

Minutes

DVD No. 157

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Wednesday, January 3, 2007. Mayor Peggy Dunn presided.

Councilmembers present: Gregory Peppes, Gary Bussing, Jim Rawlings, Lou Rasmussen, James Azeltine, and Debra Filla.

Councilmembers absent: Mike Gill and Scott Gulledge.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Chris Claxton, P&R Director
Jeff Joseph, Senior Planner
Deputy City Clerk, Christy Wise

Patty Bennett, City Attorney
Captain Dale Finger, Police Department
Joe Johnson, Public Works Director
Mark Klein, Senior Planner
Deb Harper, City Clerk
Scott Smith, Internet/WAN Specialist

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted an amended agenda upon the dais and stated the Leawood Lions Club will also be recognized under Item No. 5.

A motion to approve the agenda was made by Councilmember Peppes; seconded by Councilmember Rawlings. The agenda was approved following 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.**

4. PROCLAMATIONS

Martin Luther King Day, January 15, 2007

Mayor Dunn read the Martin Luther King Day Proclamation into the record. She also noted that she will be attending a dinner along with Councilmember Peppes in honor of Martin Luther King Day on January 15th, during which she will present the proclamation.

5. PRESENTATIONS/RECOGNITIONS Recognition of Country Club Bank for Sponsorship of Arts Programs – **Continued to the Tuesday, January 16, 2007 Governing Body meeting**

Recognition of Leawood Lions collection of \$33,010.51 for Salvation Army Bell Ringers

Leawood Lions Club President Gary Flick introduced Ken Britt, Cochairman of the Salvation Army Bell Ringing Campaign. Chairman Don Schultz could not attend the meeting.

Mayor Dunn reported that the Leawood Lions Club set a new bell ringing record this year by collecting \$33,010.51 for the Salvation Army. A grand total amount of \$530,156.83 has been collected since the Lions became involved in 1956. She stated she is proud to be an honorary member of the club and noted that Councilmember Rawlings is also a Lion. Announcing that they have been the top revenue generator of private clubs in the greater metropolitan area for a number of years, she extended appreciation to members of the Leawood Lion Club for their diligence in fundraising.

Mr. Britt stated a total of 432 hours were spent on collection efforts. As the coordinator for the collection site at Wal-Mart at 119th Street and Metcalf Avenue, he shared that Leawood Police Officer Mark Chudik collected the most donations in a 2-hour period at \$298.00. Officer Chudik enlisted his children and a family friend to provide entertainment while bell ringing.

Mayor Dunn applauded Mr. Flick, Mr. Britt, and other members of the Leawood Lions Club for contributing to the Salvation Army.

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. 1065B and 1066A
- B. Accept Minutes of the December 18, 2006 Governing Body meeting
- C. Accept Minutes of the November 20, 2006 Governing Body Work Session
- D. Approve Change Order No. 1, in the amount of \$29,817.80, to Rosehill Gardens, Inc., pertaining to the Villaggio Landscaping Project [CIP # 83197]
- E. Approve Change Order No. 1, in the amount of \$16,230.04, to J. M. Fahey Construction Company, pertaining to the 2006 Arterial Mill & Overlay Project
- F. Approve Change Order No. 3, in the amount of \$33,411.31, to Miller Paving & Construction, pertaining to the 2005 Residential Reconstruction Program [CIP # 83202]

- G. Approve Final Payment in the amount of \$33,731.00, to Miller Paving & Construction, pertaining to the 2005 Residential Reconstruction Program [CIP # 83202]
- H. Resolution No. 2720 approving and authorizing the Mayor to execute an Engineering Service Agreement in the amount of \$37,930.00, between the City and Uhl Engineering, Inc., pertaining to the 2007 Mill and Overlay Program
- I. Resolution No. 2721 consenting to the enlargement of Consolidated Main Sewer District of Johnson County, Kansas, [JCUWD] by the Board of County Commissioners of Johnson County, Kansas [BOCC], pursuant to Johnson County Charter Resolution No. 29-92, for property located in the vicinity of 145th Street west of Kenneth Road [Leabrooke 5th, 6th & 7th plats]
- J. Resolution approving and authorizing the Mayor to execute a Design Build Construction Agreement in the amount of \$705,000 between the City and SM Wilson/Hollis Miller pertaining to the construction of new buildings at Ironwoods Park, located at 14701 Mission Road –***THIS ITEM HAS BEEN CONTINUED TO THE TUESDAY, JANUARY 16, 2007 GOVERNING BODY MEETING***
- K. Resolution accepting the 2007 Orion Management Solutions, Inc., Marketing Plan for IRONHORSE Golf Course
- L. Resolution approving and authorizing the Mayor to execute an extension of the Sponsorship/Purchase Agreement between the City and Coca-Cola, Inc. –***THIS ITEM HAS BEEN CONTINUED TO THE MONDAY, FEBRUARY 5, 2007 GOVERNING BODY MEETING***
- M. Resolution No. 2722 approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and area participating agencies pertaining to the establishment and maintenance of a data warehouse identified as Metro Kansas City Emerging Threat Analysis Capability [‘ALERT/ETAC’]
- N. Resolution No. 2723 approving a Final Plat for Village of Camden Woods 91st Plat, located south of 143rd Street and west of Kenneth Road [*from the December 12, 2006 Planning Commission meeting*]
- O. Resolution No. 2724 approving a Final Plat for Village of Camden Woods 92nd Plat, located south of 143rd Street and west of Kenneth Road [*from the December 12, 2006 Planning Commission meeting*]
- P. Resolution No. 2725 approving a Final Plat for Village of Camden Woods 93rd Plat, located south of 143rd Street and west of Kenneth Road [*from the December 12, 2006 Planning Commission meeting*]
- Q. Resolution No. 2726 approving a Final Plat for Lots 11A and 12A, Block 8 of Waterford, located 3200 and 3204 W. 130th Street [*from the December 12, 2006 Planning Commission meeting*]

Three items were requested to be pulled for discussion: Item No. 7E by Councilmember Peppes, Item No. 7K by Councilmember Bussing, and Item No. 7F by Councilmember Filla.

On motion of Councilmember Peppes, seconded by Councilmember Filla, the remainder of the Consent Agenda was approved following a unanimous vote of 6-0.

- 7E. Approve Change Order No. 1, in the amount of \$16,230.04, to J. M. Fahey Construction Company, pertaining to the 2006 Arterial Mill & Overlay Project

Councilmember Peppes stated it was brought to his attention that the fact sheet contains an error. Public Works Director Joe Johnson stated the \$69,230.04 amount should read \$16,230.04. The County Assistance Road Systems [CARS] Program will reimburse the City 50% of the \$16,230.04.

A motion to approve the change order was made by Councilmember Peppes; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0.

- 7F. Approve Change Order No. 3, in the amount of \$33,411.31, to Miller Paving & Construction, pertaining to the 2005 Residential Reconstruction Program [CIP # 83202]

Noting the fact sheet states the change order is for an area previously "repaired by the Maintenance Division of Public Works but was not to our reconstruction standard," Councilmember Filla asked for further explanation. Mr. Johnson stated there were some failed drive-ways which required extensive repair due to problems with the subgrade. Miller Paving & Construction was contracted for one drive-way replacement rather than have the Maintenance Division perform the work.

A motion to approve Item No. 7F was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0.

- 7K. Resolution accepting the 2007 Orion Management Solutions, Inc., Marketing Plan for IRONHORSE Golf Course

Councilmember Bussing stated upon receipt of the marketing plan, he submitted questions to Mr. Lambers. Although Shane Gardner with Orion Management Solutions, Inc., provided a quick response for most of the issues, Councilmember Bussing expressed he is still concerned with the scope and direction of the 2007 marketing plan for IRONHORSE Golf Course. A motion to defer a decision on the marketing plan and schedule a Governing Body Work Session on January 16th at 6:30 P.M. in order to review the document was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion was approved following a unanimous vote of 6-0.

Councilmember Bussing requested that his original comments and Mr. Gardner's responses regarding the marketing plan be included as packet information for the Work Session. Councilmember Rasmussen requested that Councilmember Bussing's recommendations be highlighted.

8. MAYOR'S REPORT

- A. Attended the Corinth Elementary School Dare Graduation ceremony with Chief John Meier. This was Chief Meier's first opportunity to address the students in his new role of Police Chief. Mayor Dunn commended DARE Officer Randy Wiler for the wonderful job he does with the students.
- B. Mayor Dunn called attention to copies of a letter upon the dais from the Cloisters' Homes Association President Jack Rowe. The letter accompanied a check in the amount of \$1,780.00 to be shared by the Police and Fire Departments. The donation, which has become a tradition, is from the residents of the Cloisters' Homes Association on a voluntary basis in appreciation of the solid service both rendered and available. Hal Hollister, who has spearheaded and coordinated the collection over the past years, is now retiring from this duty.
- C. Attended a luncheon hosted by the Leawood Chamber of Commerce with a panel discussion from Representative Pat Colloton, Senator John Vratil, and Senator David Wysong. City Administrator Scott Lambers as well as Councilmembers Filla, Rasmussen, Bussing, and Azeltine also attended the event. The Leawood Chamber of Commerce 2007 State Legislative Priorities were presented at the luncheon and have been made available to Councilmembers for review. The priorities have been adopted by the Leawood Chamber of Commerce Board of Directors.
- D. Mayor Dunn presented the new Leawood Foundation brochure to Councilmembers. She acknowledged Leawood Foundation President Alice Hawk for contributing a great deal of time to the cause as well as other members of the board for their efforts.
- E. Mayor Dunn wished everyone a happy, healthy, and prosperous 2007.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the December 20, 2006 Public Works Committee meeting]

- A. Accept recommendations from the December 2, 2006 Public Works Committee meeting regarding KCPL Cell Net Electronic Meter Reading Monitors

A motion to accept the Public Works Committee's recommendation to allow KCP&L to use City street light poles to attach their existing Cell Net devices that are affected by the burying of their overhead lines and that KCP&L be allowed to install a pole similar to the City's street light pole if one does not exist in the area needed or the street light was owned by others; to direct Staff to prepare such an agreement; and give the Public Works Director the authority to approve future actions commiserate with the agreement was made by Councilmember Rasmussen. The motion was seconded by Councilmember Filla.

Roger Randall of KCP&L displayed a picture of a Cell Net device attached to a light pole on the overhead and explained the mechanism by which the meters are read. The requests to attach the device to existing street lights are due to the fact that underground utility line placements are becoming more common. He verified for Mayor Dunn that KCP&L will install similar poles, if needed, in areas where there is no street light or the structure is not owned by the City.

Martin Putnam with KCP&L stated company engineers have estimated there will be four installations upon existing poles necessary through year 2009. Currently, one device has been installed at 135th Street and Roe Avenue and another may be needed at 143rd Street and Nall Avenue. Mr. Randall added it is difficult to say when, or if, the addition of similar poles will occur. The devices need to be placed every six-tenths of a mile.

The motion carried following a unanimous vote of 6-0.

Councilmember Rasmussen reminded that the Governing Body recently authorized the Public Works Committee to review problems associated with parking lot construction standards in the City of Leawood. All members of the Public Works Committee agreed that they have experienced difficulties with the front-ends of their vehicles dropping when parked in areas such as Camelot Court, Ranchmart, and Town Center Plaza.

A motion to direct Staff to compare Leawood's parking lot construction standards with other cities and report back to the Public Works Committee was made by Councilmember Rasmussen. He noted that the current standards are within the Leawood Development Ordinance [LDO] and will require Planning Commission approval if altered. The motion was seconded by Councilmember Filla.

Mr. Lambers stated he suspects the standards in other cities will be similar to Leawood's but feels the action is appropriate as there clearly is a problem with ruts being created in the parking lots.

The motion was approved following a unanimous vote of 6-0.

12. PLANNING COMMISSION

[From the December 12, 2006 Planning Commission meeting]

- A. Ordinance No. 2207 approving a Revised Preliminary Site Plan and Revised Preliminary Plat for Market Square, located at the northeast corner of 135th Street and Mission Road [Roll Call Vote]

Mr. Lambers apologized for the Planning Commission minutes being inadvertently left out of the agenda packets. Copies of the minutes have been placed upon the dais. He noted the Planning Commission approved this case with a vote of 4-3. The division was associated with the issue of parking for the proposed new area. Referring to the site plan drawing, Mr. Lambers stated the overall shopping center is allowed a parking ratio of 5.0/1,000 sq. ft. with the applicant requesting 4.9.

The abutting parking lot is owned by Price Chopper, who will not allow easements for cross-parking. The applicant of the proposed project needs assurance of adequate parking in order to market future tenants. Three of the Planning Commissioners felt the parking ratio should be reduced, however they agreed the site plan is superior to what was originally approved.

Paul Waid with Copaken, White & Blitt, representing the ownership of Market Square, provided a brief overview of the entire project. The 52,295 sq. ft. development will be a mix of restaurant, retail, and office and will include a two-phased construction.

Architect David Contag with DLR Group, 7290 W. 133rd Street, stated the proposed project has increased by 735 sq. ft. since the original approval took place 6-7 years ago. The increase is due to efforts to comply with the 60/40 parking rule. He confirmed the overall parking ratio to be 4.9.

Mr. Contag mentioned he is working with City Engineer David Ley to create a right-in turn lane on 135th Street, which will alleviate traffic build-up. Improvements will also be made to the existing corner monument piece on 135th Street and Mission Road by way of lighting, landscaping, and signage. Another monument piece on a smaller scale will be installed at the corner of 135th Street and Pawnee.

Mr. Contag displayed various renderings illustrating views of the different buildings within the project. The buildings will be positioned in such a way to block the view of the existing Price Chopper parking lot from 135th Street. Building C will be moved back in order to provide better traffic circulation. The materials used for the new buildings will coordinate with existing structures.

Referring to a landscape plan, Mr. Contag noted the shopping center sidewalks are linked to the public sidewalks surrounding the project. Recommendations from the Planning Commission to provide sidewalks north of Price Chopper on 133rd Street will also be implemented.

Mr. Contag confirmed for Councilmember Rasmussen that the originally designed open stormwater detention area has been placed underground. He pointed out two locations on the site plan drawing where basins and drainage pipes will be located.

Enhancements planned for the monument sign on 135th Street and Mission Road were reviewed by Mr. Contag at Councilmember Bussing's request. Councilmember Bussing stated any efforts to improve this location will be greatly appreciated.

Regarding the right-in/right-out on 135th Street, Mr. Johnson stated the turn lane will be in addition to the three lanes currently between Pawnee and Mission Road. The design is consistent with what has been done on 135th Street and Roe Avenue.

Councilmember Bussing remarked the Price Chopper development has had issues associated with landscaping plan compliance. He advised that the plans for this project will be rigorously reviewed upon final plan presentation.

Mr. Contag informed Mayor Dunn that he was not aware of the former-Planning Director's indication that all four corner features of Market Square will contain water when the development is completely built-out. Mr. Contag stated the settlement agreement was reviewed and does not contain such a requirement of this nature. When asked if consideration would be given to converting the planter boxes to water features on the Mission Road corners if the other sites were amenable, Mr. Waid stated they are willing to explore options.

To Mayor Dunn's remark that there is a water feature at the Town & Country Bank on the corner of 135th Street and Roe Avenue, Mr. Lambers stated a feature for the Mission Road location should be at a much lower level with a softening effect. Mr. Waid stated sculptures could also be considered for this corner. Mayor Dunn noted that whatever is decided upon, it will set precedent for the other three corners. Mr. Contag verified the corner in question as 135th Street and Mission Road.

Mr. Waid and Mr. Contag confirmed for Mayor Dunn there is not a cross-access agreement for parking with Blue Valley Bank. She suggested exploring this option as there may be a need for extra parking in the evenings, especially for the buildings where parking ratios were decreased to the lower 3's.

A motion to approve the revised preliminary plan and plat for Market Square Center, Case 72-06, was made by Councilmember Bussing; seconded by Councilmember Filla.

Mr. Lambers explained for Councilmember Azeltine it would be a disincentive for Price Chopper to provide cross-access parking should they ever want to sell the building. Such agreements are provided in cases where there is a master developer of an entire project, such as Town Center Plaza. As the original development plan dates back many years, Mr. Lambers stated uncertainty as to why an agreement was not put in place for this development. There may have been more than one owner or it could have been a condition of the grocery store's approval.

Councilmember Filla asked if the parking area in the northeast corner of the project could possibly utilize an alternative surface, such as the more porous pervious concrete, or if the parking spaces could be land-banked with no pavement at all until warranted. Mr. Lambers informed the parking lot in this area has already been paved.

The ordinance passed with the following roll call vote of 6-0: Yea: Councilmembers Peppes, Rawlings, Bussing, Filla, Azeltine, and Rasmussen. Nay: None.

- B. Resolution No. 2727 approving a Final Site Plan for Gardens of Villaggio, located north of 137th Street and east of Roe Ave

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Applicant Merdad Kalantari stated the Planning Commission made recommendations to change the building exteriors in order to achieve more of a Tuscan theme. He presented the material board being used to achieve this change. The window lines have also been altered in order to create more shadows.

Noting that Stipulation No. 19 states, "cultured stone shall be a minimum of 4' above grade on all buildings," Mayor Dunn asked what type of material will be used up to the 4' mark. Mr. Kalantari advised granite will be used below the cultured stone.

Mayor Dunn noted that Stipulation No. 25 regarding signage will be addressed upon final building approval.

The resolution was approved following a unanimous vote of 6-0.

13. OLD BUSINESS – None.

14. NEW BUSINESS – None.

15. OTHER BUSINESS

- A. Resolution No. 2728 approving and authorizing the Mayor to execute a Third Amendment to that certain Development/Settlement Agreement, dated April 26, 2000, between the City of Leawood and Supermarket Developers, Inc., [SMD] [a/k/a Price Chopper] to adjust the allowed square feet on the development site

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion was approved following a unanimous vote of 6-0.

- B. Schedule an Executive Session to immediately follow the Governing Body meeting for a period of 20 minutes to discuss matters related to the attorney-client privilege**

A motion to recess into Executive Session was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0.

The Governing Body recessed into Executive Session at 8:40 P.M.

The Governing Body reconvened into regular Session at 9:00 P.M.

A motion to direct the City Administrator to decline WaterOne's offer of entering into an inter-local agreement waiving the applicability of the City's zoning laws and that WaterOne be required to comply with the Leawood Development Ordinance [LDO], including the Special Use Permit [SUP] process, was made by Councilmember Bussing; seconded by Councilmember Azeltine. Councilmember Bussing also indicated that Staff should work with WaterOne while going through the SUP process.

The motion carried following a unanimous vote of 6-0.

ADJOURN

There being no further business, a motion to adjourn the regular meeting was made by Councilmember Rawlings; seconded by Councilmember Azeltine.

The motion was approved following a unanimous vote of 6-0.

The Governing Body meeting adjourned at 9:02 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk