

Minutes

DVD No. 230

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 Monday, February 1, 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

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, Public Works Director
Mark Andrasik, Info Systems Director	Kathy Rogers, Finance Director
Richard Coleman, Comm. Dev. Director	Chris Claxton, P&R Director
Deb Harper, City Clerk	Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

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

4. PROCLAMATIONS Scouting Anniversary Week, February 7-13, 2010
Mayor Dunn read the proclamation into the record and congratulated the Scouting Organization on their 100th Anniversary.

5. PRESENTATIONS/RECOGNITIONS Certificate of Achievement for Excellence in Financial Reporting [CAFR]

Mayor Dunn presented Finance Director Kathy Rogers with a certificate and plaque in recognition of the City of Leawood's excellence in financial reporting from the Government Finance Officers Association of the United States and Canada.

6. SPECIAL BUSINESS

- A. **Public Hearing:** 2011-2015 Capital Improvement Project [C.I.P.] Program

As no one was present to speak, a motion to close the public hearing was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- B. **Resolution No. 3334** approving amendment to the City of Leawood's Debt Management Policy, and repealing Resolution No. 2789

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a vote of 7-0. (Temporarily lost teleconference connection with Councilmember Gill).

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. 2009-55, 2010-1 and 2010-2
B. Accept minutes of the November 23, 2009 Arts Council meeting
C. Accept minutes of the December 15, 2009 Public Work Committee meeting
D. Approve renewal of Cereal Malt Beverage [CMB] license to Hen House, located at 11721 Roe Avenue
E. Approve renewal of Cereal Malt Beverage [CMB] license to Dragon Dynasty, located at 12248 State Line Road
F. Approve Co-op bid in the amount of \$36,906 for vehicles from Roberts Auto Plaza; and \$22,706 for vehicles from Shawnee Mission Ford
G. **Resolution No. 3335** approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the City of Overland Park, pertaining to the Nall Avenue Improvement Project [between College Boulevard and 119th Street] [Project 72037]
H. **Resolution No. 3336** approving a Final Site Plan for a Tenant Finish for Los Cabos, located on the northeast corner of I-435 Highway and Mission Road (PC Case # 03-10) [from the January 26, 2010 Planning Commission meeting]
I. 2009 Annual Fire Department Report

Mayor Dunn requested to pull Item No. 7H for discussion.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Bussing; seconded by Councilmember Peppes. The motion carried following a vote of 7-0. (Temporarily lost teleconference connection with Councilmember Gill).

- 7H. **Resolution No. 3336** approving a Final Site Plan for a Tenant Finish for Los Cabos, located on the northeast corner of I-435 Highway and Mission Road (PC Case # 03-10) [from the January 26, 2010 Planning Commission meeting]

Mayor Dunn noted the Planning Commission approved the Final Site Plan for Los Cabos with a vote of 5-1 and asked for comments regarding the dissenting vote.

Community Development Director Richard Coleman stated there was discussion regarding the strand lighting over the patio on the east side. The Leawood Development Ordinance [LDO] states string lighting is prohibited; however, this was inadvertently located under the section of prohibited signs. The majority had approved the lighting since they are free-strung and not located in the street right-of-way.

Mayor Dunn asked if these lights would be off when the restaurant is closed. She was concerned the lighting may affect a neighboring villa.

Bill Brandmeyer, Restaurant Owner, noted this was a Mixed Use District [MXD] and the lights would remain on only during hours of operation and could be controlled by a dimmer switch. The restaurant will open on February 8, 2010, with the patio to open when the weather improves.

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

Mr. Brandmeyer confirmed for Councilmember Gill they would have music and speakers outside and it would be played at a neighbor friendly level. They were also considering live acoustic guitar players.

The motion carried following a unanimous vote of 8-0. (Regained teleconference connection with Councilmember Gill).

8. MAYOR'S REPORT

- A. Attended the Conveners Reception that had been rescheduled due to inclement weather with City Administrator Scott Lambers and Councilmembers Rasmussen and Rawlings.
- B. Attended a Retirement Reception for Sally Winship, who retired as Vice President of Workforce, Community and Economic Development for Johnson County Community College after 37 years of service. Mayor Dunn wished her the best in all of her future endeavors.
- C. Attended the Kansas Day Reception festivities in Topeka.
- D. Mayor Dunn and Councilmember Rawlings attended funeral services for former Mayor Gene Alt, who was born on March 23, 1920, and passed away on January 29, 2010. Gene served as the Mayor of Leawood from 1976 – 1979, and had a remarkable life of service. He was an outstanding Leawood Lion and was personally responsible for scheduling all of the Salvation Army bell ringers. The Lions have been the leading organization for fundraising for the Salvation Army over many years. His wife, Lee Alt, who was also an avid volunteer as President of the Leawood Woman's Club, among many other things, passed away in November, 2009. Mayor Dunn expressed her sympathies to their family and friends (moment of silence).

- E. Reminder of the Cantilena String Quartet Concert, hosted by the Leawood Arts Council, on Sunday, February 14, 2010, at 2:00 P.M., in the Oak Room at Leawood City Hall.
- F. The Lunar New Year Celebration, hosted by the Leawood I-Lan Sister City Committee, will be held on February 21, 2010, at 6:00 P.M., at the Blue Koi Restaurant. Mayor Dunn reminded the Council to turn in reservations due to limited seating capacity.
- G. Reminder that the February 15, 2010, City Council meeting has been cancelled.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

11. OLD BUSINESS – None.

12. OTHER BUSINESS

- A. Presentation of One Nineteen Transportation Development Sales Tax Analysis conducted by Alvarez and Marsal, pertaining to the One Nineteen Development Project located at 119th Street and Roe Avenue [Project # 80456]

Nancy Zielke, Senior Director for Alvarez & Marsal, gave an updated report of the Sales Tax Analysis pertaining to the One Nineteen Development Project.

The key purpose of the study was to provide the City with an independent analysis. They compared similar types of square footage for similar types of business and inflation. The study was based upon the 13 current retailers, which represents 57% of the occupied space. Information provided from RED Development indicates three additional tenants within the next four months. They studied the potential for additional growth within Leawood and the surrounding area and the Leawood Community exceeds the benchmark for other open lifestyle centers. Projections were based upon information provided from RED.

They compared sales tax trends and found some lag in early remittance, which she noted was common according to the Department of Revenue. Their report currently reflects sales from West Elm, which has closed. Two of the major tenants have generated 66% of the sales. The new 1% Transportation Development District [TDD] sales tax took effect on January 1, 2009, with a sales tax remittance of \$253,000. In comparison, the City's existing sales tax had generated \$291,000. Updated January, 2010, results reflected November collections at 98% in comparison to the City's existing sales tax. This indicates strong improvement of the retailers making the TDD payments.

Updated projections for the 1% sales tax under Scenario A (assuming 57% occupancy over 22 years) should generate \$9.5 Million. This includes a non-payment factor of 2%. Under Scenario B (assuming 94% occupancy over 22 years), projections are at \$13.5 Million. This is assuming a gradual phase-in of the remaining tenants and includes an average vacancy rate of approximately 6%.

Councilmember Filla temporarily left the meeting.

Ms. Zielke confirmed for Councilmember Azeltine that they are projected to reach 94% occupancy by 2013.

Ms. Zielke confirmed for Councilmember Rasmussen that the 94% projections assumed the leasing of the Dean & Deluca building in the outer years.

Councilmember Filla rejoined the meeting.

Mayor Dunn referred to the average sales per square foot and thought they were anticipating significant growth. Ms. Zielke clarified the current tenant mix has two main retailers and sales per square foot is estimated on the high-end because of their large amount of sales. In comparing Scenario A, it illustrates a profitable center with the existing tenants, whereas, Scenario B assumes full occupancy by 2013.

Councilmember Gill asked if and how they verified their data. Ms. Zielke stated data wasn't available from the State of Kansas; therefore, they used data from RED. They compared their estimates on sales per square foot with similar types of retailers in the metro, as well as the midwest. Ms. Zielke stated they were very comfortable using the data provided by RED as well as their own comparison analysis.

Ms. Zielke confirmed for Councilmember Gill that they were not able to perform an independent verification of sales tax revenues.

John Klaus, Stifel Nicolaus, stated they reviewed this analysis and felt there was no indication they would need to restructure this bond issue. He reiterated comments that the study was based upon the current tenants under Scenario A. They had to follow two guidelines; level debt service and debt coverage at a minimum of 1.25.

Mr. Klaus clarified for Councilmember Filla that the par amount of the bonds was \$3.18 Million. Mr. Lambers stated the interest rate would not be known until the bonds are identified with the buyer. If this increases, it will affect the coverage and this information will be available for the March meeting. Projections are estimated at 8% and it is anticipated this will remain within .25% over the next 30 days. Mr. Klaus clarified that if the interest rate increases, coverage will not be below 1.25.

A motion to accept the One Nineteen Transportation Development Sales Tax Analysis was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

13. NEW BUSINESS

- A. **Ordinance No. 2435** amending and restating Ordinance No. 2345 which authorized the creation of a Transportation Development District for the One Nineteen Project, located at 119th Street and Roe Avenue (Project # 80456) in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefore [Project # 80456]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a roll call vote of 8-0. Nay: None.

- B. **Resolution No. 3337** providing for the offering for sale by the City of Leawood, Kansas of Taxable Transportation Development District Special Obligation Bonds (119th Street Transportation Development District Project), Series 2010, in an amount not to exceed \$3,215,000 to provide funds to finance a Transportation Development District Project at the southeast corner of 119th Street and Roe Avenue in the City; authorizing the placement agent to offer the bonds for sale by private placement; and authorizing certain related matters and actions

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

Mayor Dunn confirmed with Mr. Lambers that the 22-year time frame would begin with the first issuance of the bonds. The subsequent issue will be less based upon the date of issuance.

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

- C. Schedule a Governing Body Work Session on Monday, June 7, 2010, at 6:00 P.M., to discuss future use of current Police Facility and former City Hall buildings; Master Plan & Preliminary Site Plan
- D. Schedule a Governing Body Work Session on Monday, May 17, 2010, at 6:00 P.M., to discuss Establishment of a Community Improvement District [CID] Policy for redevelopment
- E. Schedule a Governing Body Work Session on Monday, July 19, 2010, at 6:00 P.M., to review Mission Statements of various Committees and Boards
- F. Schedule a Governing Body Executive Session on Monday, March 29, 2010 at 6:30 P.M., for Personnel matter; City Administrator's 6-month review

A motion to approve Item Nos. 13C through 13F, and amend the topic of the March 1, 2010, Work Session to discuss the Capital Improvement Project [CIP] and Informational Signs was made by Councilmember Bussing; seconded by Councilmember Filla.

Mayor Dunn noted she would provide the Council written material on March 1, 2010, for the Monday, March 29, 2010, Governing Body Executive Session.

The motion carried following a vote of 7-0. (Councilmember Gill not present).

There being no further business, the meeting was adjourned at 8:40 P.M.

ADJOURN

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk