

Minutes

DVD No. 399

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, September 18, 2017. Mayor Peggy Dunn presided.

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

Councilmembers Absent: None

Staff Present: Patty Bennett, City Attorney	Chief Troy Rettig, Police Department
Chief Dave Williams, Fire Department	Ross Kurz, Info. Services Director
Chris Claxton, Parks & Recreation Director	Dawn Long, Finance Director
Richard Coleman, Comm. Dev. Director	Mark Klein, Planning Official
Mark Tepesch, Info. Services Specialist III	Nic Sanders, Human Resources Director
David Ley, Interim Public Works Director and City Engineer	Debra Harper, City Clerk
Marcia Knight, Asst. City Attorney/Prosecutor	Cindy Jacobus, Assistant City Clerk

Others Present: None

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated the agenda was amended to add Agenda Item 9.B. "Councilmember Filla - Report on Stormwater Brochure" and renumber Councilmember Cain's report from Agenda Item 9. to Agenda Item 9.A.

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

3. CITIZEN COMMENTS - None

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.

4. PROCLAMATIONS

Fire Prevention Week, October 8-14, 2017

Mayor Dunn read the proclamation into the record. She presented the proclamation to Fire Chief Dave Williams and thanked him for leadership of an outstanding Fire Department. Mayor Dunn stated she regularly hears from residents that the Fire Department is held in the highest regard. Chief Williams thanked the Governing Body on behalf of the Fire Department for the proclamation, noting that fires of materials used today to manufacture household items such as furniture, drapes and spread quickly and create far more toxic smoke than materials used 30 to 40 years ago. He stated practicing home escape routes is something we all need to do.

Constitution Week, September 17-23, 2017

Mayor Dunn read the proclamation into the record. Councilmember Filla stated there has been much attention of late on what it takes to be a United States citizen. She questioned the level of knowledge that most of the population has about the Constitution and if most could pass a “Civics 101” examination. She suggested the City consider offering such a class at a future time to determine interest.

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 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 Nos. 2017-35 and 2017-36
- B. Accept minutes of the September 5, 2017 Governing Body meeting
- C. Accept minutes of the September 5, 2017 Executive Session
- D. Accept minutes of the August 29, 2017 I-Lan Sister City Committee meeting
- E. Accept minutes of the August 8, 2017 Parks and Recreation Advisory Board meeting
- F. Accept minutes of the August 2, 2017 Public Works Committee meeting
- G. Accept minutes of the July 25, 2017 Leawood Arts Council meeting
- H. Accept minutes of the April 26, 2017 Stormwater Management Committee meeting
- I. Approve 2019 Budget Calendar
- J. Approve payment in the amount of \$50,000 to Leawood Foundation pertaining to the All Inclusive Playground located at City Park, 10601 Lee Boulevard
- K. Approve 2017 Metro Cooperative Bid in the amount of \$57,800.00 from Roberts Auto Plaza, for the purchase of [2] 2018 Chevrolet Colorado trucks, Units # 617 & 619, pertaining to the replacement of vehicles for Parks Maintenance
- L. Approve 2017 Metro Cooperative Bid in the amount of \$361,103.00 from Shawnee Mission Ford for the purchase of [9] vehicles and/or cab/chassis Units # 601, 603-606, 610, 613, 618, and 622, pertaining to the replacement of vehicles for Parks Maintenance
- M. **Resolution No. 4835**, designating holidays for the year 2018, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- N. **Resolution No. 4836**, approving a Final Sign Plan for Executive Office Sanctuary - Monument Sign, located north of 103rd Street and west of State Line Road. (PC Case 76-17) *[from the August 22, 2017 Planning Commission meeting]*

- O. **Resolution No. 4837**, approving a Final Plan for a Change to the Façade of a Tenant Space for Town Center Crossing – Bonobos (Retail: Apparel), located south of 119th Street and east of Roe Avenue. (PC Case 79-17) *[from the August 22, 2017 Planning Commission meeting]*
- P. **Resolution No. 4838**, approving a Final Plan for a Change to the Façade of a Tenant Space for Town Center Plaza – Vera Bradley (Women’s Apparel), located north of 119th Street and east of Nall Avenue. (PC Case 81-17) *[from the August 22, 2017 Planning Commission meeting]*
- Q. **Resolution No. 4839**, accepting the 2016 Annual Report regarding the South Leawood Transportation Impact Fee, pursuant to § 13-609, entitled “Annual Review,” of the Code of the City of Leawood, Kansas, 2000 *[from the August 22, 2017 Planning Commission meeting]*
- R. **Resolution No. 4840**, accepting the 2016 Annual Report regarding the 135th Street Corridor Transportation Impact Fee, pursuant to § 13-509, entitled “Annual Review,” of the Code of the City of Leawood, Kansas, 2000 *[from the August 22, 2017 Planning Commission meeting]*
- S. **Resolution No. 4841**, accepting the 2016 Annual Report regarding the Public Art Impact Fee, pursuant to § 12-609, entitled “Annual Review,” of the Code of the City of Leawood, Kansas, 2000
- T. **Resolution No. 4842**, accepting the 2016 Annual Report regarding the Leawood Park Impact Fee, pursuant to § 12-409, entitled “Annual Review,” of the Code of the City of Leawood, Kansas, 2000
- U. Police Department Monthly Report
- V. Fire Department Monthly Report
- W. Municipal Court Monthly Report

Councilmember Sipple requested Consent Agenda Item 7.A. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion as approved with a unanimous vote of 7-0.

- A. Accept Appropriation Ordinance Nos. 2017-35 and 2017-36

Councilmember Sipple stated he would recuse from voting because his wife is listed as a payee. She provides services to the Parks & Recreation Department as an independent contractor.

A motion to approve Consent Agenda Item 7.A. was made by Councilmember Filla; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 6-0; recusal from Councilmember Sipple for reason stated.

8. MAYOR’S REPORT

- A. My husband and I were guests of Jewish Community Center’s Board Chairman Ace Allen for King Solomon’s Feast, a multi-course dinner prepared by Chef Moshe Basson. He is the owner of Eucalyptus, a Kosher restaurant in Jerusalem. It was quite a treat for the 150 attendees.

- B. Joined by Johnson County Commissioners Ron Shaffer and Jason Osterhaus for the unveiling of the enhanced 6 by 6 Ready to Read Early Literacy activity space at our Leawood Pioneer Library. This beautiful space was funded by the Kauffman Foundation and Royals Charities.
- C. Councilmembers Jim Rawlings and Chuck Sipple joined me at the Leawood Police and Fire Open House. My thanks to Chiefs Troy Rettig and Dave Williams and their teams for organizing a great community event. Parks & Recreation Director Chris Claxon and Leawood Foundation Chair Alice Hawk were also manning booths. Everyone had a grand time.
- D. Councilmembers Jim Rawlings and Andrew Osman joined me at the groundbreaking ceremony for Brookwood Elementary School. All of the students were safely escorted by the Leawood and Overland Park Police Officers from their temporary school site. It was a great celebration on a beautiful day. Anticipated grand opening will be Spring 2019.

9. COUNCILMEMBERS' REPORT

- A. **Councilmember Cain** - Request assignment to Stormwater Management Committee: Discuss stormwater concerns with Stormwater Project TM-04-006, located in the 12600 block of Delmar

Councilmember Cain stated there had been resolution to the new business item at the September 6, 2017 Public Works Committee regarding a stone monument in a street island in the 12600 block of Delmar of Patrician Woods. At that meeting residents had inquired about stormwater improvements to alleviate flooding. The request for assignment to the Stormwater Management Committee rather than assignment to the Public Works Committee would facilitate further discussion of the issue.

Mr. Lambers stated the assignment to the Stormwater Management Committee was appropriate, and he would meet with the Stormwater Management Committee Chair and Mr. Ley to determine next steps. He stated there should be no date for the meeting included in a motion, but expect the next steps to be brought back to the Governing Body at their October 2, 2017 meeting.

Mr. Lambers confirmed to Councilmember Harrison the assignment is related to stormwater.

A motion to approve the assignment of the topic to the Stormwater Management Committee was made by Councilmember Cain; seconded by Councilmember Rawlings. The motion was approved by a unanimous vote of 7-0.

Mayor Dunn thanked Councilmembers Cain and Rawlings for their stand-in committee work. Councilmember Osman also expressed his appreciation.

- B. **Councilmember Filla** – Report on Stormwater Brochures

Councilmember Filla thanked Public Works Staff Julie Stasi and Michelle Sherry for creating the matching dollar brochures covering native plants and rain barrels with updated specifications from the Planning Department, as well as Parks & Recreation for the informational brochure on native trees. The brochures can be printed in color and used at various public meetings, including Home Owner Association meetings and the annual Sustainability Summit, the next of which is scheduled for the last Thursday in February 2018. The brochure could be mailed to target residents in stormwater areas or to those with property abutting a creek.

Mayor Dunn suggested placing some brochures in the lobby information displays at City Hall and the Leawood Pioneer Library. Councilmember Filla suggested providing copies to the Planning Department as well. Mr. Lambers agreed and stated the brochures would be posted on the City's website.

Mayor Dunn thanked the staff for their effort in this regard, which was in addition to their other workload.

10. CITY ADMINISTRATOR REPORT - None

11. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

12. STORMWATER MANAGEMENT COMMITTEE

[from the August 30, 2017 Stormwater Management Committee]

Recommendation: Approval of \$10,000 for additional bank stabilization in exchange for a Temporary Construction Easement located at 3905 W. 122nd Street, to be constructed with the Mission Road CARS Project [LeCluyse property]

Councilmember Azeltine stated the Stormwater Management Committee had received assignment to review drainage concerns near the planned 2018 Mission Road County Assistance Road System [CARS] Project on August 7, 2017. The property on 122nd Street has a large scour hole at the end of an existing metal pipe that discharges into an unimproved open channel, erosion of the stream bank on the east side of the channel and the basement of the residence has flooded twice in the past 20 years. The Stormwater Management Committee recommends the addition of \$10,000 in cost to the 2018 Mission Road CARS Project to address the eroded stream bank in exchange for a temporary construction easement from the property owners. The CARS Project is currently estimated to cost about \$2 Million, with both Johnson County and the City each paying 50%. The additional \$10,000 will come from the contingency on the project estimate.

Councilmember Azeltine stated as an extension of their review, the Stormwater Management Committee plans to develop criteria to be used for the City to consider mitigation such issues in conjunction with larger planned projects.

A motion to approve the recommendation was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.

13. PLANNING COMMISSION

[from the August 22, 2017 Planning Commission meeting]

A. **Ordinance No. 2856**, approving a Zoning to R-1 (Planned Single Family Low-Density Residential), Preliminary Plan, Final Plan, and Revised Final Plat for 9239 Lee Boulevard Single Family Residential Lot, located north of 93rd Street and east of Lee Boulevard (PC Case 84-17) [ROLL CALL VOTE]

Mr. Troy Moore, 8625 College Boulevard, Suite 101, Overland Park, stated he was the homebuilder for the property owners. An existing home on the property has been demolished and in planning for a new build, it was noted there are two separate parcels of land. Two acres and a 5,000 sq. ft. sliver that would be replatted into one lot, meeting the setback requirements for the newly-designed home.

Mr. Klein pointed out the Staff Memo dated September 8, 2017 proposes revision of Stipulation 7 regarding vesting of development rights, a “sunset clause”, and this would be a change the Governing Body could encounter moving forward. The proposed change would ensure the vesting of development rights is in compliance with Kansas statute [K.S.A. 12-764]. Most development rights would continue to be for a period of 10 years, but this does vary by the type of application. Once the Planning Commission incorporates this into their recommendations, an override vote by the Governing Body should not be required.

Mayor Dunn stated an override supermajority vote would be needed to incorporate the proposed revision of Stipulation 7.

A motion was to pass the ordinance with revised Stipulation 7 was made by Councilmember Osman; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 7-0.

- B. **Ordinance No. 2857**, approving a Zoning to RP-1 (Planned Single Family Residential), Preliminary Plan, and Final Plan for 4140 W. 151st Street Single Family Residential Lot, located north of 151st Street and west of Mission Road (PC Case 89-17) [ROLL CALL VOTE]

Mr. Harold Phelps, Phelps Engineering, Inc., 1270 North Winchester Street, Olathe, stated property owner Mr. Nick Jacobson and the home builder Jeff Robinson were in attendance. The existing home on the property is in disrepair and planned to be demolished. Neighbors are excited for new home build to clean-up and maintain the property. There have been several meetings with City Staff. Mr. Phelps stated agreement to Stipulations 1 through 11, including proposed revision of Stipulation 10 in regard to vesting of development rights in accordance with K.S.A. 12-764.

Councilmember Cain pointed out City Staff had recommended the driveway come off Granada rather than 151st Street. She stated 151st Street would ultimately be improved about 10 years from now and a median installed. Mr. Phelps stated the new driveway would tie in for now the location of the existing driveway and potentially when a median is installed on 151st Street, the owner may build an additional driveway to line-up with the break in the median to the west.

Councilmember Sipple noted the R-1 Zoning in Agenda Item 13.A. and the RP-1 Zoning in Agenda Item 13.B. were both in regard to planned single-family residential homes, and he asked for clarification. Mr. Klein stated that both R-1 Zoning and RP-1 Zoning are for planned single-family homes, but the zoning is assigned to be similar to the zoning in the area and is based on square footage of the lot. R-1 Zoning lots are a minimum of 15,000 sq. ft. and RP-1 Zoning lots are a minimum of 12,000 sq. ft. The lots in both Agenda Items 13.A. and 13.B. exceed the square footage required for their zoning.

Councilmember Filla asked about plans for landscaping and trees, and water retainage on the site. Mr. Phelps stated this had been a topic at a public meeting and an attempt is to save every tree would be made. The site would be graded to accommodate this intent and maintain City standards. The property owner has been trimming trees and one tree has died since the property was purchased. The site would have adequate swales and tie-in could be made to a nearby stormwater system.

A motion was to pass the ordinance with revised Stipulation 10 was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 7-0.

- C. **Ordinance No. 2858**, approving a renewal of a Special Use Permit for a Wireless Communication Facility Alternative Tower Structure and Associated Equipment for Country Club of Leawood – Monopine, located north of Sagamore and west of Pembroke Circle (PC Case 86-17) [ROLL CALL VOTE]

Ms. Ann Kooyman, 12008 S. Monroe Street, Olathe, came forward as applicant and stated the proposed Special Use Permit [SUP] renewal is for a monopine tower at the Country Club of Leawood.

Councilmember Sipple asked how the monopine had held up during recent high winds. Ms. Kooyman stated the monopine had come through far better than many real trees, with no branch or limb loss.

Councilmember Cain stated the SUP would be for 20 years. She questioned if there were other monopines in the United States that are 20 years old and if their appearance deteriorates with advancing age. Ms. Kooyman stated there are some monopines of that age. Mayor Dunn stated the Planning Commission had extensive discussion on upkeep over 20 years and referenced this in Stipulation 6. Mr. Coleman stated he expected the condition of the monopine to deteriorate during the 20 years and when noted, the City would contact the SUP-holder to remedy. Otherwise, the City would issue a violation notice similar to a notice issued for peeling paint on a house. Several years ago a color change had been noted and new branches and limbs were installed. Mr. Coleman stated he was comfortable with the City's process to ensure upkeep.

Councilmember Filla stated she was glad to see the monopine had become a non-issue, noting many communications had been received from residents when first installed. The tree blends easily into the landscape and renewal of the SUP is a mundane process. She stated appreciation for commitment to continued upkeep of the monopine.

Councilmember Harrison stated for the record that she experiences improved coverage as a 15-year Sprint customer because of monopines. After an initial period of door-to-door petitioning in opposition, residents are now pleasantly surprised with monopine service and appearance. Ms. Kooyman agreed the monopines in Leawood are well done and blend in with their surroundings.

A motion was to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 7-0.

14. OLD BUSINESS - None

15. OTHER BUSINESS - None

16. NEW BUSINESS

- A. **Ordinance No. 2859C**, amending Chapter 11, Article 1 of the Code of the City of Leawood, 2000, by amending Sections 11-101, 11-101A, 11-101B, 11-101C, 11-102, 11-103, 11-103A, 11-104, 11-104A, and 11-105, pertaining to public offenses in the City; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities,’ 2017 edition, with certain amendments and omissions [ROLL CALL VOTE]

Ms. Knight stated ordinance amendments to the Uniform Public Offense Code [UPOC] and the Standard Traffic Ordinance [STO] were approved by the Governing Body about one year ago. This year, no significant changes were made to the STO and there are only five or six changes to the UPOC that need to be incorporated into City Code.

Councilmember Sipple asked how often acts covered by the UPOC are committed in the City. Ms. Knight stated some are obscure and infrequent, but there are quite a few such as thefts, minor in possession, interference with law enforcement, disorderly conduct, lewd and lascivious behavior, and battery.

Councilmember Harrison expressed surprise in light of the attention on “rape culture” that the fine for buying sexual relations was being lowered. Ms. Knight stated the fine had been a minimum and maximum of \$2,500. As shared by a woman in a Topeka-based group to Ms. Knight, it was thought prosecutors would enter into plea bargains because offenders could not or would not pay the \$2,500 fine, and offenders would want a trial. It was difficult to get a guilty plea when the fee was \$2,500. The entire \$2,500 fine had been remitted to the State’s human trafficking victim assistance fund and some jurisdictions were adding to the amount of the fine to cover their processing costs. The fee would now be a minimum of \$1,200 and a maximum of \$2,500.

Councilmember Filla inquired about the truth of media reports that corridors along Interstate 35 and Interstate 435 at Metcalf Avenue are known locations of buying sexual relations and human trafficking. Chief Rettig and Ms. Knight stated Interstate 35 at 95th Street near the hotels has been used. Chief Rettig stated the Interstate 435 corridor is not used as much.

A motion to pass the ordinance was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 7-0.

- B. **Ordinance No. 2860C**, amending Sections 2-102 and 2-103 of the Code of the City of Leawood, 2000, pertaining to animals, and repealing existing sections 2-102 and 2-103 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Knight stated during this legislative session the Kansas Legislature made some changes to cruelty to animals and about the same time, Leawood Animal Control had requested City Code address irresponsible animal care, such as an animal left without water for the day, which would not rise to the level of cruelty. The proposed changes would address legislative changes and changes requested by Animal Control.

Ms. Knight confirmed to Councilmember Cain the proposed changes would enforce responsibility and not diminish end results. She stated most egregious offenses are felonies under State Law and cannot be charged by the City. The proposed change regarding cruelty would also revise City Code terminology from “animal abuse” to “cruelty to animals.” By mirroring State Law, a second-time offense within the City could be a State felony.

Councilmember Cain inquired if Animal Control Officers or Police Officers issue tickets. Ms. Knight stated both may, but typically this is handled by Animal Control.

Chief Rettig and Ms. Knight confirmed to Councilmember Azeltine that Animal Control Officers are not sworn officers.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 7-0.

- C. **Ordinance No. 2861C**, amending Sections 10-203 and 10-206 of the Code of the City of Leawood, 2000, regarding property in police custody, and repealing existing Sections 10-203 and 10-206 and other sections in conflict herewith [ROLL CALL VOTE]

Ms. Knight stated the proposed amendment would revise what can and cannot be done with firearms and would clean-up City Code. Some changes were made to state law a couple of years ago regarding firearms. Per State Law, the City can no longer destroy firearms. The revised language of the auction clause would allow the City to dispose of abandoned or unclaimed property at auction or by through other methods such as propertyroom.com.

Councilmember Azeltine asked if the ordinance would apply to seized property. Ms. Knight stated this is addressed by the Standard Asset Seizure/Forfeiture Act. For a civil judgment awarding property, per State Law the City can deal with the property at the City's discretion. State Laws typically mirror Federal Law in this regard.

Councilmember Sipple asked for an estimate of the amount of money generated from the auction or sale of property. Chief Rettig stated this does not generate a large amount, perhaps \$5,000 annually. He stated it has been quite some time since the City has disposed of property, but is planning to do so in the near future through propertyroom.com.

Mayor Dunn thanked Ms. Knight for her hard work and attention to detail.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 7-0.

ADJOURN

There being no further business, the meeting was adjourned at 8:24 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk