

**Minutes**

DVD No. 229

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 Tuesday, January 19, 2010. Mayor Peggy Dunn presided.

**Councilmembers present:** Jim Rawlings, James Azeltine, Lou Rasmussen, Debra Filla, Julie Cain, Gregory Peppes, Gary Bussing, and Mike Gill [via teleconference]

**Mayor/Councilmembers absent:** None

<b>Staff present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, Public Works Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director	Chris Claxton, P&R Director
Mark Klein, Assistant Planning Director	Karl Weinfurter, IS Specialist
Deb Harper, City Clerk	Pam Gregory, Assistant City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the addition of Item No. 14 under Other Business - Consider language revision to the City's Debt Policy

A motion to approve the agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following 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 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.**

Curtis Holland, Esq., 6201 College Boulevard, Overland Park, Polsinelli Shughart Law Firm, made comments related to applications on behalf of Clearwire Wireless Broadband to place antennas on existing structures. Clearwire requested to attach antennas to the existing monopole structure at 135<sup>th</sup> and Nall. Under the City's current ordinance, all antennas are to be slim-line and mounted flush to the pole, which in this particular case can't be done because of radio signal interference. Their plan was to mount one of the antennas to the top platform.

Mr. Holland wanted to work with staff to modify the language in the Leawood Development Ordinance [LDO] to address this issue. Their alternative would be to propose another structure to the City.

Mayor Dunn indicated this was a non-agenda item and they had no information regarding this from the staff. Knowing that this didn't comply with the City's current ordinance, she didn't want to make a recommendation based upon Mr. Holland's comments. The cell tower ordinance has served the City well and amending it should not be considered lightly. She considered this a cell tower, not a monopole. The slim-line requirement is to hopefully have nothing but monopoles in the future to be more aesthetically pleasing.

Mr. Holland had previously requested that this be placed as an agenda item in December and was told he could address the Council during a public meeting.

Councilmember Azeltine asked if Mr. Holland was under a time constraint. He indicated they were launching their network and was hoping the Council could consider the matter within 60 days. Mr. Azeltine asked for a recommendation from staff.

City Administrator Scott Lambers stated Mr. Holland wanted to come forward with an application; however, it would have been turned down due to being inconsistent with the ordinance. He confirmed their goal was to have the tower all slim-line. If the Council wanted to consider an LDO amendment and allow Mr. Holland the opportunity to make a presentation, they would need to schedule a work session.

Councilmember Rasmussen felt the current LDO had been working successfully after a lot of hard work and compromise. He was concerned with amending it.

Mr. Lambers thought with technology constantly changing, they could give Mr. Holland the opportunity to be heard.

Mr. Holland indicated all of the platforms have multiple antennas with each carrier having different designs and needs. If they are required to be flush mounted in the future, it would require two to three poles to accommodate all of the antennas. Mr. Holland asked to be given consideration because of the practical difficulties with this particular site.

Councilmember Azeltine made a motion to schedule a work session on April 19, 2010, to consider this issue and review the LDO; seconded by Councilmember Filla.

Mr. Lambers noted they would move the Capital Improvement District [CID] work session to May 3, 2010. He confirmed they would have information available regarding time tables for the Special Use Permit [SUP] on the existing antenna.

The motion carried following a unanimous vote of 7-1. Nay: Councilmember Rasmussen.

#### **4. PROCLAMATIONS** **Martin Luther King Day, January 18, 2010**

Mayor Dunn read the proclamation into the record.

5. **PRESENTATIONS/RECOGNITIONS** - None.

6. **SPECIAL BUSINESS**

- A. **Public Hearing:** Considering the advisability of amending a proposed Transportation Development District [TDD] financing for the One Nineteen Development Project, located at 119<sup>th</sup> Street & Roe Avenue

With no one being present to speak, a motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following 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 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. 2009-52, 2009-53, and 2009-54  
B. Accept minutes from the January 4, 2010 Governing Body meeting  
C. Accept minutes from the January 4, 2010 Governing Body Work Session  
D. Accept minutes from the October 6, 2009 Parks and Recreation Advisory Board  
E. Approve Co-op bid in the amount of \$64,581.66 for vehicles from Shawnee Mission Ford; \$41,404.00 for vehicles from Odessa Chrysler; \$18,453.00 from Roberts Auto Plaza; and \$25,898.00 for vehicles from Olathe Ford  
F. **Resolution No. 3328** calling for a public hearing to be held at 7:30 PM on Monday, February 1, 2010, regarding the 2011-2015 Capital Improvement Project [CIP] Program  
G. **Resolution No. 3329** approving and authorizing the Mayor to execute Addendum No. 2 to that certain Professional Service Agreement, dated March 2, 2009, between the City and Alvarez & Marsal, pertaining to the One Nineteen Transportation Development Sales Tax Analysis  
H. **Resolution No. 3330** approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Overland Park pertaining to the 2010 Street Improvement Overlay Project, on Mission Road between 95<sup>th</sup> and 103<sup>rd</sup> Street, and traffic signal replacement at 95<sup>th</sup> & Mission Road [CARS Project # 72016]  
I. **Resolution No. 3331** approving and authorizing the Mayor to execute an Inter-local Agreement by and between the City of Leawood, City of Overland Park, and the Board of County Commissioners of Johnson County, Kansas, pertaining to the 2010 Street Improvement Project, 2010 CARS Agreement for Mission Road between 95<sup>th</sup> and 103<sup>rd</sup> Street [Project # 72016]

- J. **Resolution No. 3332** approving and authorizing the Mayor to execute Amendment No. 1 to that certain Professional Service Agreement, dated January 4, 2010, between the City and Shafer Kline & Warren PA, [SKW] in the amount of \$4,900.00, pertaining to the design of the 2010 Residential Mill & Overlay Project [# 70008]; adding to the scope of work: 124<sup>th</sup> Terrace to 124<sup>th</sup> Street, west to Delmar and Delmar from 124<sup>th</sup> Terrace north to 124<sup>th</sup> Street (Berkshire Streets) and Bell Drive & Ironhorse Golf Club Parking Lot
- K. **Resolution No. 3333** approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Mid-America Regional Council [MARC], pertaining to the Operation Green Light Traffic Control System
- L. Fire Department Monthly Report
- M. Municipal Court Monthly Report
- N. Police Department Monthly Report
- O. 2009 Annual Police Department

A motion to approve the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

## 8. MAYOR'S REPORT

Acceptance of donation from The Cloisters Homes Association in the amount of \$1,745.00 to be shared between the Police and Fire Departments

- A. Mayor Dunn shared a letter from the Cloisters Homes Association, signed by Cloisters President Dr. John Wiley. A holiday gift of \$1,745.00 was collected from the residents for the Leawood Police and Fire Departments to be used as a sign of their appreciation for services rendered and available. Mayor Dunn expressed her appreciation for their generosity.
- B. Cultural Arts Coordinator April Bishop estimated this year there were a total of 18,605 volunteer hours that helped make cultural arts in Leawood a success. There were 14,555 of those hours for the Leawood Stage Company alone. This count does not include hours logged by Arts Council Chairman Mary Tearney or Art in Public Places Initiative Chairman Dr. Ann Kenney. This is an amazing in-kind donation, and the City is truly indebted to all of these volunteers.
- C. Attended the Corinth Elementary School Drug Abuse Resistance Education [D.A.R.E.] Graduation with Police Chief John Meier. Mayor Dunn thanked Officer Randy Wiler for doing such a great job with this program and the students.
- D. Attended the Leawood Chamber of Commerce Legislative luncheon at the Bonefish Grill with City Administrator Scott Lambers, and Councilmembers Filla, Rasmussen, Rawlings and Azeltine. The 2010 Leawood Chamber Legislative Priorities were among the topics of discussion. The event was hosted by the Government Affairs Task Force and Chairman Tom Robinett who introduced the panel that included Senators John Vratil and Terrie Huntington, and Representatives Pat Colloton and Kevin Yoder. A large focus of their discussion was on balancing the Kansas budget for the upcoming year in session.

- E. The Council of Mayors meeting in Gardner was cancelled due to inclement weather. Mayor Dunn recognized the Public Works Department for their wonderful job in keeping up with the streets of Leawood.
- F. The Leawood Chamber of Commerce hosted the Annual Mayor's State of the City Address luncheon. Among those in attendance were City Administrator Scott Lambers, most Councilmembers, department heads and other key staff. Altogether, there were over 300 who attended. Mayor Dunn thanked everyone for their support and was looking forward to the opportunities in 2010.
- G. Attended the Martin Luther King, Jr. Legacy & Scholarship Awards Banquet with Councilmember Peppes. The event was co-sponsored with the Olathe, Kansas branch of the NAACP. Reverend Adam Hamilton of the United Methodist Church of the Resurrection in Leawood was the 2010 Legacy Award recipient.
- H. The American Heart Association has recognized the United Methodist Church of the Resurrection in Leawood as a "Start! Fit-Friendly Company" for promoting physical activity and health in the workplace. They are the first church in the nation to receive this award and did so because of their priority to the health and wellness of their employees.
- I. Mayor Dunn congratulated Rod and Sheri Gray, Leawood residents and pit masters of barbeque team, "Pellet Envy." They are the national honorary winners and received this honor in Philadelphia for the Kansas City Barbeque Society's National Team of the Year. They participated in competition with 4,612 other teams and received the 2009 title.

## **9. COUNCILMEMBERS' REPORT**

### **Councilmember Filla; Bicycle Friendly Community Update**

Councilmember Filla reported that the Green Initiative Citizens Task Force Committee had applied for the City to be recognized as a Bicycle Friendly Community. The City did not receive any designation and received some recommendations.

Parks and Recreation Director Chris Claxton reported their recommendations were to offer educational classes and opportunities for people to become aware of how to share the road more effectively. There are things to offer citizens at either no or low cost. They also suggested that if the City modifies the streets, to consider adding bike lanes similar to 143<sup>rd</sup> Street.

A motion for the Public Works Committee to review road reconstruction projects to consider opportunities for bike friendly mechanisms was made by Councilmember Filla; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

## **10. STAFF REPORT – None.**

## ***COMMITTEE RECOMMENDATIONS***

***[From the January 12, 2010, Park and Recreation Advisory Board meeting]***

### **11. PARKS AND RECREATION ADVISORY BOARD**

- A. Recommendation from Parks and Recreation Advisory Board regarding signage at Gezer Park, located at 13300 Mission Road- ***CONTINUED FROM THE JANUARY 4, 2010 GOVERNING BODY MEETING***

Councilmember Rawlings reported there had been concern of people throwing rocks and dogs swimming in the lake at Gezer Park. The Council had referred these issues to the Parks and Recreation Advisory Board for review.

Ms. Claxton thought the ordinances in place addressed most of the concerns. They are currently partnering with homes associations to help educate the public. The City has standard signage regulations at all of the parks. They wanted to add another sign to the front area of Gezer Park.

Mayor Dunn was concerned that the proposed signage would be too large and obtrusive. Ms. Claxton indicated the signage had been in the parks for 10 years. They have; however, considered revising them in the past.

Councilmember Bussing objected to the signage and felt they had built the parks for residents to enjoy. Signage has no affect on their ability to enforce the ordinance.

Mayor Dunn noted it was because of the issues addressed by Mr. Rawlings that this was sent to the Parks and Recreation Advisory Board. She felt many of the regulations were important and should be posted. Councilmember Bussing felt the signage wouldn't affect behavior.

Councilmember Cain concurred with Mr. Bussing. She had spoken with the construction contractor at Gezer Park and he indicated dogs could not puncture the lining of the lake.

Ms. Claxton confirmed that the Police Department was responsible for issuing citations for not following the ordinances. The purpose of the signage is to insure awareness to the public.

Councilmember Gill indicated he would support additional signage; however, felt they should limit the size. He thought they should also have trash receptacles and doggie bags accessible.

Councilmember Rasmussen asked if they should consider permitting parks employees to issue citations. Police Chief John Meier felt this should only be handled by the Police Department.

Mayor Dunn noted from past experience if they don't have signage, people will complain that they weren't warned that certain activities are prohibited. She thought this should be further reviewed by the Parks and Recreation Advisory Board for sign alternatives that are more aesthetically pleasing. It is appropriate to have some signage to remind people of the regulations. There is damage taking place and there is a proper way for people to have fun and enjoy the parks.

Ms. Claxton stated they would remand this to the Parks and Recreation Advisory Board for further review.

Councilmember Azeltine wanted them to consider the high concentration of art in this unique park and strategically place the signage and keep it tasteful.

Mr. Lambers was concerned over the issue raised regarding pets being on a leash and stated they are required by ordinance to remain on a leash. There was some indication that they have made an attractive situation for them to be unleashed. Unless otherwise directed from the Council, staff will enforce this on the signage because of liability to the City and the small park size. They can; however, soften the language to make it less demanding.

**[From the December 8, 2009, Park and Recreation Advisory Board meeting]**

B. Approve appointment of Bicycle Friendly Task Force

A motion to approve the appointment of the Bicycle Friendly Task Force was made by Councilmember Peppes; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

**12. PLANNING COMMISSION - None**

**13. OLD BUSINESS – None.**

**14. OTHER BUSINESS – Acceptance of language regarding amendment to Debt Management Policy; [subsequent to Work Session regarding Park Place TDD financing]**

Mayor Dunn stated the following language revision was considered in the work session earlier this evening.

Upon request by a developer, the City may consider approving an assessment methodology for Special Benefit District [SBD] financing that is based upon the improvement and/or land value for each tract of land and/or tax parcel within the district, provided that the development project is greater than 20 acres in size; has an improved overall floor-area-ratio [F.A.R.] of .5 or greater, and has received a Certificate(s) of Occupancy for 35% of the total approved square footage. As part of the consideration of this methodology for assessment, the City Council may consider requiring a letter of credit.

A motion to approve the language revision to the City's Debt Policy was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

City Clerk Deb Harper confirmed with Mayor Dunn that this would be on the February 1, 2010, agenda by a resolution officially amended and adopted.

**15. NEW BUSINESS**

A. **Ordinance No. 2434C** amending Sections 1-835 through 1-838, of the Code of the City of Leawood, 2000, pertaining to the establishment of the Park Place Transportation Development District [TDD] Agency Fund [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Rawlings.

City Attorney Patty Bennett clarified that the amendment was only changing the name of the fund.

The motion carried following a unanimous roll call vote of 8-0. Nay: None.

- B. Schedule a Governing Body Executive Session on Tuesday, January 19, 2010, immediately following the regular meeting to discuss matters related to attorney-client

A motion to approve the Executive Session was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Ms. Harper clarified that Executive Sessions are not open to the public.

The motion carried following a unanimous vote of 8-0.

- C. Schedule a Governing Body Work Session on Tuesday, January 19, 2010, at 6:00 P.M., to discuss Transportation Development District [TDD] financing for Park Place Improvement District

A motion to approve the Work Session was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- D. Schedule a Governing Body Work Session on Monday, January 25, 2010, at 6:00 P.M., to discuss 2010 Governing Body Short, Near, and Long Term Goals and Objectives

A motion to approve the Work Session was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- E. Schedule a Governing Body Work Session on Monday, February 1, 2010, at 6:00 P.M., for presentation of 2011-2015 Capital Improvement Projects [C.I.P.] and completion of Park Place

A motion to approve the Work Session was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

- F. Schedule a Governing Body Work Session on Monday, March 1, 2010 at 6:00 P.M., to discuss Informational Signs

A motion to approve the Work Session was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- G. Schedule a Governing Body Work Session on Monday, April 19, 2010, at 6:00 P.M., to discuss amending the Leawood Development Ordinance [LDO] pertaining to antennae requirements

A motion to approve the Work Session was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

- H. Schedule a Governing Body Executive Session on Tuesday, September 7, 2010, at 6:00 P.M., to discuss Personnel Matter; City Administrator's 6-month review

A motion to approve the Executive Session was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

A motion to recess into Executive Session at 9:00 P.M. for a period of 15 minutes to discuss matters related to the attorney-client privilege was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

The Governing Body reconvened into regular session at 9:15 P.M.

A motion to adjourn the regular meeting was made by Councilmember Rasmussen; seconded by Councilmember Peppes.

There being no further business, the meeting was adjourned at 9:15 P.M.

**ADJOURN**

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Deputy City Clerk