

Minutes

DVD No. 351

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, July 6, 2015. Mayor Peggy Dunn presided.

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

Councilmembers Absent: None

Staff Present: Patty Bennett, City Attorney	Richard Coleman, Comm. Dev. Director
Mark Klein, Planning Official	Mark Andrasik, Info. Services Director
Chris Claxton, Parks & Rec. Director	Joe Johnson, Public Works Director
Major Troy Rettig, Police Department	Dawn Long, Finance Director
Debra Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

Others Present: Roger Edgar, Executive Vice President-Kansas/Missouri Public Finance Group, George K. Baum

1. **PLEDGE OF ALLEGIANCE** – Led by a Boy Scout from Troop 10.
2. **APPROVAL OF AGENDA**

Mayor Dunn pointed out the addition of second “Request for Referral to Public Works Committee” by Councilmember Rezac under Agenda Item 9. Councilmembers’ Report.

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 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.**

Mr. Scott Yeargain, 9833 Overbrook Road, Leawood, spoke in regard to a deteriorating railroad timber retaining wall co-owned with his neighbor to the north, Mr. William Hanna at 9829 Overbrook Road. He stated the timbers weigh approximately 60 pounds each and five have fallen as of May 27, 2015.

Leawood Code Enforcement issued a courtesy notice to his wife, Polly Shteamer, requesting wall repair or replacement by June 14, 2015. Although the Municipal Court issued a citation for failure to repair or replace the wall on June 15, 2015, the case has yet to be placed on the court docket. Mr. Yeargain stated he attempted to work with Mr. Hanna for the past 18 months in regard to the wall. A certified survey of the property line had been provided to Mr. Hanna, and as last known, Mr. Hanna does not contest the survey results or co-ownership of the wall, but he takes no interest. Since there is no known challenge of ownership, Municipal Court is the appropriate venue from both liability and code enforcement perspectives. If Mr. Hanna does decide to challenge ownership, then this would become a matter for Civil Court, creating the need and financial burden of retaining a lawyer. Cost estimate to repair is \$8,000 and Mr. Yeargain stated he would be agreeable to escrow his half of the cost.

Ms. Bennett stated there had been a second survey ordered in regard to ownership, after which the City Prosecutor will review. If the survey confirms co-ownership, then both owners would be cited for the condition of the wall. The City cannot force reconstruction of the wall, only fine for days in disrepair.

4. PROCLAMATIONS National Parks & Recreation Month, July, 2015

Mayor Dunn read the proclamation into the record, which Ms. Claxton accepted. The Mayor thanked Ms. Claxton, the Superintendent of Parks Brian Anderson, and all of their team for their work. Councilmember Filla thanked Ms. Claxton for the July 4th fireworks and orderly exit from the event.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

- A. **Resolution No. 4472** authorizing the sale by the City of Leawood, Kansas of General Obligation Bonds and General Obligation Temporary Notes of the City to provide funds to finance the costs of certain public improvements within said City and to refund certain outstanding General Obligation Bonds of the City; approving the form of Notice of Bond Sale and Preliminary Official Statement to be used in connection therewith; and authorizing and directing the City Finance Director to advertise such sale in the manner prescribed by law

Mr. Edgar, City Financial Consultant, stood for questions. Mayor Dunn noted the \$150,000 in anticipated savings to the City, which Mr. Edgar confirmed. He stated the bonds are one 2006 issue callable on September 1, 2015. The savings would be received over a period of six years (2021) and are 5% as a function of size, well above the minimal recommendation. A substantial increase in interest rates would be required before the sale date of August 3, 2015 to affect the expected savings. The current financial meltdown in Greece would not be expected to be of impact. The debt crisis of Puerto Rico is of more concern as it may cause the municipal bond market to soften. Recent events in Europe may help strengthen the U.S. dollar. His organization will closely monitor world events in the interim.

A motion to approve Agenda Item 6.A. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

- B. Hearing pursuant to Section 5-211 of the Code of the City of Leawood, 2000, regarding revocation of Solicitation Permit for GWE LLC

Major Rettig stated a certified letter had been sent informing the company of the hearing. No one from GWE LLC was present. Major Rettig provided block numbers and streets of complaints received for magazine solicitations.

Councilmember Rawlings pointed out the City's Solicitation Ordinance allows for the Chief of Police to suspend a Solicitation Permit and the Governing Body to revoke, although the Governing Body does not approve issuance of Solicitation Permits. Ms. Bennett plans to review and update the ordinance to allow the Chief of Police to revoke and for appeals to be brought before the Governing Body.

A motion to revoke the Solicitation Permit for GWC LLC was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

7. **CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2015-22, 2015-23, and 2015-24
- B. Accept minutes of June 15, 2015 Governing Body meeting
- C. Accept minutes of the June 22, 2015 Budget & Finance Committee Work Session
- D. Accept minutes of April 14, 2015 Historic Commission meeting
- E. Accept minutes of the May 6, 2015 Bicycle Friendly Committee
- F. Accept minutes of the May 12, 2015 Parks & Recreation Advisory Board meeting
- G. Accept minutes of the April 28, 2015 Arts Council meeting
- H. Approve Mayoral Appointments to the 135th Street Implementation Plan Task Force
- I. Approve Massage Therapy License for Grand Hands Massage, located at 11111 Nall Avenue, Suite # 207, in accordance with Code § 5-510
- J. Approve Massage Therapy License for The Residents at Park Place, located at 5280 W. 115th Place, in accordance with Code § 5-510
- K. **Resolution No. 4473**, calling for a Public Hearing to be held on Monday, August 3, 2015, at 7:30 P.M., or as soon thereafter as may be heard, to consider the 2016 Fiscal Budget for the City of Leawood, Kansas
- L. **Resolution No. 4474**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$18,000.00 between the City and P. Morgan Painting pertaining to the 2015 Painting Project at Ironwoods Activity Lodge, located at 14701 Mission Road
- M. **Resolution No. 4475**, approving a Revised Final Plan for U.S. Toy Company – Painting of Facade, located at 2008 W. 103rd Terrace. (PC Case #42-15) [*from the June 23, 2015 Planning Commission meeting*]

- N. **Resolution No. 4476**, approving a Revised Final Plan for Cure of Ars – Fence, located north of 95th Street and east of Mission Road. (PC Case #63-15) [*from the June 23, 2015 Planning Commission meeting*]
- O. Declaration of Surplus Property- 4 Trash Pumps and 1 Concrete Saw

Councilmember Filla requested Consent Agenda Item 7.J. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Filla; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.

- J. Approve Massage Therapy License for The Residents at Park Place, located at 5280 W. 115th Place, in accordance with Code § 5-510

Councilmember Filla questioned why the City does not require licenses for tree service providers and suggested staff review what would be needed to implement licensing. She stated Webster Groves, Missouri, requires and has licensed 45 tree service providers. Mayor Dunn noted the suggestion was not related to the Consent Agenda Item 7.J., but could be requested as a separate Councilmembers' Report agenda item.

A motion to approve Consent Agenda Item 7.J. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Annual Report: American Revolution Tricentennial Fund Certificate of Deposit [CD]. This CD was presented to the City on July 6, 1976 in the amount of \$1,000.00. Last year the CD earned \$21.36 in interest on a principal amount of \$8,531.96, bringing the balance to \$8,553.32. The CD was renewed at an interest rate of 0.50% and will mature on June 18, 2016. It is expected the CD will continue to be renewed until the tricentennial, but if the City is ever dissolved the funds are to be used for the benefit of the community.
- B. City Administrator Scott Lambers and I attended an appreciation celebration honoring Dr. Tom Trigg for his 19 years of leadership as Superintendent of the Blue Valley School District. We have enjoyed a great partnership and wish him well with his new assignment as the Superintendent of the Highland Park School District in the Dallas/Fort Worth area of Texas.
- C. Addressed the Women in Transportation membership at their monthly luncheon meeting regarding Leawood's growth and future infrastructure improvement needs.
- D. Presented Welcome Remarks at the 22nd Annual Midwestern Regional Conference of Women in Government. This three-day event was held at the Overland Park Marriott. Kansas State Senator Kay Wolf is the Vice Chair of the group and will be the Chair of the national organization in 2016.
- E. Councilmembers Rasmussen and Sipple joined me at the Leawood Fine Arts Studio Art Show sponsored by the Leawood Arts Council. The studio has a beautiful expanded space in Camelot Court.

- F. Congratulations to Chair Dick Fuller and the Ironhorse Golf Course Advisory Board on the club's 20th anniversary milestone. Thanks to Parks & Recreation Director Chris Claxton and Troon Golf for hosting a celebration that also served as a reunion of former elected officials and volunteers that have been involved over the past two decades. Councilmembers Rawlings, Rasmussen, Sipple and Rezac were also in attendance. Councilmember Rasmussen received special recognition for his work on behalf of the club since 1992.
- G. The City hosted another grand July 4th festival and fireworks display with beautiful weather this year. Many thanks to Parks & Recreation Director Chris Claxton and her entire team, along with leaders from Leawood's Police, Fire and Public Works Departments. Attendance appeared to be at an all-time high. Congratulations to all involved.
- H. Reminder regarding the Leawood Stage Company's production of "Oliver!" to be presented July 16, 17, 18, 19, 23, 24 and 25, at 8:00 P.M. at Ironwoods Park Amphitheater. The performance is free and seating is available, but guests are invited to bring lawn chairs.

9. COUNCILMEMBERS' REPORT

A. Councilmember Rezac - Request for Referral to Public Works Committee

Girl Scouts from Brookwood Elementary working to earn the Silver Award, the highest award that can be earned by cadets and which requires problem identification and sustainable solution, had spoken with Mayor Dunn about the need for improved snow removal on the sidewalk on the north side of 103rd Street. The Girl Scouts would like to make a presentation to the Public Works Committee.

Councilmember Rasmussen expressed concern about the sidewalk location and determination of property owner(s). Mayor Dunn stated the sidewalk in question is on the north side of 103rd Street and suggested to Mr. Johnson that abutting property owners to the sidewalk be invited to the Public Works Committee meeting. She asked Councilmember Rezac to notify the scouts of upcoming Public Works Committee meeting dates.

A motion to approve Agenda Item 9.A. was made by Councilmember Rezac; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

B. Councilmember Rezac – Request for Referral to Public Works Committee

A street drainage issue was identified by the resident of 2233 Condolea Terrace, Leawood South Townhomes. Mr. Johnson stated the street was constructed in the 1970s without much slope and water ponds on the street. A slotted drain in the curb may be needed. In 2010, the Public Works Committee recommended improvements be made when the street was overlaid. Therefore, referral of the request should be to the Public Works Committee versus the Stormwater Management Committee.

A motion to approve Agenda Item 9.B. was made by Councilmember Rezac; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the April 28, 2015 Planning Commission meeting]

- A. Ordinance approving a Revised Preliminary Plan for Ranch Mart, located north of 95th Street and east of Mission Road (PC #61-13) **[ROLL CALL VOTE] -CONTINUED TO THE AUGUST 17, 2015 GOVERNING BODY MEETING**

12. OLD BUSINESS – None

13. OTHER BUSINESS – None

14. NEW BUSINESS

- A. **Ordinance No. 2739C**, granting to Kansas Gas Service, a Division of ONE Gas, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof **[ROLL CALL VOTE]**

Ms. Bennett stated the current franchise ordinance granted in 1995 expires August 5, 2015. The proposed franchise ordinance continues the 5% franchise fee and provides a fee for gas transported through the system, but not sold, to consumers in the City. Natural gas has been transported in the City over the past 20 years without fee. The gas transport fee will change annually depending on natural gas prices. For the remainder of 2015, the gas transport fee would be \$0.2114 per 1000 cubic feet. Due to decline of natural gas prices in the last 12 months, the transport fee would decrease to \$0.1733 in January, 2016. The franchise ordinance would be for a period of 20 years, expiring in 2035. The City could anticipate receiving \$17,000 to \$20,000 in gas transport fees.

Mr. John DeCoursey, Managing Attorney, Kansas Gas Service, 7421 West 129th Street, Overland Park, stood for questions. For the record, Mayor Dunn stated a familial relationship with Mr. DeCoursey. Mr. DeCoursey stated the gas transport fee for the remainder of 2015 had been calculated in July, 2014, based on gas futures data. He stated no increase in cost to natural gas customers would be incurred as a result of the gas transport fee, only transport companies.

A motion to approve Agenda Item 14.A. was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 8-0.

- B. Schedule a Governing Body Work Session to be held at 6:00 P.M., on Monday, August 3, 2015, for Review of New Community Improvement Development [CID] Application for Ranchmart, located at 95th & Mission Road

Ms. Bennett stated the applicant had submitted a CID application for Ranchmart approximately 1.5 years ago that was never approved by the Council, but had been discussed at a Work Session. At the Work Session, the consensus was that the application be withdrawn since it included interest that was not in accord with the City's CID policy.

Councilmember Azeltine stated for the record he wished to ensure the first application was appropriately disposed since it had been filed. Mayor Dunn stated her belief that the City Administrator had sent a letter to the applicant rejecting the first application and returning the \$500 filing fee. Councilmember Azeltine questioned if the City Administrator had such authority. To ensure the status and appropriate disposal per procedure of the first application, Ms. Bennett stated she would research and provide an update to the Council.

Ms. Bennett stated a new application is expected to be filed several weeks before the proposed August 3, 2015 Work Session. Once the new application is received, staff will review and comprehensive information provided in the Work Session agenda packet. Since the new application has not yet been filed, the boundaries of the district and whether amounts and types of improvements conform to CID policy cannot be ascertained. Ms. Bennett stated her belief that the applicant intends to meet CID criteria.

Councilmember Osman questioned the rationale of conducting a Work Session if the new application meets all CID criteria. Mayor Dunn suggested the applicant may wish to include burial of power lines along 95th Street in the new application and she stated the City has independent studies on this already. She suggested the proposed Work Session could be scheduled and cancelled if not needed.

Ms. Bennett stated since no formal approval/vote can be conducted at a Work Session, the session would only be used to determine a consensus of the Council or lack thereof, similar to the Camelot Court CID Work Session. The CID would then come before the Governing Body for approval at their August 17, 2015 meeting.

A motion to “Call for the Question” was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a vote of 6 Ayes and 2 Nays from Councilmembers Rasmussen and Osman.

Mayor Dunn read Agenda Item 14.B.

A motion to approve Agenda Item 14.B. was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion was approved with a vote of 5 Ayes and 3 Nays from Councilmembers Azeltine, Rasmussen and Osman.

For the record, Mayor Dunn asked each of the Nay votes to provide reason.

Councilmember Azeltine stated he wished to know the status of the first CID application prior to review of a new application.

Councilmember Rasmussen questioned the proposed Work Session topic language, “Review of a New Community Improvement District...” To conduct a review, the Council would require staff determination of conformance to CID policy, specific non-conforming items, and the district boundaries. He stated the Work Session should not be used as a negotiation session.

Councilmember Osman stated he was not opposed to having a Work Session, but if the new application met CID Policy, a Work Session would be unnecessary and the application could be discussed in an open forum at a Governing Body meeting.

Mayor Dunn suggested the reasons for Nay votes be provided to the applicant.

ADJOURN

There being no further business, the meeting was adjourned 8:51 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk