

Minutes

DVD No. 142

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, May 1, 2006. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Lou Rasmussen, Scott Gullledge, Gary Bussing, Gregory Peppes, Mike Gill, and James Azeltine.

Councilmembers absent: Debra Filla.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Kathy Rogers, Finance Director
Joe Johnson, Public Works Director
Eirene Oliphant, Building Official
Jeff Joseph, Planner
Christy Wise, Deputy City Clerk

Patty Bennett, City Attorney
Chief Sid Mitchell, Police Department
Kathy Byard, Budget Coordinator
Chris Claxton, P&R Director
Mark Klein, Senior Planner
Deb Harper, City Clerk
Mark Andrasik, IS Director

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted a continuance for Item No. 11A to the May 15th meeting. A motion to approve the agenda was made by Councilmember Peppes; seconded by Councilmember Gullledge. The agenda was approved following a unanimous vote of 7-0.

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

Municipal Clerks Week, April 30-May 6, 2006

Mayor Dunn read and presented the Municipal Clerks Week proclamation to City Clerk Deb Harper and Deputy City Clerk Christy Wise.

Building Safety Week, May 7-May 13, 2006

Mayor Dunn read and presented the Building Safety Week proclamation to Building Official Eirene Oliphant.

National Trails Day, June 3, 2006

Mayor Dunn read and presented the National Trails Day proclamation to Parks & Recreation Director Chris Claxton.

5. PRESENTATIONS/RECOGNITIONS Distinguished Budget Presentation Awards Program

Mayor Dunn presented the Distinguished Budget Presentation Award to Finance Director Kathy Rogers and Budget Coordinator Kathy Byard for the 2006 City Budget, which was awarded by the Government Finance Officers Association of the United States and Canada.

6. SPECIAL BUSINESS

A. Presentation of 2005 Annual Audit

Ms. Rogers introduced David Cochran of Cochran, Head & Co., P.A., who gave a Power Point presentation of the annual audit results. Mayor Dunn confirmed with Ms. Rogers that inventory of stormwater assets will be complete by the end of 2006.

B. Resolution No. 2589 accepting the 2005 Comprehensive Annual Financial Report [Audit] for the City of Leawood, Kansas

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved following a unanimous vote of 7-0.

C. Request from Mid-America Chapter of the Leukemia-Lymphoma Society to conduct Special Fundraising event on Saturday, May 6, 2006 from 10:00 AM – 3:00 P.M.

Matt Lewis, 12209 Beverly, Overland Park, KS, stated the fundraising event will take place at the intersection of Roe Avenue and College Boulevard as well as 119th Street and Tomahawk Creek Parkway. Both locations have wide medians to allow for safe solicitation of contributions.

A motion to approve the request was made by Councilmember Rasmussen; seconded by Councilmember Gullledge.

Councilmember Gill verified there is signalization at the 119th Street and Tomahawk Creek Parkway intersection.

Regarding liability, Mayor Dunn confirmed with City Administrator Scott Lambers the request is reasonable due to the short duration of time and presence of the wide medians.

The motion carried following a unanimous vote of 7-0.

- D. Ratify Resolution No. 2588 approving and authorizing the execution and delivery of a State & Municipal Lease/Purchase Agreement between Clayton Holdings, LLC, and the City of Leawood, Kansas with respect to certain golf carts for the City's Public Golf Course Facility

A motion to approve the item was made by Councilmember Bussing; seconded by Councilmember Rasmussen. The motion was approved following a unanimous vote of 7-0.

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. 1049A, 1049B and 1050A
- B. Accept Minutes of the April 17, 2006 Governing Body meeting
- C. Accept Minutes of the March 20, 2006 Governing Body Work Session meeting
- D. Accept Minutes of the March 24, 2006 Stormwater Management Committee meeting
- E. Accept Minutes of the March 16, 2006 IRONHORSE Advisory Board meeting
- F. Approve issuance of Temporary Alcohol Permit to conduct The Taste of Leawood Fundraising Event on Saturday, June 17, 2006, in accordance with Code § 3-216
- G. Approve Renewal of Cereal Malt Beverage [CMB] License for Hallbrook Country Club, 11300 Overbrook Road
- H. Approve Renewal of Retail Liquor Store License for Wolff's Fine Wines and Spirits, 11841 Roe Avenue
- I. Approve bid in the amount of \$87,459.00, from Dean Machinery, Company, for the purchase of a back hoe
- J. Mayoral Appointment for Governing Body Presiding Officers from May 2006 through April 2007
- K. Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards
- L. Resolution No. 2590 approving and authorizing the Mayor to execute an Agreement in the amount of \$154,000 between the City and Vanum Construction Co., Inc., for that certain Construction Agreement dated May 29, 2002, pertaining to the Ironwoods Park Project, 14701 Mission Road [CIP # 116]

- M. Resolution No. 2591 accepting Temporary Construction Easements from property owners, Richard H & Mary M Dolginow, 8645 Overhill Road; Robert J. & Nancy C. Hack, 8308 Cherokee Lane; Charles M. Pacunski & Jean A. Roberts, Lot 355; Gail L. Wally, 2701 W. 86 Street; J. Paul & Janis R. Duffendack, 8403 Cherokee Lane; George Bahorich & Mary Jo Sawicki, 8306 Cherokee Lane; Nancy Lea Morris, 8405 Cherokee Lane; Arthur B. & Diane G. Federman, 8229 Cherokee Circle, Peter R & Jacqueline S. Hermann, 2901W. 83 Street; Donald Loncasty, 8302 Cherokee Lane; Kimberly Warner, Trustee, 8308 Wenonga Road; Donna Calvery & A.A. Apathy, 8211 Wenonga Road; Bob Price Holloway & Mary Louisa Holloway, 3004 W. 82 Terrace; and James & Lori Vines, 8225 Cherokee Circle, pertaining to the Dykes Branch Channel Improvement Project, [SMAC Project DB-04-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- N. Resolution No. 2592 accepting Permanent Storm Sewer Easements from property owners, John E. and Joyce Abraham, 8633 Overhill Road; Richard H. & Mary M. Dolginow, 8645 Overhill Road; Robert J. & Nancy C. Hack, 8308 Cherokee Lane; Charles M. Pacunski & Jean A. Roberts, Lot 355; Gail L. Wally, 2701 W. 96 Street; J. Paul & Janis R. Duffendack, 8403 Cherokee Lane; George Bahorich & Mary Jo Sawicki, 8306 Cherokee Lane; Nancy Lea Morris, 8405 Cherokee Lane; Arthur B. & Diane G. Federman, 8229 Cherokee Circle; Ethel I. Ballinger, 8400 Cherokee Lane; Donald W. Loncasty and Bonnie Souder-Loncasty, 8302 Cherokee Lane; Kimberly A. Warner Trust, 8208 Wenonga Road; Donna J. Calvert & A.A. Apathy, 8211 Wenonga Road; Bob Price Holloway, Trustee & Mary Louisa Holloway Trustee, 3004 W. 82 Terrace; and James and Lori Ann Vines, 8225 Cherokee Circle; pertaining to the Dykes Branch Channel Improvement Project, [SMAC Project DB-04-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- O. Resolution No. 2593 approving a Final Plat and Final Site Plan for LeaBrooke 4th Plat, located south of 143rd Street and west of Kenneth Road. *[from the April 25, 2006 Planning Commission meeting]*
- P. Resolution No. 2594 approving a Final Plat and Final Site Plan for LeaBrooke 5th Plat, located south of 143rd Street and west of Kenneth Road *[from the April 25, 2006 Planning Commission meeting]*

Mayor Dunn pulled Item No. 7K. Regarding Item Nos. 7M and 7N, she extended gratitude to Public Works Director Joe Johnson and staff members for their hard work in successfully obtaining the easements. On motion of Councilmember Rasmussen, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved with a unanimous vote of 7-0.

- 7K. Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards

Mayor Dunn invited new proposed citizen appointees present in the audience to stand and be recognized. Tim Wood, new member of the Arts Council Committee, introduced himself to the Governing Body.

A motion was made by Councilmember Peppes to approve the appointments; seconded by Councilmember Bussing. The motion was approved following a unanimous vote of 7-0.

8. MAYOR'S REPORT

- A. Attended the first session of the Upper Blue River Watershed Initiative Steering Committee as a steering committee member along with Public Works Director Joe Johnson. The group's goal is an attempt at regional watershed planning with efforts extending across city, county, and state lines in the Kansas City metro area. The committee is co-chaired by Johnson County Commission Chair Annabeth Surbaugh and Jackson County Executive Kathryn Shields.
- B. Attended the first-ever Policy Forum for Chief Elected Officials of both Kansas and Missouri hosted by the Mid-America Regional Council [MARC] at the Kauffman Foundation. A report was presented by the ETC Institute regarding residents' attitudes on regional issues through recent polls. Results for the most important quality of life issues in the Kansas City metropolitan area were 63% voted for public education, 50% for police and fire services, and 3% for parks and open spaces.
- C. Participated in ribbon cutting for Ottawa University at 109th Street and Roe Avenue in the Foxhill area. This new location serves approximately 3,000 students and caters to "nontraditional students and adults and professional studies."
- D. Attended ribbon cutting for Lets Dish! in Camelot Court.
- E. Attended the Volunteer Appreciation Recognition Reception at Ironwoods Lodge. Mayor Dunn extended appreciation to Human Resources Director Colleen Browne and Human Resources Assistant Debbi Naster for organizing the event. Councilmembers Rawlings, Rasmussen, Bussing, Gulledge, and Azeltine were in attendance along with City Administrator Scott Lambers and several department heads. There were approximately 100 volunteers present.
- F. Shared information from a "Movers and Shakers" event hosted by the Johnson County Volunteer Center which was also in recognition of National Volunteer Week. The affair celebrated the youth of our community who were nominated by school personnel and nonprofit agencies for dedicated service. Mayor Dunn passed a roster of the selected students.
- G. Attended the grand opening ceremony with the Leawood Arts Council for Country Club Bank who sponsored the Kansas City Symphony Pops concert at the donated venue of Church of the Resurrection. There were 2,400 people in attendance. Mayor Dunn thanked Mary Tearney and Loretta Allebach of the Leawood Arts Council for arranging the concert. Councilmembers Bussing, Rawlings, Rasmussen, and Azeltine also attended the event.
- H. Presented the Good Neighbor Award at the Blue Valley Education Foundation Sunflower Celebration in Yardley Hall at Johnson County Community College to Leawood residents Bob and Ann Regnier. Mayor Dunn congratulated the Regniers for receiving the honor and thanked them for all their efforts towards education as well as numerous other causes throughout the community.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the March 28, 2006 Planning Commission meeting]

- A. Resolution approving a Final Site Plan for 2020 W. 89th Street Parking Lot located at 2020 W. 89th Street – ***[Continued from the April 17, 2006 Governing Body meeting]*** – **CONTINUED TO THE MAY 15, 2006 GOVERNING BODY MEETING**

[From the April 11, 2006 Planning Commission Meeting]

- B. Ordinance No. 2163 approving a Preliminary Plat and Preliminary Site Plan rezoning from SD-NCR [Planned Neighborhood Retail] and SD-O [Planned Office] to MXD [Mixed Use Development], for Mission Corner, located on the southeast corner of 135th Street and Mission Road [Roll Call Vote]

Councilmember Azeltine requested to make a statement. Due to his service as a Planning Commissioner immediately prior to being sworn in as a member of the Governing Body, he has heard presentations and made decisions regarding Items No. 11A, 11B, and 11C. He has been advised by the City Attorney to abstain from discussion and voting on these items in order to avoid the appearance of impropriety. Councilmember Azeltine stated the abstentions will not preclude him from voting on these cases in the future as he will not have participated in debate at the Planning Commission level prior to Governing Body consideration.

Larry Winn, Esq., Polsinelli, Shalton et al., and Henry Klover of Klover Architects provided a detailed history of the project and explained revisions made to the preliminary plan since it was last presented to the Governing Body.

The revised preliminary plan does not include the previously proposed service station on the northeast corner due to opposition from neighboring residents. Other changes include more open space, a 15,000 decrease in square footage, rearrangement of parking design, the addition of building “F”, modifications to building “E”, and more pedestrian amenities and connectivity. Outdoor patio areas were also created on some of the residential buildings. Mr. Klover displayed several elevations and renderings to visually aid his presentation.

As there is not a main road through the center of the site, the tall buildings are used as hierarchies to attract people into the development. Mr. Winn stated sensitivity was given to surrounding developments regarding the height issue with line-of-site visual perspectives taken from the closest home in Tuscany Reserve. The placement of the multistory buildings and the brownstone buffers on 137th Street prevent the structures from towering over the residential homes to the south. Mr. Winn explained higher density is necessary in order to support the economic impact of structured parking.

Councilmember Rasmussen inquired about the visual ability vehicles traveling along 135th Street will have to the retail structures set deeper inside the development. Mr. Klover stated the first level of the multistory buildings planned for retail will be elevated to 20 feet to allow greater visualization.

Councilmember Gill and Mr. Klover discussed the residential walk-up brownstones facing 137th Street. Each building will contain four units. The size range for each unit is estimated at 1,800-2,000 square feet, however the exact size will be not be determined until a marketability study is performed. With 1,000 square feet being the minimum size allowed by ordinance, Councilmember Gill's concern related to the units being too small to accommodate a single-family dwelling. Mr. Winn expressed doubt the units would be this small.

Councilmember Gill asked about the current market analysis and how many total residential units are contemplated for this property. Mr. Klover stated the towers will house a maximum of 104 units in addition to the 24 brownstone units. Mr. Winn stated feasibility of suburban condominiums is unknown at this time.

Councilmember Peppes confirmed with Mr. Klover that every residential unit in the towers will have underground parking available.

Mr. Winn verified for Councilmember Rawlings the property south of Mission Corners, across 137th Street, is owned by Rick Oddo and was approved five years ago for 2/3-story apartment buildings. Referring to Mr. Oddo's letter opposing structures higher than three stories, Mr. Winn commented that 90 feet in height and up to six stories are allowed under the new MXD zoning.

Due to the slope of the land, Mr. Klover informed Councilmember Rawlings the retention pond will most likely be full yearlong. Mr. Klover stated there will be two other water features/fountains within the development in addition to the required features on the corners of Mission Road and Pawnee Road.

Mr. Winn and Councilmember Bussing discussed the progression of development use along major east-west thoroughfares. Mr. Winn stated Overland Park has just added a residential condominium component to a development on 135th Street and Metcalf Avenue. Leawood is unique in that it does not favor "big-box" stores and is limited to smaller retail uses.

Mayor Dunn reviewed that since the time of the Planning Commission meeting, 15,000 square feet has been eliminated. Mr. Klover verified the F.A.R. requirements of Stipulation No. 1 have been met with the revised plan. Under Planning Commissions' concerns of the Staff Report, No. 6 is listed as "insufficient information regarding the phasing of the development." Mr. Winn stated a phasing plan will be submitted with the final development application.

The proposed building "F" was not part of the plan seen by the Planning Commission. The addition of this structure addresses concern No. 7 regarding linear layout of the development.

Mayor Dunn acknowledged the plan has been restructured to provide more green space, a concern expressed by Planning Commissioner Reynolds, and asked what is planned for these areas. Klover stated the space is above underground parking and will be a “green roof” with raised walls and overhead plantings which will be irrigated. There will be plaza areas and places for people to congregate. He also noted the rooftop terraces above portions of the retail levels which will provide 6,000-7,000 square feet of open space for residents.

Councilmember Rasmussen confirmed with Mr. Lambers the Staff comments are reflective of changes made to the plan after the Planning Commission recommended denial of the application.

Councilmember Peppes asked why the Planning Commission unanimously denied the project given the concessions in square footage and green space given by the developer. Mr. Lambers stated many commissioners have an overall discomfort with the mixed use concept. He suggested having a work session between the Governing Body and Planning Commission to create understanding for what is expected of use integration. Councilmember Peppes stated he loves the mixed use concept, however there is not much knowledge as to the marketing success of such developments. Mr. Lambers informed marketing is contingent upon final approval of the project.

Referring to the remark, “City planners have advised me that building heights in excess of three stories are not an issue” in Mr. Oddo’s letter, Councilmember Rasmussen verified with Mr. Lambers that proposed heights for the Mission Corner buildings are not unreasonable. The tremendous costs involved with providing secure underground parking for the condominiums must be offset by increased square footage. Staff is comfortable with the requested height. Mr. Lambers predicted more proposals for mixed use with residential components in the future.

Councilmember Bussing stated the 135th Street Corridor Guidelines were passed in 1996, which specifically designated tracts of land from Fontana to Pawnee and 133rd to 137th Streets as a mixed use area. He voiced frustration with the Planning Commissions misunderstanding of the Governing Body’s intent for this area. Mr. Lambers stated the aforementioned work session with the Planning Commission would be appropriate in order to address any confusion.

CITIZEN COMMENTS:

1. Rick Oddo, 8460 Nieman Road, Overland Park, KS, spoke in opposition to the Mission Corner development. As the developer of the property to the south, he stated the project does not fit the character of surrounding neighborhoods. He summarized his letter previously submitted to the Governing Body, pointing out possible hazards of placing residential dwellings over restaurants, and requested denial of the project.
2. Joe Higday, 13709 Fontana, spoke in opposition to the proposed development. He expressed concern with the uncertain marketability of the residential units and with the possibility of other developments building high-rise structures if Mission Corners is approved.
3. Lanny Brewer, 4017 W. 137th Terrace, spoke in opposition to the height of the project. He stated it is not in keeping with the surrounding area and requested denial of the plan.

4. Mark Krump, 13712 Fontana, also spoke in opposition to the project due to height concerns.
5. Jane Ross, 4004 W. 137th Terrace, spoke in opposition to the project. She expressed concerns related to the process of which Interact meetings are held. She stated someone should be accountable for keeping a sign-in sheet of attendees and for taping the meetings in order for the Governing Body and the Planning Commission to review the results. Ms. Ross also worried that approved preliminary plans for other developments, such as Villaggio, could come back for final approval with a totally different design than what was agreed upon by the residents and developers. Additionally, she felt citizens should be allowed to comment more than once during the public hearings held at the Planning Commission level.
6. Tony Ross, 4004 W. 137th Terrace, spoke in opposition to the project and stated concerns related to height of the buildings. He also stated voting on the project should be postponed until Councilmember Azeltine is allowed to participate.

Due to issues voiced by the citizens, Councilmember Gill stated there should be some sort of commitment to phasing the project in order to avoid a partially developed, commercial only piece of property along 135th Street. Mr. Lambers advised that Stipulation No. 36 requires submission of a phasing plan at the time of final site plan application.

Addressing Ms. Ross' concerns regarding redesigned plans for Villaggio at final approval, Councilmember Bussing verified with Mr. Lambers that material changes cannot simply just occur. If a final plan significantly deviates from the preliminary plan, the Planning Department will direct the applicant to submit another preliminary plan application wherein public notification requirements will be repeated.

Councilmember Gulledge requested to hear citizen comments regarding Mr. Lambers' explanation of the approval process. Ms. Ross stated understanding, however is still bothered with the possibility of a plan going back to preliminary and having to repeat negotiations with the developer. Mr. Lambers stated an applicant has the right to resubmit new plans at anytime during the process. The Governing Body is not allowed to preclude certain type of developments from being submitted. Until a development is built in its entirety, there is risk of plan revisions. Councilmember Bussing noted it would not be an inconsequential act for a developer to restart the process as they would incur significant expense.

Mayor Dunn clarified for Ms. Ross that a roster is taken and minutes are recorded from each Interact meeting. She also confirmed with Mr. Winn it is not anticipated to have a restaurant below the condominiums as there are already two structures on the 17 acre site designated for this type of business. Regarding citizen concerns related to height of the buildings, there is one five-story building which meets all city requirements. The other buildings taper down in height as they near residential neighborhoods.

Mayor Dunn stressed the fact that if the preliminary plan submitted tonight passes, it cannot be made larger or denser upon final presentation without obtaining approval from the Governing Body. Mr. Lambers concurred with this statement and added that Staff can request the applicant to repeat the entire process for any material change, including if the plan is made smaller.

Mr. Higday confirmed with Mayor Dunn that if the plan is approved, the 88-foot building can be erected as it is within the 90-foot height limitation for MXD zoning. He expressed further concern the approval will open the door for high-rise construction within the Villaggio development. Mayor Dunn assured Mr. Higday that the Governing Body considers each application on a case-by-case basis and they are not judged based upon past or future approvals of other projects. If the Villaggio development should submit a new preliminary plan, it would be carefully examined and reviewed. She took note of all the meetings and compromises residents went through with the developers of Villaggio.

Councilmember Peppes verified with Mr. Lambers that only a simple-majority vote is required to pass the ordinance as this is the second presentation of the development to the Governing Body. Mayor Dunn remarked that Councilmember Azeltine's abstention will be tabulated as a negative vote.

A motion to approve the preliminary site plan and preliminary plat for Mission Corners was made by Councilmember Busing. He stated of the projects along 135th Street that have come before the Governing Body in the ten years since the 135th Street Corridor Guidelines were developed, this project comes the closest to what the committee envisioned. The motion was seconded by Councilmember Gill.

Councilmember Gill stated appreciation to the owner/developer and architect of Mission Corners for taking a risk on this unique design. He reiterated the importance of phasing the project.

Councilmember Peppes voiced support for the project.

Mayor Dunn stated discussion of building material use occurs at final presentation and encouraged Mr. Klover and Mr. Winn to preserve the design as shown in the renderings presented this evening. Mr. Lambers informed all applicants are made aware that downgrading of materials between preliminary and final application will not be tolerated by Staff.

The motion to pass the ordinance passed with the following roll call vote of 5-1-1: Yea: Councilmembers Gullede, Rawlings, Peppes, Bussing, and Gill. Nay: Councilmember Rasmussen. Abstain: Councilmember Azeltine. (Councilmember Filla absent).

Mr. Lambers clarified for Councilmember Azeltine that according to State Statute, a supermajority vote is not required in spite of recommendations of denial from the Planning Commission as this is the second time the item has been presented before the City Council. City Attorney Patty Bennett concurred that an override following remand is allowed a simple-majority vote with stipulations and changes by Council permitted as well.

For the record, Mr. Winn agreed to all 39 stipulations as written in the ordinance.

- C. Ordinance No. 2164 amending § 16-8-3.1 of the Leawood Development Ordinance, pertaining to Design Requirements: All Streets [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Rawlings. The ordinance passed with the following roll call vote of 6-0-1: Yea: Councilmembers Rasmussen, Peppes, Rawlings, Gulledge, Gill, and Bussing. Nay: None. Abstain: Councilmember Azeltine. (Councilmember Filla absent).

[From the April 25, 2006 Planning Commission Meeting]

- D. Ordinance No. 2165 amending § 16-2-6.4 of the Leawood Development Ordinance, pertaining to MXD: Mixed Use Development District [Roll Call Vote]

Mr. Lambers reviewed Council's prior consideration to not equate additional residential square footage to retail and office square footage as it relates to total F.A.R. calculations. For mixed use developments, it is proposed to give an automatic 25% discount of the residential component in the calculation of the F.A.R. with an additional 30% granted by the Governing Body based upon the quality of the project.

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

Mr. Lambers informed the ordinance was recommended by the Planning Commission with one dissenting vote.

The ordinance passed with the following roll call vote of 7-0: Yea: Councilmembers Bussing, Gill, Azeltine, Rasmussen, Peppes, Rawlings, and Gulledge. Nay: None. (Councilmember Filla absent).

12. OLD BUSINESS

- A. Ordinance No. 2166 amending Code § 4-304 of the City of Leawood, Kansas 2000, pertaining to the Building and Construction; National Electrical Code, Conductors [Roll Call Vote]

Councilmember Rasmussen voiced support for the ordinance and endorsed Staff's recommendation to postpone the other previously requested change with this code until the time of annual review. He complimented Staff for their hard work in reviewing the codes and bringing this matter to the attention of the Governing Body.

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

Mayor Dunn also thanked Ms. Oliphant for working on the code revision.

The ordinance passed with the following unanimous roll call vote of 7-0: Yea: Councilmembers Azeltine, Rasmussen, Gill, Peppes, Rawlings, Gullede, and Bussing. Nay: None. (Councilmember Filla absent).

13. NEW BUSINESS

- A. Schedule Governing Body Work Session at 6:15 P.M. on Monday, May 15, 2006, to discuss the proposed Smoking Ordinance

Mr. Lambers stated policy direction is needed from Council before an ordinance is presented. The ordinance will be reviewed by Council at another Work Session in June followed by the scheduling of a public hearing.

A motion to approve the scheduling of the Work Session was made by Councilmember Bussing; seconded by Councilmember Peppes.

Councilmember Gullede requested to have background information prior to the Work Session such as studies from other cities/states regarding the impact smoking bans have had on businesses and the effectiveness of partial bans vs. full bans. Mayor Dunn stated the City of Leawood participated in research done by the ETC Institute, which is now available.

Mr. Lambers stated an abundance of information will be provided at the public hearing. The objective of the first Work Session will be to entail directives such as the City acting unilaterally or triggering the ban to actions of other governmental jurisdictions; exceptions, if any, such as hotels and smoking related establishments; how it is to effect outdoor seating areas; and, enforcement.

Councilmember Gullede expressed concern that more time will be needed in order to determine the appropriate policy to intact. Mayor Dunn noted Leawood Chamber of Commerce President Kevin Jeffries has become involved with the issue and plans to hold discussions with all of the restaurateurs in order to gather their opinions.

The motion carried following a unanimous vote of 7-0.

- B. Schedule Governing Body Work Session at 5:45 P.M. on Monday, June 5, 2006, to discuss vacating the existing Police Department building at 9617 Lee Boulevard; disposition of city owned property on Tomahawk Creek Parkway; and design-build authority for the new Justice Center to be located at 115th & Tomahawk Creek Parkway

A motion to approve scheduling of the Work Session was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0.

- C. Discussion regarding possible amendment to § 16-4-6.15 of the Leawood Development Ordinance, pertaining to the number of temporary signs on a site

Councilmember Rasmussen stated Leawood has historically fought to limit the proliferation of signs throughout the city. He stated the term “site” should be defined as the total development rather than individual pad sites. Councilmember Gill agreed with this statement.

Mr. Lambers stated Staff has interpreted the ordinance with site meaning entire development, however developers are requesting the ability to identify sold pad sites with signs advertising the location of future businesses. The ordinance is in need of clarification regarding the term “site.”

Councilmember Peppes felt each pad site should be able to have their own sign. Councilmember Bussing agreed as long as requirements are met and the signs are temporary.

Councilmember Bussing agreed with Councilmember Rasmussen’s point of regulating signs in terms of final sign approvals; however, business growth should be encouraged within the community with no danger foreseen in posting temporary signs upon construction sites.

A motion was made by Councilmember Bussing to direct the City Administrator to clarify the ordinance with regard to allowing individual pad sites a sign that is consistent with ordinances of the City of Leawood within 60 days; seconded by Councilmember Peppes.

Mayor Dunn recalled the past adoption of a sign ordinance restricting the size of signs to 16 square feet was a huge improvement over what was previously allowed.

Councilmember Azeltine verified with Mr. Lambers the ordinance will be designed to include a timeframe for how long the signs shall be allowed to remain on the pad sites, most likely less than a calendar year. The timeframe will be regulated in conjunction with issuance of a building permit.

Councilmember Gill confirmed with Mr. Lambers the intent for the signs is to advertise for the future tenant, not a “for sale” sign by the developer. Developers typically do not advertise future tenants on the overall development sign, however there is nothing in the ordinance to preclude them from doing so. Mr. Lambers stated he would also review this aspect of the ordinance.

Councilmember Rasmussen inquired how the time limitations will be enforced. Mr. Lambers stated it will become the obligation of either Code Enforcement or the Planning Department to regulate the duration of signage.

Mr. Lambers agreed to the 60-day timeframe given to prepare the ordinance. In the interim, developers can be issued At Risk Permits. The revised ordinance will be reviewed by Council before it is taken to the Planning Commission.

The motion was approved following a vote of 6-1 (Nay: Councilmember Rasmussen, for reasons stated).

14. OTHER BUSINESS – None.

ADJOURN

The Governing Body meeting adjourned at 10:10 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk