

**Minutes**

DVD No. 166

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, June 4, 2007. Mayor Peggy Dunn presided.

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

**Mayor/Councilmembers absent:** None.

**Staff present:**

Scott Lambers, City Administrator  
Chief John Meier, Police Department  
Chief Ben Florance, Fire Department  
Joe Johnson, Public Works Director  
Mark Klein, Asst. to the Planning Director  
Deb Harper, City Clerk  
Karl Weinfurter, IS Specialist

Patty Bennett, City Attorney  
Captain Dale Finger, Police Department  
Kathy Rogers, Finance Director  
Chris Claxton, P&R Director  
Jeff Joseph, Senior Planner  
Christy Wise, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted an amended agenda with a continuance for Item No. 6C to the June 18th Governing Body meeting. Additional stipulations related to Item No. 7M as well as supplemental material for Item No. 12G have been placed upon the dais. She informed a report will also be given by Councilmember Gullledge as Item No. 9A.

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

On behalf of the citizens who signed-in to speak, Chair of the Leawood Arts Council Mary Tearney stated they would be happy to wait until agenda Item Nos. 11A and 11B are up for discussion.

City Clerk Deb Harper informed that two other citizens wished to speak but did not have the opportunity to sign in. Mayor Dunn confirmed that they also wished to speak during item Nos. 11A and 11B.

**4. PROCLAMATIONS – None.**

**5. PRESENTATIONS/RECOGNITIONS – None.**

**6. SPECIAL BUSINESS**

- A. **PUBLIC HEARING:** Proposed Assessments for the 135<sup>th</sup> Street and Briar Improvement Project [CIP # 193] [135<sup>th</sup> & Briar]

Mayor Dunn declared the public hearing open. As there were no individuals present to speak on the issue, a motion to close the public hearing was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved following a unanimous vote of 8-0.

- B. **Ordinance No. 2234**, levying assessments on lots, pieces and parcels of property located in the City of Leawood, Kansas, for the purpose of paying for the cost for the 135<sup>th</sup> Street and Briar Improvement Project [CIP # 193] [135<sup>th</sup> & Briar] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Gill. The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Rasmussen, Gill, Peppes, Filla, Azeltine, Rawlings, Bussing, and Gulledge. Nay: None.

- \*C. Resolution approving and authorizing the Mayor to execute an amended Inter-local Agreement between the City of Leawood, Kansas and the City of Prairie Village, Kansas, pertaining to the use of land located at Somerset and Lee Boulevard in Prairie Village and Leawood, Kansas, for the installation and maintenance of the Public Art Piece known as ‘Porch Lights’ – ***CONTINUED TO THE JUNE 18, 2007 GOVERNING BODY MEETING***

**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. 1079A, and 1079B  
B. Accept Minutes of the May 21, 2007 Governing Body meeting

- C. Accept Minutes of the February 22, 2007 Ironhorse Advisory Board meeting
- D. Approve Mayoral Appointment of Councilmember Jim Rawlings to the Artist Selection Panel
- E. Approve Change Order No. 1 in the amount of \$31,760.00 to Dennis Johnson Construction Company, pertaining to the IRONHORSE Golf Course Creek Bank Stabilization Project [# 80171]
- F. Approve Change Order No. 3 in the amount of \$7,361.57, to J.M. Fahey Construction, pertaining to the 2006 Mill & Overlay Project
- G. Approve 7<sup>th</sup> and Final Pay Request in the amount of \$21,930.01 to JM Fahey Construction, pertaining to the 2006 Mill & Overlay Project
- H. Resolution No. 2826, ordering a public hearing to be held on June 18, 2007, at 7:30 P.M. or as soon thereafter as may be heard on proposed assessments for the burying of power lines along 135<sup>th</sup> Street, Villaggio Transportation Development District [TDD] [CIP # 80452]
- I. Resolution No. 2827 approving the transfer of South Leawood Impact Fee funds to the Roe Avenue [south of 135<sup>th</sup> Street] Project # 80189
- J. Resolution No. 2828 approving the transfer of funds in the amount of \$250,000 from the K-150 Impact Fee Fund to the Arterial Fund for use on the overlay of Roe Avenue Project # 72011
- K. Resolution No. 2829 accepting Permanent Storm Sewer Easement from Tuscany Reserve, Inc., located with the Tuscany Reserve subdivision
- L. Resolution No. 2830 approving and authorizing the Mayor to execute an Engagement Letter between the City and Stinson Morrison Hecker, LLP, pertaining to the Oddo Development Litigation
- M. Resolution No. 2831 to approve a Final Plat for Parkway Plaza 6th Plat, located at the northwest corner of 135<sup>th</sup> Street and Briar [*from the May 22, 2007 Planning Commission meeting*]
- N. Resolution No. 2832 approving and authorizing the Mayor to execute an Amendment to that certain agreement, dated October 16, 2006, between the City of Leawood, Kansas and Orion Management Solutions, Inc., for the management of the IRONHORSE Golf Course [2007-2009]

Mayor Dunn pulled Item No. 7E and 7M for discussion. On motion of Councilmember Peppes, seconded by Councilmember Azeltine, the remainder of the Consent Agenda was approved following a unanimous vote of 8-0.

- 7E. Approve Change Order No. 1 in the amount of \$31,760.00 to Dennis Johnson Construction Company, pertaining to the IRONHORSE Golf Course Creek Bank Stabilization Project [# 80171]

City Administrator Scott Lambers reviewed that City Council approval of the change order was conditioned upon a release for the City being signed by the property owners. The release has not been signed to date. He recommended approval of the change order contingent upon the previously established condition. The property owners have remitted their portion of the costs and the project will proceed once the release has been obtained.

The remaining point of contention is the fact that the City desires a clear understanding that it has no liability for the condition of the creek bank, which is subject to erosion. There should be no representation made by the property owners that the minimal creek improvements will result in erosion protection for the bank.

A motion to approve the change order contingent upon the execution of a release for the City within 7-10 days was made by Councilmember Rasmussen; seconded by Councilmember Gill. The motion was approved following a unanimous vote of 8-0.

- 7M. Resolution No. 2831 to approve a Final Plat for Parkway Plaza 6th Plat, located at the northwest corner of 135<sup>th</sup> Street and Briar [*from the May 22, 2007 Planning Commission meeting*]

Mayor Dunn stated the additional requested stipulation will require the applicant to secure the proper dedication documents for all easement properties required by the City of Leawood and the execution of such easement maintenance agreements. If approved, this will change the wording of Stipulation No. 3 to read, "one through three," rather than, "one through two."

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

## **8. MAYOR'S REPORT**

- A. Mayor Dunn offered congratulations to all those involved with The ArtsKC Fund, which exceeded its goal by 30%. She extended gratitude to participating City of Leawood employees as well as to Councilmember Rasmussen for his advocacy in this area and for representing the City at the wrap-up and finale, where the goal was announced. She distributed an article regarding the effort from the Business section of *The Kansas City Star*.
- B. Attended a reception for retiring Planning Commissioner Mel Henderson in honor of his twelve years of service. She extended appreciation to Dr. Henderson for his dedication and commitment. Dr. Henderson, who is a valuable volunteer to the community, will now serve on the Stormwater Management Committee.
- C. Attended an awards luncheon hosted by the Kansas City Metropolitan Chapter of the American Public Works Association in honor of Public Works Director Joe Johnson, who was named one of the Top Ten Public Works Leaders of the Year. Over 800 people were in attendance including City Administrator Scott Lambers, members of Mr. Johnson's family, and members of the Public Works Department. To further honor Mr. Johnson, a reception was held in Leawood at Ironwoods Lodge. Councilmembers Rawlings, Rasmussen, Bussing, and Azeltine, Mr. Lambers, and other Department Heads were present at the event. Mayor Dunn thanked Julie Stasi, Public Works Administrative Services Manager, for organizing the reception.

- D. Attended the Leawood Woman's Club Annual Luncheon at which philanthropic fundraising earnings for the past year were dedicated. Along with SafeHome, Fire Chief Ben Florance and Police Chief John Meier were once again presented monetary donations. Mayor Dunn applauded the club for recognizing the public safety divisions in the City and stated appreciation for the generosity. Chief Florance and Chief Meier delivered very nice acceptance remarks at the luncheon.
- E. Attended a luncheon ceremony held in the Leawood City Hall Courtyard for the Law Enforcement Torch Run for Special Olympics. Police officers from Johnson and Wyandotte Counties participated in the fundraiser, including Chief Meier. Mayor Dunn congratulated Leawood Police Officer John Diaz for his organizing efforts for this very worthwhile cause.
- F. Mayor Dunn thanked Councilmember Rawlings for representing her at the National Trails Day Event, which was held in conjunction with Kansas City, Missouri.

**9. COUNCILMEMBERS' REPORT**

- A. Report from Councilmember Gulledge – Councilmember Gulledge informed of a situation at the intersection of 119<sup>th</sup> Street and Tomahawk Creek Parkway in which traffic becomes considerably backed up, especially during the school year when children are being dropped off. At times, the congestion reaches as far as 119<sup>th</sup> Street and Mission Road.

A motion to refer a review of the 119<sup>th</sup> Street and Tomahawk Creek Parkway study to the Public Works Committee in order to determine if a right turn lane, turning north on Tomahawk Creek Parkway from westbound 119<sup>th</sup> Street, is justifiable was made by Councilmember Gulledge. The motion was seconded by Councilmember Azeltine.

Councilmember Rasmussen confirmed that this location refers to the northeast corner of the intersection.

Councilmember Gulledge clarified for Mayor Dunn that there is no date certain for the referral as timing will be determined.

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

**10. STAFF REPORT – None.**

## **COMMITTEE RECOMMENDATIONS**

### **11. ARTS COUNCIL**

#### **[From the January 23, 2007 Arts Council meeting]**

- A. Accept recommendation to purchase public art piece, "Anagenisi apo Koinonia," in the amount of \$12,000 from artist Reilly Hoffman

***Staff Comment: The City Administrator is recommending the Council not purchase the above described art piece***

Dr. Ann Kenney, Chair of the Arts in Public Places Initiative [APPI], stated the two temporary pieces [see Item No. 11B] on loan this year have received a tremendous amount of positive comments from citizens and the arts community. The prices for both pieces are very low, thus the request for purchase. A total of \$20,000 is being requested for both sculptures and includes an additional 10% maintenance fee.

A number of supporting letters and e-mails have been received. One specific letter from Bruce Hartman, Curator at Johnson County Community College, states that both pieces are well worth the purchase and recommends doing so. Mr. Hartman has established an enormous and well-recognized art collection at the college. Recommendations have also been received from art collector Carl McCaffree and arts historian/professor Pinky Kase.

Dr. Kenney informed Mayor Dunn that "Anagenisi apo Koinonia," which currently adorns the lobby of City Hall, cannot be placed outdoors. As it is time for the annual placement of new temporary art, this sculpture will be taken immediately to Ironwoods Lodge. The "Sentinel" will remain at the outside entrance to City Hall until another well-lighted, high traffic site is chosen, such as the future Justice Center.

Dr. Kenney confirmed for Councilmember Azeltine that the Leawood Arts Council voted unanimously in favor of the purchases following a recommendation by APPI. Discussion regarding making the purchases with private money did not take place. There are sufficient funds within the 2007 Budget to procure the art.

Mr. Lambers stated payment for the purchase contracts will come from the Public Art Impact Fee Fund, which currently contains \$150,000. Art may be purchased with this fund even if it does not enhance the area from which the fee is levied.

Councilmember Filla verified with Dr. Kenney that the purchase would not impact funds for the pending "Porch Lights" project.

Mr. Lambers stated he is not in favor of the purchase based upon the philosophical standpoint that the sculptures are part of the Art On Loan Program rather than a lease/purchase program. If the City Council wishes to create an art purchase program, the decision should be made independent of acquiring a specific art piece.

Dr. Kenney stated the program has featured four pieces of art to date, of which purchases were not attempted for the first two. It is felt that the current artwork is appropriate for the City.

If approved, Mayor Dunn stated the purchases should not be considered precedent for future pieces of art on loan. She also commented that she is pleased with plans to relocate the two pieces as the ever-changing temporary art has been well-received at the City Hall locations.

Councilmember Rasmussen stated although he supports the Art On Loan Program, he is not in favor of the purchases as it would entirely change the concept of the program. He also stated concerns with violating the budget, which contains \$5,000 per year for temporary art. There are no statements within the document related to purchases. Additionally, omitting the process of having a subcommittee determine a location and artist selection would violate most of the principals that have been successful to date.

Dr. Kenny responded that the Capital Improvement Program [C.I.P.] currently contains \$12,000 that was not utilized for site work on the "Prairie Lessons" sculpture. She also stated there has been money for public art in past C.I.P. budgets that should still be available. The temporary art pieces have met all phases of the required process, including site selection, twice: once upon initial selection and again when it was decided to recommend purchase.

Carol Heil, 10995 Gillette, Executive Director of the Arts Council of Johnson County, stated there has been an important linkage between the arts and economic future of the county and region. There has also been a linkage between business and political leaders supporting high quality public art, such as the pieces proposed to be added to the City of Leawood collection. Leawood has always been a leader in the arena of public art programs. The City has a rare opportunity to continue this leadership by purchasing high quality artwork from up-and-coming artists. Such purchases are comparable to a stock portfolio addition. Ms. Heil stated the Arts Council of Johnson County supports the efforts of the Leawood Arts Council and asked the Governing Body to vote in favor of the request.

Jerome Nerman, 11701 Norwood Drive, stated he and his wife have been collecting art for over 30 years. The Nerman Family has given a lead gift to Johnson County Community College to build the new Nerman Museum of Contemporary Art. He estimated the value of "Anagenisi apo Koinonia" at \$30,000 and "Sentinel" at \$25,000-40,000 in today's market. It would be to the advantage of the Governing Body to approve the purchase of these two beautiful pieces.

Ann Blessing, 11708 Manor Road, board member of the Arts Council of Johnson County and volunteer to the Shooting Stars Recognition and Scholarship Awards Program, stated the recommended artwork is of high quality at a reasonable cost. The purchases would also encourage young, local artist to stay within the community.

Dick Horn, 10304 Belinder, past Chair of the Leawood Arts Council and current member of APPI, spoke in favor of purchasing the two art pieces.

Ms. Heil added that Olathe also has a temporary art program from which pieces are at times purchased.

Dr. Kenney confirmed for Mayor Dunn that as "Sentinel" was built in the current location by artist Tex Jernigan, it would have to be dismantled in order to be moved. Components of the piece will be relatively easy to disassemble, however the ground firmament will have to be redone.

Councilmember Gill expressed appreciation to Dr. Kenney and members of APPI for their efforts. He stated respect for the points of view expressed by the citizen experts on art and voiced his intent to vote in favor of the committee recommendation.

Councilmember Bussing stated his initial inclination was to oppose the purchases. Following consultations with acquaintances knowledgeable in this field, Bruce Hartman and Larry Meeker, he has since changed his mind. He was told that both works are unique and significant pieces by emerging artists. He shares Councilmember Rasmussen's concerns regarding the evolution of temporary art into a purchase program, however this can be addressed with the Leawood Arts Council. There should be an overall plan to specifically identify what is to be accomplished with the art pieces. The plan should include consideration for appropriately disposing of art while taking advantage of economic increases in value and buying additional art. Utilizing art as a revenue source would be helpful in the context of continued funding for art. He stated he will support the motion, however does not desire the purchase of temporary art to be habitual.

Councilmember Rasmussen voiced further concerns related to exceeding the budget and violating the principals of the temporary art program.

Councilmember Azeltine stated he also does not wish these types of purchases to become a habit, however believes there has been a lot of thought and discussion put into the committee recommendation.

A motion to accept the recommendation to purchase "Anagenisi apo Koinonia" was made by Councilmember Azeltine; seconded by Councilmember Gulledge. The motion was approved following a vote of 7-1 (Nay: Councilmember Rasmussen).

- B. Accept recommendation to purchase public art piece, "Sentinel," in the amount of \$6,000 from artist Tex Jernigan

***Staff Comment: The City Administrator is recommending the Council not purchase the above described art piece***

A motion to approve Item No. 11B was made by Councilmember Rawlings; seconded by Councilmember Gulledge. The motion carried following a vote of 7-1 (Nay: Councilmember Rasmussen).

## **COMMITTEE RECOMMENDATIONS**

### **12. PLANNING COMMISSION**

#### **[From the May 8, 2007 Planning Commission meeting]**

- A. Ordinance No. 2235 to approve a Special Use Permit [SUP] for an AT&T VRAD cabinet, located at 12015 Mission Road [Roll Call Vote]

Referring to a memorandum from the Planning Staff regarding Item Nos. 12A through 12F, Councilmember Rasmussen verified with Mark Klein, Assistant to the Planning Director, that passage of the ordinances will include an additional stipulation recommended by Staff.

Applicant Chris Carroll with of AT&T, 8900 Indian Creek Parkway, Overland Park, Kansas, stated the four Special Use Permit applications are a continuation of the Project Lightspeed initiative in the City of Leawood. He stated concurrence with all stipulations and recommendations associated with the four agenda items. Mr. Carroll also provided a brief update on the network infrastructure upgrade in the community of Hallbrook.

Noting Stipulation No. 3 regarding landscaping and in reviewing an article by Mike Hendricks in *The Kansas City Star*, Mayor Dunn verified with Mr. Carroll that the boxes will be adequately screened. Mr. Carroll stated he is working very closely with Staff, who are very particular, to provide appropriate landscaping results. He added that the existing boxes, which are to be retrofitted with new cabinets in addition to the adjacent placement of a larger cabinet, are currently devoid of landscaping. Mr. Carroll gave his word that landscaping efforts will continue until both structures are adequately screened to the satisfaction of the Governing Body.

Mayor Dunn cited the additional staff recommended stipulation as, "In the event the allowed use is discontinued for a period of three months or more, the special use shall be determined abandoned, and this permit shall become null and void." She confirmed with Mr. Carroll that removal of the cabinets is an understood expectation and requirement.

Mr. Carroll informed Councilmember Bussing that dimensions of the existing cabinet will roughly be the same following the retrofit. As seen in the photograph supplied as packet information, there will be two boxes at each site.

In response to questions from Councilmember Azeltine, Mr. Carroll stated there will be twelve more requests in 2007, eight of which have been applied for, and approximately eleven in 2008. All of the locations contain existing cabinetry. Referring to statements from a resident regarding confusion in the notification process for the Interact and Planning Commission meetings, Mr. Carroll assured this will be prevented in the future.

Noting the minutes from the Planning Commission meeting were not attached to the packet material, Councilmember Azeltine asked if any discussion was held prior to approval of the SUPs. Mr. Klein explained that the committee minutes are now contracted out and are in the process of being reviewed by Staff. He relayed that the Planning Commission was comfortable with the stipulations regarding screening. Issues regarding delays in completing the minutes are being resolved.

City Attorney Patty Bennett confirmed for Councilmember Azeltine that the additional stipulation is in response to concerns expressed by the Planning Commission, however occurred after the meeting. As the additional stipulation will be an override to the application approved by the Planning Commission, passage of the ordinances will require a supermajority vote. Mayor Dunn pointed out that the additional stipulation is an improvement based upon discussion by the Planning Commission. Mr. Lambers stated it is not necessary to refer the case back to the Planning Commission.

Mayor Dunn noted that approval of the additional stipulation will change the wording of Stipulation No. 6 to, "they agree to stipulations one through seven."

Councilmember Filla clarified with Mr. Lambers that if the SUP becomes null and void, the applicant, by default, will be responsible for disposing of the boxes. She also suggested alternative ideas to camouflage the boxes such as surrounding them with pseudo structures that could be painted in the spirit of public art to resemble castles or a playhouse.

Mr. Carroll stated screening is based upon the geography and topography of each individual site. There is a cabinet within the Woodlands subdivision that is shielded by a rock wall and iron fence. Mayor Dunn commented that she was assured at a previous meeting that the planned landscaping would soften the cabinets even more than the faux stone used in Branson, Missouri.

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Bussing; seconded by Councilmember Filla.

Mr. Carroll informed Councilmember Gill that every subscriber in Leawood will have access to the new features upon completion of the build-out project. It is anticipated that the company will have a video alternative available to customers before the five-year timeframe required by State law.

Councilmember Peppes asked if previously approved SUPs for VRAD cabinets in north Leawood contained the same stipulations regarding landscaping requirements. Screening for such sites in Ward 1 seems to be less extensive. He questioned whether it would be possible to bring the applications back in order to add further conditions. Mr. Lambers advised this could not take place unless there is a time limit on the SUP and it is up for renewal or a new application is made by the applicant to upgrade the boxes. Councilmember Peppes grossly opposed the fact that the cabinets will not be screened uniformly throughout the City.

In the spirit of being a good corporate citizen, Mr. Carroll stated concerns at specific sites can be addressed. Although not required to do so, he agreed to Mayor Dunn's suggestion to revisit previously approved VRAD cabinet locations to ensure that the landscaping is of the aesthetic quality desired in Leawood and is similar to provisions listed under Stipulation No. 3 of the current application.

Noting that a landscaping plan has been attached to each VRAD application, previous and current, Councilmember Rasmussen suggested having the summer intern in the Neighborhood Services Department ensure compliance at each location.

Councilmember Azeltine confirmed with Mr. Lambers that cell tower SUPs expire and are renewed every five years. The hope is that the cell towers will eventually be replaced by repeater systems following technology advancements. The five-year term will give the Governing Body an opportunity to evaluate whether such technology is available. Although the SUPs for the VRAD cabinets are for an indefinite period of time, the Governing Body has the authority to revoke the permit if landscaping requirements are not met. It is in the best interest of AT&T to maintain the landscaping.

Councilmember Rasmussen added that cell tower SUPs also contain a condition in which the applicant must prove that it is not possible to minimize the antennas at the time of renewal.

Mr. Carroll stated the broadband, phone, and video services are delivered over hardwired copper phone lines running through the neighborhoods and into homes. A restrictive permit term would be of great concern due to the possibility of a future Governing Body denying the renewal and causing the potential termination of services to the masses of subscribers served by the cabinets.

The ordinance with the additional stipulation passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Gullede, Rawlings, Peppes, Gill, Azeltine, Filla, Bussing, and Rasmussen. Nay: None.

- B. Ordinance No. 2236 to approve a Special Use Permit [SUP] for an AT&T VRAD cabinet, located at 4300 W. 111<sup>th</sup> Terrace [Roll Call Vote]

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Gill; seconded by Councilmember Bussing.

Mayor Dunn noted that the wording in Stipulation No. 7 will change to read, "they agree to stipulations one through eight."

Mr. Klein informed Mayor Dunn that the proposed Forest Pansy Redbud, which is a 1.5-inch caliber tree, is specifically noted in Stipulation No. 4 as an effort to ensure compliance with the 2-inch caliber requirement for ornamental trees in the Leawood Development Ordinance [LDO].

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Bussing, Filla, Gill, Azeltine, Rasmussen, Peppes, Rawlings, and Gullede. Nay: None.

- C. Ordinance No. 2237 to approve a Special Use Permit [SUP] for an AT&T VRAD cabinet, located at 5202 W. 112<sup>th</sup> Street [Roll Call Vote]

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Bussing; seconded by Councilmember Gill.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Rasmussen, Peppes, Rawlings, Gullede, Azeltine, Gill, Filla, and Bussing. Nay: None.

- D. Ordinance No. 2238 to approve a Special Use Permit [SUP] for an AT&T VRAD cabinet, located at 11501 Roe Ave [Roll Call Vote]

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Gill; seconded by Councilmember Bussing.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Gullede, Rawlings, Peppes, Rasmussen, Bussing, Filla, Gill, and Azeltine. Nay: None.

- E. Ordinance No. 2239 to approve a Special Use Permit [SUP] for an existing Sprint wireless communication antenna, located 5200 W. 135<sup>th</sup> Street [Roll Call Vote]

Mr. Lambers reminded the City Council that the cell tower maintains a separate SUP. The current applicant is solely for the antenna that will be placed upon the tower.

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Gill; seconded by Councilmember Gullede.

On behalf of Sprint, Clifford Turner with Selective Site Consultants at 8500 W. 110<sup>th</sup> Street, Overland Park, offered to answer questions.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Rasmussen, Peppes, Rawlings, Gullede, Bussing, Filla, Gill, and Azeltine. Nay: None.

- F. Ordinance No. 2240 to approve a Special Use Permit [SUP] for an existing Nextel wireless communication antenna, located 5200 W. 135<sup>th</sup> Street [Roll Call Vote]

A motion to pass the ordinance with the additional stipulation recommended by Staff was made by Councilmember Gill; seconded by Councilmember Azeltine.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Azeltine, Gill, Filla, Bussing, Gullede, Rasmussen, Peppes, and Rawlings. Nay: None.

Councilmember Gill confirmed with Mr. Lambers that the repeaters previously approved for Mission Road at approximately 127<sup>th</sup> Street have not been installed. There is currently an application by Sprint to add a cell tower at the Leawood South Country Club, however Staff has concerns with plans to disguise the tower as a tree. Staff is supportive of another application that proposes the equipment be buried in a vault with the antennae placed in an additional cupola to be built at Fire Station No. 2.

Referring to the repeaters, Councilmember Gill stated it is not in the best interest of the community for a provider to not follow through with an approved plan when there is a need for service. He encouraged all carriers experiencing gaps in coverage to address the issue. Mr. Lambers advised it is necessary for Sprint, and other companies, to first place towers in dead service areas in order for the repeaters to function.

Mr. Turner stated the main challenge faced by all wireless communication networks is to keep up with subscriber population. He believes that attempts are being made to resolve the issues by each individual carrier.

**[From the May 22, 2007 Planning Commission meeting]**

G. Resolution No. 2833 to approve a Final Site Plan for Pinnacle IV, located north of 115<sup>th</sup> Street and west of Tomahawk Creek Parkway

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gulledge.

On behalf of property owner BKWG, Kevin Berman with Hoeffler Wysocki Architects, reviewed site plan drawings and explained the trash enclosure relocation.

Mr. Berman confirmed for Mayor Dunn that a design for an automatic door closure for trash receptacles is being pursued at this time.

Councilmember Rasmussen verified with Mr. Lambers that the landscaping design surrounding the trash enclosure is in sufficient enough detail to be reviewed for compliance in the future.

The resolution was approved following a unanimous vote of 8-0.

**13. OLD BUSINESS – None.**

**14. OTHER BUSINESS**

A. Discussion and possible action regarding the proposed City reorganization/establishment of a Community Development Department

A motion to approve the City reorganization/establishment of a Community Development Department and implement in the 2007 Budget was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Mr. Lambers stated if the motion is approved, the process to amend the 2007 Budget will be initiated. The change will also be reflected during deliberations for the 2008 Budget, which is scheduled to take place at the end of June. He confirmed for Councilmember Filla that there is \$67,000-\$68,000 currently budgeted for the salary of a Planning Director that may go towards the reorganization. The Planning Director position will be eliminated, however there will be the addition of a Community Development Director and Administrative Assistant.

Mr. Lambers also informed Councilmember Bussing that the cities of Overland Park and Olathe have a Community Development Department. Typically, when this type of transition occurs, it is possible that a division, particularly Planning & Development, may become too active to receive the full attention of the director. At this point, the division is segregated out under a separate director position. This will not be necessary given that Leawood is landlocked and has a limited number of parcels left to develop.

Although building activity will decline over time, there will most likely be an increase of demands for the Neighborhood Services Department as the Council has made a strong commitment to the preservation of neighborhoods and commercial development.

The Community Development Director position will have a broader appeal to qualified individuals than did the still vacant Planning Director position.

Noting the packet information states an annual review of the comprehensive plan is to be performed under the Community Development-Planning Administration Services sub-program, Councilmember Azeltine inquired as to who is currently responsible for this duty. Mr. Lambers stated he is responsible for this task by default. The last review occurred two years ago. The process for a new review will begin in July with the Planning Commission. Following the budget amendment and recruitment efforts, it is anticipated that the position will be filled by this Fall.

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

## **15. NEW BUSINESS**

- A. Ordinance No. 2241 authorizing and providing for the imposition of a Transportation District Sales Tax within the Park Place Transportation Development District, located east of Nall Avenue between 117<sup>th</sup> Street and Town Center Drive, in the City of Leawood, Johnson County, Kansas; establishing a method of collection of such sales tax; and providing for the segregation of such sales tax revenues for the payment of costs of certain transportation projects within the Transportation Development District [Roll Call Vote]

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

Mr. Lambers explained that the ordinance will set the tax in place by October 1<sup>st</sup>. Upon meeting the 50% threshold and following a lag time of two months, the three-month period of analysis on generated sales tax will begin. The bonds and level of financing supported by the retail activity will be presented to the City Council in approximately 6-9 months.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Gill, Filla, Bussing, Azeltine, Rasmussen, Peppes, Rawlings, and Gulledge. Nay: None.

**ADJOURN**

The Governing Body meeting adjourned at 9:10 P.M.

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Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk