days a week. If such a call center is to become a tenant, the HOA would like to be brought back into the conversation. Although Block cannot be precluded from having such a business in the building, residents desire a chance to raise objections if that would occur. All other concerns had been addressed by the Block company.

Mr. Coleman confirmed to Mayor Dunn that since the proposal would be a revised final plan, it would not come before the Governing Body again if a call center were to operate in the building. A business could operate in the building as long as zoning requirements were met. Mayor Dunn inquired if any additional stipulations could be added or advised in this regard as the City had previously received comments about lighting coming in residential windows for Kansas City Orthopaedic Institute which operates 24/7. Mr. Coleman stated without specifics, he would not have any recommendations for additional stipulations other than for the previously approved landscaping plan to be maintained. He noted the City is working on a more robust sound ordinance.

**A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 6-0.**

*[From the June 28, 2016 Planning Commission Meeting]*

- B. **Ordinance No. 2794**, approving a Rezoning from REC (Planned Recreation) and RP-4 (Planned Cluster Residential – Former Zoning Classification) to RP-2 (Planned Cluster Detached Residential District), Preliminary Plan, Preliminary Plat, Final Plan and Final Plat for Patio Homes of Hallbrook – Fourth Plat, located at 11408 High Drive (PC Case 64-16) [ROLL CALL VOTE]

Mrs. Mary Holland, 11408 High Drive, Leawood, stated she and her husband were the applicants and property owners, asking that Lot 9, zoned RP-4 [Planned, Cluster Residential – Former Zoning Designation], and Lot 9A, deeded in 1994 and zoned Recreation, be combined into a single replatted lot zoned RP-2 [Planned, Cluster Detached Residential District].

Councilmember Cain stated the Board of Zoning Appeals had previously denied a variance [rear yard build line to allow encroachment into the rear yard setback for a patio roof]. She acknowledged the time and expense involved in the complicated process for the owners, and thanked them for their patience. She confirmed with Mr. Coleman the replat would allow the owners to move forward. Mrs. Holland stated this was the last step.

**A motion to pass the ordinance was made by Councilmember Cain; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 6-0.**

- C. **Resolution No. 4662**, approving a Final Plan and Final Plat for The Glyn of Leawood, located north of 151<sup>st</sup> Street and east of Mission Road (PC Case 60-16)

Applicant Mr. Dan Foster, Schagel & Associates, PA, 14920 W. 107<sup>th</sup> Street, Lenexa, stated Developer Mr. Sean Beckner and Development Manager Don Donahue were also present. He stated the Governing Body had approved the preliminary plan and plat in January 2016. The proposed final plan is for the first phase of 30 residential lots with entrance off 151<sup>st</sup> Street, a water feature amenity at the entrance and three other tracts. Staff and Planning Commission main concerns related to entrance monuments and Tract D, a perimeter tract which runs along the park and east of the project for open space and stormwater BMP [best management practice] tract. It contains a tree preservation easement [TPE] along the northern property line adjacent to Ironwoods Park and the east property line adjacent to residential subdivision in Overland Park.

The TPE consists of a 15 ft. wide tree line adjacent to the park and a 10 ft. wide native vegetation area adjacent the resident property, for a total width of 25 ft. The native vegetation area is needed for skid-steer equipment to maintain the TPE by the HOA. The 10 ft. area would be native grass about 3 ft. in height and it contains some trees which would be kept; it would not contain a walking path. Native grass would be reseeded after storm sewer improvements.

Staff had suggested a fence to further differentiate the boundary between the development and Ironwoods Park, but the Planning Commission and applicant felt differently. Working together, a design was developed to include a 4 ft. metal fence along the north property line with park, placed 4 inches from the property line between the development and the park. Fencing would divert into development property around any trees as needed. The HOA would also install 6 inch by 6 inch by 36 inch vertical concrete markers engraved with "HOA Tract", similar to markers used in national or state parks, in two corners of properties along Tract D to alert residents to boundary lines. The markers would be placed 25 ft. from the northern and eastern development boundary. HOA deed restrictions will contain language to prohibit residents from pruning and clearing vegetation, and also repercussions for doing so. The HOA will be responsible for maintenance of the TPE.

Monuments on both sides of the entry had been proposed for symmetry and staff had advised only a single monument on one side was allowed. Applicant agreed and drawings were corrected to include a monument on one side and a free-standing column with a decorative light on the western/outbound side, backed by the water feature berm. Proposed height would be 6 ft., 8 inches on the wall side and 9 ft. from front planter wall, which is similar in height to Highlands Creek. With wide divided median, outbound lanes and easements of the entrance, monuments of a smaller scale would be visually lost.

Applicant agrees to all stipulations, including Planning Commission modifications. Construction plans are complete and ready to go.

Mr. Foster confirmed for Mayor Dunn that if a property owner has a pool, a 5 ft. fence would be installed as required by Johnson County. Typically, pool owners place the fence around the pool deck and he stated the HOA would probably require a pool owner to install in this manner. The HOA does not desire to have 5 ft. perimeter fences as these would destroy the view.

Councilmember Cain thanked Mr. Foster for agreeing to install the fence, which was important to the Parks & Recreation Department. She stated Mr. Mark Simpson from the Villas of Ironwoods in Overland Park, located south of Ironwoods Park and north of The Glyn of Leawood, and plans to install a fence along the Villas boundary with the park; potentially 5 ft. in height. Mr. Foster stated The Glyn did not propose a fence between the two developments, but residents may do so if they wish.

Mr. Coleman confirmed to Councilmember Filla that 4 inch versus 3 inch caliper trees would be required. Councilmember Filla noted tree diversity is important and Mr. Coleman confirmed a Leawood Development Ordinance [LDO] was in process, but 4 inch caliper is currently required. Mr. Foster pointed out that Final Site Plan Drawing Sheet L-1 has a table listing of tree types developed by working with Parks Superintendent Brian Anderson.

Mr. Coleman stated that staff wished to add a stipulation that no gates be installed in the 4 ft. fence to preclude issues. Mayor Dunn stated to add the requested stipulation, Planning Commission Stipulation 28 would become Stipulation 29, and the additional stipulation would be Stipulation 28.

Mr. Mark Simpson, 15145 Windsor Circle, Leawood, stated he represented the 48 home owners to be in the Villas of Ironwoods, attending meetings and hearings. The Villas are 100% maintenance-provided so there are no concerns that their residents would remove trees, and approximately \$30,000 had been spent on barbed wire removal and for an arborist crew to remove choking trees on Dr. Rupa Reading's property. Hardwood tree varieties are making a strong come-back with the wire removed and the trees thinned. Fencing of individual of property is prohibited to facilitate HOA mowing of 300 lots. He expressed concern that The Glyn home owners, who would likely have different grounds service companies, could remove a tree even if their HOA Covenants, Conditions and Restrictions [CC&Rs] prohibit. He stated fence protection on the east side of The Glyn should be provided as recommended by staff for the park, as the Villas tree line to the east is no less valuable and money had already been spent to maintain and support.

Mr. Simpson stated a second issue was walking access to the park and that he had worked with Ms. Claxton in this regard. Nine homes have been sold in Villas to-date, five to prior Leawood residents of which three came from Tuscany Reserve Villas. Residents are mostly 60 to 70 years old and are passionate, strong supporters of Ironwoods Park. The development is named after the park and the park is mentioned on the development website. Access is repeatedly in the top three items requested. Walking access to the park could be between Lots 21 and 22. With the development of The Glyn, it is now the City's position that no more than one access is needed and it was suggested the developers work together. The Glyn was not interested in granting an easement for a proposed invisible paver path under the grass of The Glyn property for a park access point. He wanted a resolution for either A) can we go through neighbors to the west to get their existing connection to the park; or B) resurrect discussions with Ms. Claxton. Ms. Claxton had previously stated that proposed access would come within 600 ft. of cabins and expressed concern. Arborists for the Villas believe a path can be made without disturbing trees and the Villas would be willing to pay for the path on their side, the culvert pipe and cost-sharing for path on The Glyn side.

Mr. Coleman confirmed to Mayor Dunn that since the Villas of Ironwoods are located in Overland Park, plans would not come before the Leawood Governing Body. He stated the fence and park access proposed by Mr. Simpson would be between two private property owners. Staff had originally recommended a perimeter fence for The Glyn and the Planning Commission did not recommend a fence at all; a compromise with The Glyn to have a fence on the park property line had been reached. As far as access, this is between the private property owners. This issue was raised more than a year ago and Mr. Simpson had been advised he needed to work with adjacent property owner in regard to agreement for access between the developments.

Mr. Coleman confirmed to Councilmember Cain stated there was nothing to preclude Mr. Simpson from installing a fence on this property in Overland Park. She noted in regard to park access, plans evolved over time and The Glyn had preferred to use land in a green belt located under a power line with a coded gate.

Ms. Claxton stated Councilmember Cain was correct and there had been several concerns regarding park access; location is a planning issue. The City has some flat undeveloped land east of school and south of the cabins near old schoolhouse, but access in close proximity to these building and potential compromise of undeveloped space were issues. It may be best to come off the other corner of the property, which is not the way Mr. Simpson's development access is currently planned.

Ms. Claxton stated another concern was the project is not in the City's Capital Improvement Program [CIP] and budget in the immediate future. A 10 ft. path, without any clear cutting of the tree area east of the cabins, was estimated to cost \$70,000. The Parks & Recreation Department wants many people to enjoy the park regardless of the City where they reside and are willing to discuss access, but are at a standstill on a compromise.

Mayor Dunn offered the suggestion that Mr. Simpson work with Mr. Foster and Mr. Donahue on the proposed underground paver access path. Mr. Simpson stated they refuse to discuss.

Mayor Dunn invited Mr. Foster to provide clarifications. Mr. Foster stated that investigation of documents for the Villas on file with Johnson County to-date do not record a TPE for the Villas' side. A TPE is not addressed in plats, separate easement documents, CC&Rs or other assurances, which is of concern to The Glyn. The Glyn has vacated a 10 ft. utility easement, but a 10 ft. utility easement remains for the Villas. Proposed park access for The Glyn had been presented to the Planning Commission and was located in an area away from cabins and the Nature Center in a natural 10 ft. break in the trees. Sidewalks and foot traffic are not desired for \$1.2 Million homes on estate lots. For those interested in exercise, the park can be accessed by public sidewalks on 151<sup>st</sup> Street. The park connection is not part of Phase 1 for The Glyn and there is no anticipated timeline for additional phases.

Mr. Simpson stated that Villa CC&Rs and lot contracts prohibit lawn maintenance or maintenance of any kind, and he believed a TPE was in the CC&Rs for the north and west.

Councilmember Azeltine commended Mr. Foster for use of markers and fencing. He stated if the City has any remaining public next to private property, staff should keep in mind for the future.

Mayor Dunn thanked everyone for their attendance and their presentations.

**A motion to approve Agenda Item 11.C. with the additional stipulation of no gate access was made by Councilmember Cain; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0.**

**12. OLD BUSINESS** – None

**13. OTHER BUSINESS** – None

**14. NEW BUSINESS – None**

**ADJOURN**

There being no further business, the meeting was adjourned at 8:44 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk