

Minutes

DVD No. 391

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 1, 2017. Mayor Peggy Dunn presided.

**Councilmembers Present:** Jim Rawlings, Andrew Osman, Debra Filla, Chuck Sipple, Julie Cain, Lisa Harrison, James Azeltine and Dr. Steven Kaster

**Councilmembers Absent:** None

**Staff Present:** Scott Lambers, City Administrator  
Patty Bennett, City Attorney  
Chris Claxton, Parks & Recreation Director  
Mark Andrasik, Info. Services Director  
Chief Dave Williams, Fire Department  
Richard Coleman, Comm. Dev. Director  
Debra Harper, City Clerk  
Colin Fitzgerald, Deputy Fire Chief  
Chief Troy Rettig, Police Department  
Nic Sanders, Human Resources Director  
Joe Johnson, Public Works Director  
Dawn Long, Finance 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 four Eagle Scouts and Scoutmaster from Troop 10.

Mayor Dunn noted it was unusual to have so many Eagle Scouts in the Honor Guard. She thanked them for their attendance and leadership.

**2. APPROVAL OF AGENDA**

**A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

**3. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or 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.**

Mr. Kevin Jeffries, 2919 W. 124<sup>th</sup> Terrace, resident and President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce, provided details of three recent incidences of concern related to on-line businesses and requirement of the Leawood Development Ordinance [LDO] that these be located in a business park. He requested the Governing Body consider directing staff to research and clarify in the LDO that wholesale businesses that do not take physical delivery of goods could be allowed to operate outside of business parks in the same areas as other office users.

Councilmember Sipple asked for a status of the three incidences and the number of jobs at these businesses. Mr. Jeffries stated one business located in another community that does not restrict, one business has located in a Leawood business park and the Economic Development Council continues to work with one business. The businesses are small start-up companies with only two or three employees, but may grow. They have experience from prior work at large companies.

**A motion was made to direct staff to research and present at the June 5, 2017 Governing Body Meeting to amend the LDO, and institute a moratorium on the ordinance requirement in the interim by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

#### **4. PROCLAMATIONS**

#### **Kids to Parks Day, May 20, 2017**

Mayor Dunn read a portion of the proclamation into the record. No one was heard or seen to accept the proclamation.

#### **Bike to Work Week, May 15-19, 2017**

Mayor Dunn read the proclamation into the record, which Mr. Sanders accepted. Mayor Dunn stated Mr. Sanders, as Human Resources Director, has initiated many employee activities to promote a healthy lifestyle. Mr. Sanders stated at the current time, approximately eight to 10 employees usually bike to work. Mayor Dunn added that one of these travels from Lenexa.

#### **5. PRESENTATIONS/RECOGNITIONS**

##### **A. Recognition Resolution No. 4783 of Ward Two Councilmember Steven Kaster, M.D.**

Mayor Dunn requested Councilmember Kaster to come forward and she read the Recognition Resolution into the record. She stated she was sorry Dr. Kaster would be moving to Dallas, being taken away from the City too soon. Mayor Dunn also presented Dr. Kaster with a crystal Outstanding Service Award after reading the inscription. She thanked him for his wonderful service.

Councilmember Kaster expressed thanks for the privilege and honor to serve on the Council. He stated it was sad to resign due to a move for a new work opportunity in Texas, but would have fond memories of his service. He wished the best for everyone and for continued success of the City. Mayor Dunn stated her hope that he would come back and visit often.

B. Introduction of visiting French Firefighter, Baptiste Blondiaux, Intern from University of Bordeaux, Dept. of Health, Safety & Environment

Deputy Fire Chief Fitzgerald introduced Firefighter Blondiaux, stating this was Leawood's seventh year as a training program host. Overland Park and Olathe Fire Departments also have visiting trainees. Firefighter Blondiaux has completed approximately one-half of the 11 weeks of training, and is working a research report on the community risk reduction for Leawood.

Firefighter Blondiaux stated he felt lucky and was thankful for the opportunity. Mayor Dunn invited him to share the results of his report and hoped he enjoyed his visit. She thanked the Fire Department for their hospitality.

C. Presentation of 2016 Annual Audit

Ms. Long stated audit of the 2016 financial statements of the City was completed successfully. Required communication regarding the scope and results would be provided by auditors from Rubin Brown LLP.

Mr. Chester Moyer, Engagement Partner, stated that Mr. Patrick Amos, Engagement Manager, Rubin Brown LLP, was also present. Mr. Moyer presented brief highlights of ViewPoints document provided in the meeting agenda packet, as follows:

Page 3 – The audit of financial statements was requested by the City. The end-product is the Comprehensive Annual Financial Report [CAFR], which is 115 pages [not included in the agenda meeting packet]. Auditor opinion is given on the financial statements, including footnotes, located on Pages 20 through 60 of the CAFR. Auditor opinion is not given on the required supplementary information and statistical tables presented after the financial statements, nor on the management discussion and analysis presented before the financial statements.

Page 4 – Audit was performed as planned. The City implemented GASB [Governmental Accounting Standards Board] 72 in regard to Fair Value Measurement and Application during the current year. GASB 72 did not have a significant impact, but added a few statements in regard to City deposits and investments footnote, and their fair value.

Page 5 – Financial statements include estimates and all were evaluated as reasonable. Liability and associated costs for pension and other post-employment benefits, including related actuarial assumptions in relation to financial statement as a whole, are more significant. Sensitive disclosures to users of the financial statements are listed in Notes 9 and 10.

Page 6 – There were no corrected or uncorrected misstatements requiring adjustments. There were no disagreements with management during course of audit. A five-page letter authored by City Administrator Scott Lambers and Finance Director Dawn Long included at the end of the ViewPoints document contains a summary of management's representations.

Page 7 – New accounting pronouncements which will have limited impact are GASB 75 regarding accounting and financial reporting for post-employment benefits other than pensions is effective for the December 31, 2018 financial statements. This will adjust actuary calculations of post-employment benefits liability. GASB 75 is similar to GASB 68 implemented a few years ago. GASB 84 regarding fiduciary activities is effective for the December 31, 2019 financial statements. This will slightly change the presentation of fiduciary activities; Agency Funds will become known as Custodial Funds moving forward.

Mr. Moyer clarified to Councilmember Azeltine that Notes 9 and 10 mentioned on Page 5 of the ViewPoints document are not related to the City’s letter, but are presented in the financial statements in the CAFR.

Councilmember Sipple asked how many copies of financial statements are prepared and distributed after the audit, and how many citizens request to receive. Ms. Long stated 40 copies were prepared. Copies would be sent to the state and to Moody’s Investor Service and similar companies. A copy would be posted to the City’s website. A notification letter pointing to the website can be sent. Most requestors prefer to receive electronically.

Mr. Moyer clarified to Councilmember Azeltine that Page 78 of the statistical section of the CAFR summarizes the City’s balance sheet of all assets owned [\$300,000,000], including streets, and all additional costs incurred for these over the years.

Mayor Dunn requested Ms. Long to advise the Finance Department that she had asked about the entire staff, thanking them for their work. Mayor Dunn thanked Mr. Moyer for his presentation and Mr. Amos for his attendance.

- D. **Resolution No. 4785**, accepting the 2016 Comprehensive Annual Financial Report [Audit] for the City of Leawood, Kansas

**A motion to approve Resolution No. 4785 was made by Councilmember Sipple; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 8-0.**

## **6. SPECIAL BUSINESS**

- A. **Resolution No. 4786**, accepting proposed assessments for tax year 2018 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 119<sup>th</sup> 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]

Mayor Dunn stated the 119<sup>th</sup> Street Development District is now known as Town Center Crossing development.

Councilmember Filla clarified for those in attendance unfamiliar with TDDs, the district had been set-up with a special tax to fund parking infrastructure. She asked Mr. Lambers provide an update on the pay-back status. Mr. Lambers stated he was uncertain of the current pay-back status, but pay-back had been initially estimated as eight or nine years and was probably on target based on sales tax revenue. He would research and provide the requested information. Mayor Dunn stated the project involved elevating the development out of the flood plain and a retention wall. Mr. Lambers stated the project included the wall, fill and surface paving.

Councilmember Sipple asked for the payment collection schedule. Mr. Lambers stated collection was monthly, being two months in arrears due to time needed for submittal and state to remit to the City.

**A motion to approve Resolution No. 4786 was made by Councilmember Filla; seconded by Councilmember Osman. The motion was approved with a unanimous vote of 8-0.**

- B. **Resolution No. 4787**, accepting proposed assessments for tax year 2018 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, 117<sup>th</sup> 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]

Mayor Dunn asked for the payment collection schedule. Mr. Lambers stated the City receives payment twice a year, based on the County's payment options for property tax. One-half of the full amount of property tax due can be paid in two payments for a year or the full amount of property tax due can be paid in one payment for a year.

**A motion to approve Resolution No. 4787 was made by Councilmember Filla; seconded by Councilmember Kaster. The motion was approved with a unanimous vote of 8-0.**

## **7. CONSENT AGENDA**

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

- A. Accept Appropriation Ordinance No. 2017-15 and 2017-16
- B. Accept minutes of the April 17, 2017 Governing Body meeting
- C. Accept minutes of the April 17, 2017 Governing Body Work Session meeting
- D. Accept minutes of the March 14, 2017 Parks & Recreation Advisory Board meeting
- E. Accept minutes of the February 9, 2017 Sustainability Advisory Board meeting
- F. Approve License for Nall Valley Wine & Spirits Retail Liquor Store, located at 5308 W. 151<sup>st</sup> Street
- G. Approve Massage Therapy License to Glowing Massage Therapy, located at 8016 State Line Road, Suite # 203, in accordance with Code § 5-510
- H. Approve Final Cost Certification for 143<sup>rd</sup> Street, between Nall Avenue and Windsor in the amount of \$8,975,000 [Project # 80162]
- I. Approve Final Cost Certification for 2015 Curb Repair and Replacement Program in the amount of \$4,940,000 [Project # 80252]

- J. Approve Final Cost Certification for 2016 Curb Repair and Replacement Program in the amount of \$4,970,000 [Project # 80253]
- K. Approve Final Cost Certification for 89<sup>th</sup> & Mission Road Storm Sewer in the amount of \$1,105,000 [Project # 80550]
- L. Approve purchase in the amount of \$189,482.34 from KA-Comm, Inc., for the purchase of [50] Harris portable 2-way radios
- M. Approve Change Order No. 1 in the amount of \$100,000.00, to O'Donnell & Sons Construction, pertaining to the 2017 USAB/Thin Asphalt Overlay Program [Project # 70022]
- N. **Resolution No. 4788**, approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the Board of County Commissioners of Johnson County, Kansas, pertaining to the Improvement of Sewer lines along Wenonga Road between 91<sup>st</sup> Terrace and 92<sup>nd</sup> Terrace [Project # 80217]
- O. **Resolution No. 4789**, calling for a Public Hearing to be heard on Monday, June 5, 2017, at 7:30 P.M., or as soon thereafter as may be heard to consider the 2018-2022 Capital Improvement Program [C.I.P.] for the City of Leawood
- P. **Resolution No. 4790**, approving and authorizing the Mayor to execute a Trust Agreement between the City of Leawood and other member cities of the Kansas Eastern Region Insurance Trust ["KERIT"], pertaining to the administration of the KERIT program
- Q. **Resolution No. 4791**, approving and authorizing the Mayor to execute a Trust Agreement between the City of Leawood and ICMA-RC, pertaining to the City's 401(a) Plan
- R. **Resolution No. 4792**, approving and authorizing the Mayor to execute a Trust Agreement between the City of Leawood and ICMA-RC, pertaining to the City's 457(b) Plan

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

Councilmember Azeltine requested Consent Agenda Item 7.L. be pulled.

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

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

- K. Approve Final Cost Certification for 89<sup>th</sup> & Mission Road Storm Sewer in the amount of \$1,105,000 [Project # 80550]

Ms. Long confirmed to Councilmember Filla that Consent Agenda Item 7.K., and also Consent Agenda Items 7.H., 7.I. and 7.J., were to request final cost certifications before bonds were issued. Bond bids would be take in place in August and close on September 1.

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

- L. Approve purchase in the amount of \$189,482.34 from KA-Comm, Inc., for the purchase of [50] Harris portable 2-way radios

Councilmember Azeltine inquired if the Public Safety Fund would be used to purchase the radios as noted in the cover memorandum, or if there was a missing budget line item number. Chief Williams stated the purchase was budgeted for this year and he used the fund description rather than a budget line item to more easily identify funding source. Ms. Long stated the Public Safety Fund is a Capital Fund, a non-budgeted fund. The budget line item for the proposed purchase is 13220. Mayor Dunn noted staff was usually compliant with a prior request of Councilmember Azeltine's that budget line items be included in staff memos.

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

- M. Approve Change Order No. 1 in the amount of \$100,000.00, to O'Donnell & Sons Construction, pertaining to the 2017 USAB/Thin Asphalt Overlay Program [Project # 70022]

Councilmember Cain stated the proposed change order was for a project that included her neighborhood and she had received numerous resident questions about the project. The notification letter she had received mentioned projection duration of two months with 48 hours advance notice to be provided. She asked if the thin asphalt process would take less time to complete. Mr. Johnson stated exacting timing cannot be determined due to factors such as weather and contractor work on other jobs. Informational door hangers would be placed 48 hours prior to project start. Project start is expected after school adjourns, with completion around the end of July. Streets would be edge-milled along curb into the street 6 ft. and overlay applied. This should be quicker process than slurry seal.

Councilmember Cain asked if it was normal for a project to have a change order for \$100,000. Mr. Johnson stated force accounts to cover possible change orders are typically included when a project is bid. There were a number of projects being bid at the same time as this project, two work projects on Roe Boulevard and 133<sup>rd</sup> Street overlay, and it was decided to wait on adding a force account for this project until it was determined if bids for the other projects were as expected.

Mayor Dunn stated this was a new type of overlay for the City and her neighborhood would also receive the thin asphalt overlay. She requested information about expected duration of material and any warranty. Mr. Johnson stated the project has the standard two-year performance and maintenance bond. The asphalt overlay would be 1 inch thick; others used in the City are 1-3/4 inches to 2 inches thick. The overlay was used on Bell Drive from Mission Road entering the golf course and it has performed well for six or seven years. Olathe has been using this type of overlay. Bids were also taken for another type of overlay used by area cities to compare prices. The thin overlay is expected to last a minimum of eight year, far longer than slurry seal and it is far better than chip seal. Mayor Dunn stated the City had received numerous complaints about slurry seal.

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

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

- A. Congratulations once again to the Justice Center Public Art Task Force chaired by Councilmember Jim Rawlings, with members Councilmembers Debra Filla, Chuck Sipple and Julie Cain, on the dedication of "Weight of your Heart, Weight of a Feather." We had nearly 100% of City Council and Department Heads in attendance at the dedication along with the artists to provide information regarding the symbolism of the piece. It is a great addition to the City's public art inventory.
- B. Police Chief Troy Rettig and I attended two Drug Abuse Resistance Education [D.A.R.E.] graduations. The first was at Nativity Parish School overseen by Officer Sara Bednarik. The second was at Curé of Ars School overseen by Officer Emily Craighead. Congratulations to both of them for providing great leadership.
- C. Participated on a panel for the Design Build Institute of America Regional Conference. Realtor Whitney Kerr, Sr., provided high praise for Leawood's 135<sup>th</sup> Street Corridor Plan. He stated that mixed use with higher density should allow for a destination not totally reliant upon automobiles.
- D. Participated on Radio KCUR's "Central Standard" in a conversation with other Kansas mayors from small to large cities.
- E. Councilmember Chuck Sipple joined me at the Leawood Arts Council Show and Reception held at the Leawood Fine Arts Gallery in Camelot Court. It was a lovely evening with a great crowd.
- F. Attended the 2017 Mid-America Asian Cultural Festival organized by Leawood resident Ms. Carol Wei. There were participants from 21 Asian countries and thousands of attendees. Kansas Lt. Governor Jeff Colyer received the Leadership Award.
- G. As a member of the United Community Services of Johnson County Council of Advisors, I participated in a Strategic Planning session for their 50<sup>th</sup> Anniversary which will occur this year, 2017. More information surrounding programs and activities will be forthcoming.
- H. Two upcoming event reminders: The first is "The Orphan Train," history for all ages, on Saturday, May 6, 10:00 A.M. at the Oxford Schoolhouse in Ironwoods Park in conjunction with the Leawood Stage Company's production of the musical "Annie." The second is "Pooch Paint 2017," on Saturday, June 3, 9:00 A.M. to Noon, near the entrance of Leawood Dog Park, presented by the Leawood Arts Council.

## **9. COUNCILMEMBERS' REPORT – None**

## **10. STAFF REPORT**

### **City Administrator – Pick-up of Storm Debris; Niche.com Survey Ranking**

Mr. Lambers stated at the current time, there would be no collection of storm debris by the City. He had received a request from one citizen. One tree was down at 144<sup>th</sup> Street and Roe, which was reported through the Action Center, which would not warrant City-wide assistance. He asked the Governing Body to forward requests they may receive.

Councilmember Sipple requested the rules for removal of debris. Mr. Lambers stated if a public property tree is down, the City would handle removal. In the case of severe weather damage, if the City decides to take care of removal of private trees the citizens would be asked to move trees to the curb for removal.

Councilmember Filla pointed out that Leawood and Leawood Estates Home Owner Associations perform preventative maintenance on one-fourth of their street trees each year. During her walks, she had not noticed a significant amount of damage.

Mr. Lambers stated a recent Niche.com survey had ranked Leawood as the best place to live in Kansas and 31<sup>st</sup> best place to live in the country, of cities of all size. Beverly Hills ranked 87<sup>th</sup>. Per Councilmember Rawlings' request, Mr. Lambers will distribute survey results to the Governing Body which lists the attributes evaluated and cities by ranking.

## ***COMMITTEE RECOMMENDATIONS***

### **11. STORMWATER COMMITTEE**

*[from the March 29, 2017 Stormwater Committee meeting]*

- A. Recommend staff draft Engineering Agreement with Affinis Corporation to design remaining corrugated metal pipe repairs for 2018 Stormwater Improvements, Project # 80255

Councilmember Azeltine stated the request for recommendation was self-explanatory, but one issue raised during discussion by the Stormwater Committee was whether the staff of the proposed company had changed since the last time they were used by the City.

Mr. Johnson stated the City is in first stage of the improvement program costing \$3 Million every other year. Two projects are scheduled in 2018; Leawood South will have a 75% Johnson County Stormwater Management Advisory Council [SMAC] reimbursement and Mission Road. The City will have approximately \$1 Million leftover of the \$3 Million for the 2018 projects. Rather than re-selecting a consultant through a lengthy process to finish the 2018 project, staff wishes to utilize the prior consultant to design and complete. Affinis is top-ranked and performed well on the Leawood Heritage project. Staff at Affinis has remained the same. Shafer, Kline & Warren, Inc., was hired for the preliminary engineering studies for SMAC work.

Mr. Johnson stated in 2020, the City would again go through the consultant selection process. If several qualified candidates are received at that time, the City could select one for the project and one used the following year for design.

Mayor Dunn thanked Mr. Johnson for efficient use of funds and proactive planning.

**A motion to approve to recommendation was made by Councilmember Filla; seconded by Councilmember Kaster. The motion was approved with a unanimous vote of 8-0.**

### **12. PLANNING COMMISSION**

*[from the February 28, 2017 Planning Commission meeting]*

- A. Ordinance approving the renewal of a Special Use Permit [SUP] for a wireless communication facility including cellular tower, associated equipment and screening for Saddle and Sirloin Cellular Tower, located south of I-435 and east of Mission Road (PC Case 01-17) [ROLL CALL VOTE] *[Continued from the March 20, 2017 & April 17, 2017 Governing Body meetings]* – CONTINUED TO THE JUNE 5, 2017 GOVERNING BODY MEETING

- 13. **OLD BUSINESS** – None
- 14. **OTHER BUSINESS** – None
- 15. **NEW BUSINESS** – None

Mayor Dunn stated members of the Governing Body were available if students needed a signature to document their attendance.

**ADJOURN**

There being no further business, the meeting was adjourned at 8:25 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk