

Minutes

DVD No. 342

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, February 16, 2015. Mayor Peggy Dunn presided.

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

Councilmembers Absent: Carrie Rezac

Staff Present: Scott Lambers, City Administrator
Dawn Long, Finance Director
Mark Klein, Planning Official
Chief John Meier, Police Department
Joe Johnson, Public Works Director
Chris Claxton, Parks & Rec. Director
Patty Bennett, City Attorney
Karl Weinfurter, Info. Services Specialist II
Richard Coleman, Planning Director
Chief Dave Williams, Fire Department
Nic Sanders, Human Resources Director
Debra Harper, City Clerk

Others Present: None

1. **PLEDGE OF ALLEGIANCE** – Led by scouts from Troop 10
2. **APPROVAL OF AGENDA**

Mayor Dunn stated Consent Agenda Item 7.M. would be continued to the March 2, 2015 Governing Body meeting, and that Agenda Item 11.C. had been revised. In addition, a Councilmember Report was added under Agenda Item 9.

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
4. **PROCLAMATIONS** – None
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 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. 2014-54, 2015-3, and 2015-4

- B. Accept minutes of February 2, 2015 Governing Body meeting
- C. Accept minutes of February 2, 2015 Governing Body Work Session
- D. Accept minutes of January 13, 2015 Parks and Recreation Advisory Board meeting
- E. Accept minutes of October 28, 2014 Arts Council meeting
- F. Accept minutes of June 11, 2014 Bicycle Friendly Committee
- G. Approve Mayoral Appointments to newly formed Leawood Chamber Economic Development Committee for 2015-2016 term
- H. Approve Mayoral Appointments to Justice Center Art Selection Task Force
- I. Approve purchase in the amount of \$31,365.00 from Milo Range, for the purchase of firearms and simulation system for the Police Department
- J. Approve Change Order No. 2 in the amount of \$3,200.00 to O'Donnell & Sons Construction, pertaining to the 2014 Design Build Project for Street/Curb/Storm Repairs [Project # 80251] [Project Nos. 72050-Residential Mill & Overlay; 77113-2013 Accelerated Storm Repairs; 70016-Residential Mill & Overlay; 70514-Sidewalk Repairs; and 77009]
- K. Approve 9th and Final Pay Request in the amount of \$87,986.99, to O'Donnell & Sons Construction, pertaining to the 2014 Design Build Project for Street/Curb/Storm Repairs Curb Replacement Program [Project # 80251] [Project Nos. 72050-Residential Mill & Overlay; 77113-2013 Accelerated Storm Repairs; 70016-Residential Mill & Overlay; 70514-Sidewalk Repairs; and 77009]
- L. **Resolution No. 4406**, approving and authorizing the Mayor to execute an Inter-local Agreement and Letter of Understanding by and between the City of Leawood and cities of Fairway, Merriam, Mission, Prairie Village, Roeland Park, and the Johnson County Parks and Recreation District, pertaining to the SuperPass Program at the Leawood Aquatic Center, located at 10601 Lee Boulevard
- M. Resolution approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,018,000.00 between the City and Wiedenmann, Inc., pertaining to the 2015 89th and Mission Road Storm Drainage Improvement Project [Project # 80550] **CONTINUED TO THE MARCH 2, 2015 GOVERNING BODY MEETING**
- N. **Resolution No. 4407**, accepting new public infrastructure [storm sewers] in connection with the 2014 Design/Build Street/Curb/Storm Drain Project, in accordance with GASB-34 Guidelines of reporting Inventory of Assets, for property located at 14601 Delmar [Project # 77009] and 12112 Catalina [Project # 70016]
- O. **Resolution No. 4408**, approving and authorizing the Mayor to execute Addendum No. 4 to that certain Professional Engineering Service Agreement, dated November 19, 2007, in the amount of \$672,470.00, between the City and Burns & McDonnell, pertaining to the design of 143rd Street from Nall to east of Mission Road [Project # 80162]
- P. **Resolution No. 4409**, waiving the bidding process in accordance with Charter Ordinance No. 39, pertaining to the Design/Build Project for the 2015 Curb Replacement Program [Project # 80252], including Residential Mill & Overlay [Project # 70018]; 2015 Sidewalk Repair/Replacement [Project # 70515]; 2016 Arterial Street Program Mill & Overlay [Project # 72024]; Replacement of Fire Station No. 3 Parking Lot [Project # 76036]; and Curb Repair/Replacement Program [Project # 80252]
- Q. Fire Department Monthly Report
- R. Municipal Court Monthly Report
- S. Police Department Monthly Report

- T. Declaration of Surplus Property [Fire Dept. Precor 954i Treadmill; last 4 SER/0036]

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

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

- O. **Resolution No. 4408**, approving and authorizing the Mayor to execute Addendum No. 4 to that certain Professional Engineering Service Agreement, dated November 19, 2007, in the amount of \$672,470.00, between the City and Burns & McDonnell, pertaining to the design of 143rd Street from Nall to east of Mission Road [Project # 80162]

Councilmember Azeltine questioned the total amount of the amendment plus the 2007 original amount, having a difference of about \$50,000 in the actual total. Mr. Johnson stated he would review and ensure accuracy of the numbers.

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

8. MAYOR'S REPORT

- A. Thanks to Councilmember Carrie Rezac for standing in for me at the Leawood Chamber's New Member Debut when I was out of town.
- B. Reminder that the Leawood Foundation will co-host Arti Gras with the Leawood Arts Council in the Oak Room of City Hall over the weekend. The patron event will take place on Friday evening, February 20th, but art will be on display and for sale on both Saturday and Sunday from 11:00 A.M. to 4:00 P.M.
- C. Great appreciation to Johnson and Wyandotte Counties Council of Mayors Chairman, Mission Hills Mayor, Rick Boeshaar, for traveling to Topeka to testify on Senate Bill 171. The following testimony/statement was placed into the record:

"Thank you, Mr. Chairman, and members of the committee. I appreciate the opportunity to speak to you today.

My name is Rick Boeshaar. I am the Mayor of Mission Hills, but I am also the Chair of the Johnson and Wyandotte Counties Council of Mayors. Our council includes all 21 mayors within those counties as well as the Johnson County Commission Chair and the Wyandotte County and Kansas City, KS CEO of the Unified Government. In all we represent over 727,000 citizens of Kansas and we speak together in opposition of Senate Bill 171.

Our reasons include the increased cost and difficulty for good municipal and school district candidates to campaign among the other higher-profile campaigns. These candidates will be competing for media coverage, for campaign contributions, and for the voters' limited time and attention to educate themselves on the myriad of national, state, county, and now local issues in order to vote intelligently.

Many smaller communities do not pay their mayors, council members, or school boards, so these extra costs narrow the pool of willing candidates to those who have the means to finance their own campaigns or become beholden to special interest groups.

Even without a presidential race, our ballot last November was four pages long. Putting the April races on the November ballot, depending on special issues, could increase that to six or seven pages. We believe that will result in voter fatigue.

Having little extra time to research local issues or candidates and perhaps being rushed to vote before or after work, or during a lunch hour will cause many to simply not vote in down ballot races. And while the number of ballots might show higher voter turnout, voting for down-ballot candidates or issues could be even less than they show today. We have heard proponents of this bill talk about the difficulties of campaigning in winter weather. Our answer is to point out how campaigns are changing. The communications channels of mailings, of email and social media, and telephone autodialers are as easy to use in the winter and spring as they are in the summer and fall. Put all 25 possible election races on the same ballot and soon those methods of communications will be ignored or devalued, again making it more costly and difficult to get our message out to the voters.

We believe local races are not partisan by nature. Decisions about police or fire coverage, trash removal and recycling, snow removal, street repairs, stormwater improvements, business or residential development, etc. do not generally follow from regional or national political platforms.

We would regret the limits put on the pool of potential candidates for local office by the Federal Hatch Act and Defense Department restrictions on running in partisan elections. I myself am a veteran and, were I still on active duty and stationed in our state, if this bill were passed, I would be unable to run for office, except for those very few exemptions from partisan races. We see this narrowing of eligible candidates as a disservice to those who already have a penchant for serving their fellow citizens.

The mayors and county leaders of Johnson and Wyandotte Counties, elected by and representing one-fourth of the residents of the state very respectfully hope you will reconsider or rework your proposed legislation.

Thank you again for the privilege of presenting our position on this bill.”

- D. Congratulations to Leawood Police Chief John Meier on a great 2014 Annual Report.
- E. Congratulations to Public Works Director Joe Johnson and his crews for good snow removal efforts on the recent storm.

9. COUNCILMEMBERS' REPORT

A. Councilmember Rasmussen – Ironhorse Clubhouse Expansion Project

Councilmember Rasmussen spoke about the Ironhorse Clubhouse Expansion Project. He requested the following in preparation for the next Council Work Session on Capital Improvement Programs [C.I.P.] for 2016-2020, scheduled for March 2, 2015:

1. Have drawings for the clubhouse expansion project in such condition that the City could request bids for construction no later than October 15, 2016.
2. Achieve an estimate of annual revenues related to completion of the project, by year.
3. Run City financial projections showing construction costs of \$1.9 Million as a substitute for the estimated costs of Parks & Recreation list of projects for 2016-2017.

A motion to approve Agenda Item 9.A. was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Mayor Dunn asked if the motion was to discuss the items in the C.I.P. Work session on March 2nd. Councilmember Rasmussen confirmed and stated he would like to have the requested information available at the Work Session on March 2nd.

Councilmember Osman asked if staff would be able to present a budget and architectural drawings for full project completion.

Mr. Lambers stated a report of activities related to the expanded clubhouse, prepared by Troon, would be available by the March 2nd Work Session. The City does not have signed documents/drawings that could be used for bids, pending completion of contractor services and authorization of final contractor payment [approximately \$3,000 to \$4,000]. The typical process is release of deliverables before final payment. This has been the status for 1.5 years, the contractor has concerns of interest earnings over this time [estimated at \$1,000], and resolution may require legal action. The construction drawings that are available are incomplete as the architect [NSPJ Architects], engineer and contractor have not finalized materials. Once the contractor has been paid, the City has no further obligation to the contractor.

Upon clarification of the motion and availability of requested materials, **Councilmember Azeltine withdrew his second. The motion put forth by Councilmember Rasmussen was then seconded by Councilmember Sipple.**

Councilmember Filla stated that reprioritizing \$1.9 Million in Parks & Recreation repairs was the real issue, and had already been discussed. A bigger question would be the many other Parks & Recreation projects that might be better suited for a bond issue of a greater scope. She stated it would be an inefficient use of staff time to gather additional data on the clubhouse expansion.

Councilmember Rasmussen asked if there was any objection to the assumption of \$1.9 Million for cost of the clubhouse expansion. Mr. Lambers stated that while it would be ideal to have more accurate information in light that the clubhouse project cost had increased from \$800,000 to \$1.9 Million, the \$1.9 Million could be used as an estimate to determine if this project should be funded or not, and also for Troon to use as part of their anticipated return on investment report.

Councilmember Filla asked if the revenues from the clubhouse expansion cost could then pay for Parks & Recreation items. She stated the Parks & Recreation items scheduled in the next two years are for urgent/needed maintenance and repairs, and asked where the \$1.9 Million would come from to pay for these before clubhouse expansion construction could begin and any revenue from the expansion could be realized.

Mr. Lambers replied that he would provide a revised C.I.P. at the March 2nd Work Session, and it would show projects extended and reduced in cost such that with a combination of special Parks & Recreation funds and General Fund money, \$1 Million a year would be available. Additional growth is expected to bring in more than the \$1 Million a year that is currently available. The intent of the Work Session would be to provide a listing of all the projects that have been identified with the costs. Adjustments in the C.I.P. for 2016-2018 could be made.

Councilmember Rasmussen reiterated his hope that the Work Session would identify some cash flow that would be available for a 2016 clubhouse expansion construction start, with the project completed in 2017. He stated to the best of his knowledge, everything on the existing C.I.P. list could be postponed if necessary, and that it is not prudent to move forward with projects that do not bring in revenue, when there is one that will.

Councilmember Sipple stated it would be helpful to have comments from the Parks & Recreation Board regarding anything critical on the C.I.P. list that would be bypassed if deferred for two years.

Mayor Dunn stated she felt the plans are important, but cautioned everyone that the project must be viewed as a priority before going out to bid.

Councilmember Filla stated there is no need for a motion, as staff already has the data, and the \$1.9 Million amount is what would be used for estimating. Additionally, a theoretical bid would not occur.

Mayor Dunn asked for Councilmember Rasmussen to repeat the motion.

Councilmember Rawlings asked if the motion will give the City any leverage with the architect. Mr. Lambers replied that he would reference the motion in a subsequent communication with the architect.

The motion carried with a vote of 5-2; nay votes from Councilmembers Azeltine and Filla for reasons stated.

B. Councilmember Filla – Election Cycle

Councilmember Filla spoke about the pending election cycle legislation. She suggested sending letters of support on similar points to Kansas Senators Kay Wolf and Jeff Melcher. The voting date for this bill is unknown.

Mr. Lambers replied that a deadline for getting bills out of the house of origin is in a couple weeks. The Senate is bogged down because they are in dispute with the House over bundling of bills. The House wants to limit a bill to two unrelated matters attached; the Senate believes the number of attached unrelated matters should be unlimited.

Mr. Lambers stated that if a motion related to Agenda Item 9.B. is put forth and approved by the City Council, a letter to both Senator Wolf and Melcher would be in the mail the following day. The motion could include authorization for Mayor Dunn to submit a similar letter to the House on behalf of the Governing Body. Mayor Dunn stated legislators have informed mayors that these letters are impactful.

A motion to approve Agenda Item 9.B. to include authorization to submit a similar letter to the House was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 7-0.

10. STAFF REPORT

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the January 27, 2015 Planning Commission meeting]

- A. **Ordinance No. 2716**, approving a Special Use Permit for wireless antennae and associated equipment for Saddle and Sirloin – New Cingular Wireless PCS, LLC, d/b/a AT&T Antennae Upgrade, located east of Mission Road and south of I-435. (PC Case 04-15) [Roll Call Vote]

Mr. Sam Davis, Black and Veatch, 6601 College Boulevard, Overland Park, Kansas, 66211, represented New Cingular Wireless PCS doing business as AT&T and requested approval of the Special Use Permit for the Saddle and Sirloin property for equipment. He stated three antennas would be replaced, but proposed additional equipment would be remote radio heads, which are smaller pieces of equipment that would be flush-mounted adjacent to existing equipment. The tower is 130 feet tall with slimline antennas for six carriers.

Councilmember Rasmussen inquired and Mr. Coleman replied that the applicant is only the user of the tower and not the owner, and therefore is not responsible for landscaping. Mr. Coleman added landscaping at the location is no longer an issue.

A motion to pass Ordinance No. 2716 was made by Councilmember Rasmussen; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 7-0.

- B. **Ordinance No. 2717**, amending Article 9 of the Leawood Development Ordinance [LDO], entitled “Definitions”, to add a new section 16-9-104A, defining electric vehicle charging stations (PC Case 22-15) [Roll Call Vote]

Mayor Dunn stated staff was in agreement with Planning Commissioner Marc Elkins that the recommendations were appropriate with regard to removal of Levels 1, 2 and 3 and that staff’s suggested definition was provided. The motion would be an override of the Planning Commission’s recommendation.

Mr. Coleman stated that Level 2 charging stations are located in Leawood currently, including Park Place. Kansas City Power & Light has a grant from Nissan to build 1,000 stations across the metro area, so City and staff are proactively preparing.

Councilmember Filla stated Kansas City was chosen as one of ten cities to participate in the Kansas City Energy Project. Smith Electric Vehicles in Kansas City builds these vehicles and batteries are manufactured in Lee's Summit, all of which could help establish the metro area as a green place to live.

Councilmember Filla reminded that the 7th Annual Sustainability Summit would be held February 26th.

Mayor Dunn thanked the staff for their hard work on the ordinance.

A motion to pass Ordinance No. 2717 with modification to remove Levels 1, 2 and 3 was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 7-0.

- C. **Ordinance No. 2718**, amending Section 16-1-4.2 of the Leawood Development Ordinance [LDO], entitled "Minimum Standards", pertaining to utility boxes and electric vehicle charging stations and repealing existing Section 16-1-4.2 (PC 23-15) [Roll Call Vote]

Mr. Coleman stated the amendment was related to the rollout of electric charging stations. The amendment would allow the larger concrete base / footprint that is required.

A motion to pass Ordinance No. 2718 was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 7-0.

12. **OLD BUSINESS** – None

13. **OTHER BUSINESS** – None

14. **NEW BUSINESS**

- A. **Ordinance No. 2719C**, amending Chapter 3, Article 1 of the of the Code of the City of Leawood, 2000, entitled "Cereal Malt Beverages" and repealing existing Article 1 and other sections in conflict herewith [Roll Call Vote]

Ms. Bennett stated the City Clerk and Assistant City Clerk, along with the Assistant City Attorney, had done a great deal of work on this and the following ordinance, so that City ordinances are patterned after state statutes.

A motion to pass Ordinance No. 2719C was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 7-0.

- B. **Ordinance No. 2720C**, amending Chapter 3, Article 2 of the of the Code of the City of Leawood, 2000, entitled "Alcoholic Liquor" and repealing existing Article 2 and other sections in conflict herewith [Roll Call Vote]

A motion to pass Ordinance No. 2720C was made by Councilmember Rawlings; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 7-0.

- C. **Ordinance No. 2721C**, repealing Code § 13-1A01 of the Code of the City of Leawood, 2000, entitled ‘Petition,’ pertaining to STREETS AND SIDEWALKS, [Roll Call Vote]

A motion to pass Ordinance No. 2721C was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 7-0.

- D. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, October 19, 2015 for Proposed 2016 Fee Schedule

A motion to approve Agenda Item 14.D. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 7-0.

- E. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, November 2, 2015 for Presentation of Annual Economic Development Report

A motion to approve Agenda Item 14.E. was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 7-0.

- F. Schedule a Governing Body Work Session at 6:00 P.M., on Monday, December 7, 2015 for Review Art Master Plan

A motion to approve Agenda Item 14.F. was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 7-0.

ADJOURN

The meeting was adjourned at 8:35 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk