

Minutes

DVD No. 362

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, January 4, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Julie Cain, Lou Rasmussen, Carrie Rezac, Debra Filla, Andrew Osman, James Azeltine and Chuck Sipple

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Dawn Long, Finance Director	Karl Weinfurter, Info. Services Specialist II
Joe Johnson, Public Works Director	Chris Claxton, Parks & Recreation Director
Wayne Harder, Deputy Fire Chief	Chief Troy Rettig, Police Department
Nic Sanders, Human Resources Dir.	Richard Coleman, Community Dev. Dir.
Mark Klein, Planning Official	April Bishop, Cultural Arts Coordinator
Debra Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

Others Present: James Martin, Art Consultant
Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce
Mary Tearney, Chair, Arts Council Committee
Julia Steinberg, Arts Council Committee

1. **PLEDGE OF ALLEGIANCE** – Led by Boy Scouts from Troop 10.

2. **APPROVAL OF AGENDA**

Mayor Dunn stated a request had been received to continue Consent Agenda Items 7.L. through 7.P. to the January 19, 2016 Governing Body meeting.

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

Meeting documentation for the continued items could be left with the City Clerk and would be recycled, as appropriate.

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, Monday, January 18, 2016

Mayor Dunn read the proclamation into the record. No one was present to accept the proclamation.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

[from the November 24, 2015 Planning Commission meeting]

- A. **Ordinance No. 2767**, approving a Special Use Permit for a wireless communication facility for Parkway Plaza – STC Five Wireless Telecommunications facility, located north of 135th Street and west of Briar Street (PC Case 101-15) [ROLL CALL VOTE]

Applicant Curtis Holland of Polsinelli PC, 6201 College Boulevard, Suite 500, Overland Park, stated representatives of all the tower service providers were present, as well as representatives from Crown Castle, who owns the land and provides facility maintenance. He stated the Special Use Permit [SUP] request was the culmination of four years of work, beginning in 2012 with a conformance directive by staff for alternate structure location(s), and if that was not possible, to enhance the aesthetics of the current tower. A diligent effort had been made, but there was no interest by property owners at all the strategic alternate locations needed to maintain the coverage of the current tower, which is a single key piece of system infrastructure providing service to thousands.

All land immediately surrounding the tower compound had been sold. To improve the aesthetics of the current tower and site, and to provide a location for temporary cell on wheels [COWs] equipment needed during construction, a temporary easement had been granted by Demdaco. The current 12 ft. platforms would be reduced to 8 ft., antennae would be placed symmetrically and moved closer to tower, all coax cable would be placed within the tower, and additional landscaping would be added to the tower base. There may have been the possibility to further reduce platform width approximately 2 ft. if a permanent easement would have been granted by any surrounding property owner. The proposed platform width is required to provide the physical space needed for maintenance worker access between the tower and the platform.

Mr. Holland thanked the Council for adoption of wireless communication tower requirements of the Middle Class Tax Relief and Job Creation Act of 2012, which along with the proposed improvements, would bring the current tower into compliance.

Mayor Dunn confirmed agreement with Mr. Holland in regard to Planning Commission Stipulation 10, stating antennae would be mounted no more than 7 ft. from the tower.

At Councilmember Rasmussen's request and for the record as there had been issues with landscaping maintenance in the past, Mr. Holland confirmed the land owner was different from the tower owner, the temporary easement would be with the land owner, and installation and maintenance of landscaping was the responsibility of the land owner, Crown Castle, St. Louis office.

Councilmember Sipple inquired about the number of Demdaco parking spaces that would be utilized during construction, the estimated construction and completion dates, and how the order of service provider equipment placement on the tower was determined. Mr. Holland stated a couple dozen parking spaces would be used for a crane and the COW equipment in the southern part of the lot. Construction would begin as soon as possible and was anticipated to conclude before the six month duration of the temporary SUP for the COWs [Agenda Item 6.B]. Equipment placement on the tower was determined based on priorities and with some compromise.

A motion to approve Agenda Item 6.A. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 8-0.

- B. **Ordinance No. 2768**, approving a Temporary Special Use Permit for a temporary wireless communication facility for Parkway Plaza – Global Signal Acquisitions Cell on Wheels, located north of 135th Street and west of Briar Street (PC Case 102-15) [ROLL CALL VOTE]

Applicant Curtis Holland, Polsinelli PC, 6201 College Boulevard, Suite 500, Overland Park, stated the proposed temporary SUP would allow some level of wireless service to continue during tower construction. Service providers would utilize the COWs one at a time, while their tower equipment was under construction over a period of seven to 10 days. The COW service would not be as robust as that provided by the existing tower, as the COWs are only 107 ft. in height. The COWs would be located in a 58 ft. by 220 ft. area of Demdaco property to the north, with access to the site from 133rd Street. They would be fenced and would not require generators.

Mayor Dunn noted the temporary small sacrifice of service coverage area for the greater good over the next 20 years. She thanked all who had traveled to attend the meeting and wished them a happy 2016.

A motion to approve Agenda Item 6.B. was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous roll call 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 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. 2015-50
- B. Accept minutes of the December 21, 2015 Governing Body meeting
- C. Accept minutes of the May 14, 2015 Sustainability Advisory Board meeting
- D. Approve payment in the amount of \$18,356.67 to League of Kansas Municipalities, for 2016 Dues and Subscriptions
- E. **Resolution No. 4543**, dissolving the City of Leawood Amphitheater Steering Committee
- F. **Resolution No. 4544**, accepting a Permanent Sidewalk Easement from David G. and Nancy G. Yeamans, for property located at 11613 Wenonga Circle [Hazelwood, 4th Plat]
- G. **Resolution No. 4545**, approving and authorizing the Mayor to execute a Professional Engineering Service Agreement in the amount of \$90,000 between the City and Continental Consulting Engineers, pertaining to the Ironhorse Clubhouse Expansion Project [Project # 49133]

- H. **Resolution No. 4546**, approving and authorizing the Mayor to execute an Agreement between the City and Electronic Transaction Systems Corporation, [ETS] pertaining to the implementation of a PCI Compliant Merchant Processing Solution at Ironhorse Golf Club, located at 15400 Mission Road
- I. **Resolution No. 4547**, approving a Revised Final Plat for LeaBrooke 10th Plat, located north of 148th Street and west of Kenneth Road (PC Case 116-15) *[from the November 24, 2015 Planning Commission meeting]*
- J. **Resolution No. 4548**, approving a Revised Final Plat for LeaBrooke 11th Plat, located north of 148th Street and west of Kenneth Road (PC Case 138-15) *[from the November 24, 2015 Planning Commission meeting]*
- K. **Resolution No. 4549**, approving a Revised Final Plat for LeaBrooke 12th Plat, located north of 148th Street and west of Kenneth Road (PC Case 139-15) *[from the November 24, 2015 Planning Commission meeting]*
- L. Resolution approving an Eligible Facilities Request for a one time increase in height of an existing wireless communication tower for Parkway Plaza – STC Five LLC, located north of 135th Street and west of Briar Street (PC Case 02-16) *[continued to the January 19, 2016 Governing Body Meeting]*
- M. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – T-Mobile, located north of 135th Street and west of Briar Street (PC Case 01-16) *[continued to the January 19, 2016 Governing Body Meeting]*
- N. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – Sprint Spectrum, LP, located north of 135th Street and west of Briar Street (PC Case 03-16) *[continued to the January 19, 2016 Governing Body Meeting]*
- O. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – Verizon Wireless, LLC, located north of 135th Street and west of Briar Street (04-16) *[continued to the January 19, 2016 Governing Body Meeting]*
- P. Resolution approving an Eligible Facilities Request for replacement of wireless antennae and associated equipment for Parkway Plaza – AT&T, located north of 135th Street and west of Briar Street (05-16) *[continued to the January 19, 2016 Governing Body Meeting]*
- Q. Declaration of Surplus Property-Design Jet Plotter, Serial/Q6684A

Councilmember Rezac requested Consent Agenda Item 7.G. be pulled.

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

A motion to approve the remaining Consent Agenda items was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.

- G. **Resolution No. 4545**, approving and authorizing the Mayor to execute a Professional Engineering Service Agreement in the amount of \$90,000 between the City and Continental Consulting Engineers, pertaining to the Ironhorse Clubhouse Expansion Project [Project # 49133]

Ms. Claxton confirmed for Councilmember Rezac that work was in progress to obtain proposals from the original architect and others that would be needed for the project.

A motion to approve Consent Agenda Item 7.G. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- H. **Resolution No. 4546**, approving and authorizing the Mayor to execute an Agreement between the City and Electronic Transaction Systems Corporation, [ETS] pertaining to the implementation of a PCI Compliant Merchant Processing Solution at Ironhorse Golf Club, located at 15400 Mission Road

Ms. Long clarified for Councilmember Azeltine that the City will no longer utilize Crescent software, which had been used for the past 12 years. The proposed Jonas software would provide for additional PCI [Payment Card Industry] compliance using the City's information technology server.

Mayor Dunn stated the new system would be expected to result in a savings to the City in credit card processing fees, a seldom seen occurrence.

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

8. MAYOR'S REPORT

- A. Sincere sympathies to the family of Bob Reid who passed away on December 15, 2015 at the age of 95. He was a longtime volunteer for the Ironhorse Golf Course Advisory Board. He was also a volunteer for the Kansas, Missouri and Kansas City Golf Associations, and former Executive Director of the Kansas City Golf Association. His record of devotion to the game resulted in his induction into the golf halls of fame for Kansas, Missouri and Kansas City.
- B. Appreciation to Public Works Director Joe Johnson and his great team for all of their hard work during the recent winter storm event.
- C. Reminder that the next Council meeting will be on Tuesday, January 19, 2016, due to our observance of Martin Luther King, Jr., Day on Monday, January 18.
- D. The Lunar New Year event is nearly sold out. Just one seat remains and a wait list has been established. Please forward payment for reservations as soon as possible to secure seating.
- E. Happy New Year to one and all!

9. COUNCILMEMBERS' REPORT – None

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. JUSTICE CENTER ART TASK FORCE

[from the December 18, 2015 Justice Center Art Task Force meeting]

Presentation of Recommendation of Art Piece for Justice Center

Mayor Dunn welcomed Mr. Martin and recognized Mary Tearney and Julia Steinberg, Arts Council Committee; April Bishop, Cultural Arts Coordinator; and Councilmembers Rawlings, Cain, Filla and Sipple, Justice Center Arts Selection Committee.

Councilmember Rawlings provided a project history. In late 2013, four presentations were made to the Arts Council Committee and the Governing Body. Recommendations were not supported and direction was given to identify alternatives once construction of the Justice Center was complete and a sense of building scale was available.

The Justice Center Arts Selection Committee was appointed by Mayor Dunn in February, 2015, and had since researched many different artists, with assistance from Mr. Martin. Two artists were selected to make on-site formal proposals and presentations, and the committee unanimously recommended RDG Artist Studios, artists David Dahlquist and Matt Niebuhr.

Councilmember Rawlings and Mr. Martin presented slides depicting the art concept from various vantage points and lighting, and answered questions, highlights as follows:

1. Due to size of Justice Center, selected a landscape garden concept with several art pieces moved out from the building to connect to Town Center Drive and Tomahawk Creek Parkway and invite pedestrian viewing.
2. Center fulcrum would be 12 ft. tall with two 10 ft. tall opposed-access screen pieces placed on either side of the fulcrum.
3. Distance from end to end of all three pieces would be 76 ft. and the fulcrum aligns with the L-shaped connection of the Justice Center. The overall footprint of the piece attempts to balance the building, which was not centered on the street intersection.
4. Three granite or granite-like blocks would be used for seating and engraved with “Weight of Your Heart / Weight of a Feather,” the name of the proposed installation.
5. The current limestone rocks would be incorporated into the overall design with landscape lighting.
6. No final landscape plan yet, but anticipate landscaping would remain clean around sidewalks to focus on art and walkability, with the potential to add some trees and low ground cover. Existing Prairie Grass plantings are under review and may be replaced with something different.
7. “Weight of Your Heart / Weight of a Feather,” speaks to the concept of justice and was inspired by history. Ancient Egyptians believed the soul resided in the heart and a papyrus scroll in the British Museum depicts an ancient balance scale weighing the heart of the deceased against a feather. If the soul was lighter than the feather of truth, the deceased was deemed to be truthful and just.
8. A Chestnut leaf design, which resembles a feather, would be used in the screen pieces. The Chestnut’s ugly exterior belies its sweet fruit, suggesting the need to look beyond outward appearances before making judgment.
9. The fulcrum would be lit from the bottom and the screen pieces would be lit from the top. Lighting will facilitate viewing at night, on foot as well as by vehicle.

10. The screen pieces would be made of Cor-Ten, a weathering steel that develops an outer layer patina that protects the steel from additional corrosion, and is frequently used in outdoor public art and bridges. This material was chosen as it closely matches the building color.
11. The weathering process, or oxidation, would likely result in some staining below the screen pieces. Screen footings are located off the sidewalk in a gravel bed. Due to the self-healing properties of Cor-Ten, less overall maintenance of the screens may be needed.
12. The fulcrum would be a different color palette than the screen pieces, but the material was still under discussion with the artist.
13. Cost for the art and installation would be paid from the budgeted Public Safety Fund. Maintenance cost of 10% would be covered by the Art Fund and budgeted once constructed.
14. The story of the fulcrum may be detailed in a 100-word plaque as well as audio recording accessed electrically by QUARK code via a hand-held device. The City has audio recordings for all of its art pieces.

Mayor Dunn thanked the Justice Center Arts Selection Committee, the Arts Council, and Mr. Martin for their efforts.

A motion to authorize staff to initiate the planning process and have a contract with RDG Artist Studios submitted for approval by the February 1, 2016 Governing Body meeting was made by Councilmember Filla; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.

12. PLANNING COMMISSION

[from the November 24, 2015 Planning Commission meeting]

- A. **Ordinance 2769**, approving a Revised Preliminary Plan and Final Plan for Ironhorse Golf Course Clubhouse Expansion, located north of Bell Drive and west of Mission Road (PC Case 134-15) [ROLL CALL VOTE]

Ms. Claxton stated there had been no changes since the last time the plan was before the Governing Body and everyone was amenable to all stipulations. The plan would be to bid by end of April with the hope to move up start of construction to September from October. Golf course management was aware of the timetable and would handle scheduling logistics.

A motion to approve Agenda Item 12.A. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.

- B. Ordinance amending Section 16-4-1.3 of the Leawood Development Ordinance entitled “Permitted Accessory Uses, Buildings and Structures” and pertaining to ground mounted solar panels and repealing existing Section 16-4-1.3 and other sections in conflict herewith (PC Case 130-15) [ROLL CALL VOTE]

Mr. Klein stated the amendment was proposed to expand code in regard to solar panel placement. Current code does not provide for panels in yards. The amendment requires solar panels to be placed on the roof of the primary structure, unless this is not feasible due to orientation of building or shading by trees, as determined by the Director of Community Development. The amendment provides for ground mounting of solar panels in rear yards with maximum height of 8 ft., provides for landscape screening and requires setbacks be met. The amendment does not prohibit installation on the front of roofs, specify the maximum number of panels or require notification of nearby property owners.

Mr. Coleman stated that a resident request for installation of 53 panels on three different roof slopes of a home had prompted review of current code.

Councilmember Rasmussen expressed concern about firefighter access around ground-mounted solar panels and wanted to ensure the safety of firefighters on roofs. Deputy Fire Chief Wayne Harder stated he was not familiar enough with such installations to determine if there would be potential impediment.

Councilmember Sipple expressed concern about visibility from the street of ground mounted panels in rear yards and stated additional screening requirements would be desirable.

Councilmember Cain questioned if Home Owner Association [HOA] deed restrictions might supersede City code. Mr. Coleman stated the City does not request to review HOA restrictions as part of any building permit application.

Councilmember Filla displayed a picture of 333 solar panels with white frames and a blue surface installed at the Kansas City Department of Water. Mr. Coleman stated the panels were not the same type as allowed by the City. The City requires exposed panel frames to be finished with warm earth tones or be black in color. Currently, about four manufacturers provide the required color panels. Staff would eventually compile list of materials, as it has for other construction projects.

Councilmember Osman expressed concern about the potential for reflective surface glare to negatively impact nearby residences. Mr. Coleman stated reflective glare could occur with many housing materials.

Councilmember Azeltine questioned and Mr. Coleman clarified that Kansas has a limit on the amount of excess power generation that could be sold back to electrical utilities. Kansas prohibits a positive return by the owner.

Mayor Dunn commented that a one-size-fits-all revision of the current ordinance may not be suitable based on discussion and concerns. The Council takes great pride in the aesthetics of the community and does not support broad-brush approval. Additional review and revision of the ordinance would not interfere with the recent citizen request. She suggested the agenda item could be remanded back to the Planning Commission for their discussion at a work session. The minutes and recommendations from the Planning Commission work session could be available to the Governing Body within six months.

Councilmember Rezac requested HOAs be notified of the Planning Commission work session. Mayor Dunn suggested the six month timeline may be too tight for HOA input. Councilmember Filla suggested the topic of solar panels could be included in the upcoming February 25, 2016 Sustainability Summit or included in Mr. Lambers' update to HOAs on front yard structures.

A motion to remand Agenda Item 12.B. was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

13. OLD BUSINESS – None

14. OTHER BUSINESS – None

15. NEW BUSINESS

- A. Schedule Governing Body Work Session on Monday, August 15, 2016, at 6:00 P.M., for Executive Session – Personnel Matter; City Administrator's Semi-Annual Review

A motion to approve Agenda Item 15.A. was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- B. Schedule Governing Body Work Session on Monday, October 3, 2016, at 6:00 P.M., for Proposed 2017 Fee Schedule

A motion to approve Agenda Item 15.B. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

- C. Schedule Governing Body Work Session on Monday, November 7, 2016, at 6:00 P.M., to review Chamber of Commerce's Annual Economic Plan

A motion to approve Agenda Item 15.C. was made by Councilmember Rezac; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

ADJOURN

There being no further business, the meeting adjourned at 9:33 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk