

Minutes

DVD No. 238

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, July 19, 2010. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Julie Cain, Andrew Osman, Gary Bussing, Lou Rasmussen, James Azeltine, Debra Filla, and Mike Gill [via teleconference]

Mayor/Councilmembers absent: None.

Staff present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, PW Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director	Chris Claxton, P&R Director
Mark Klein, Assistant Planning Director	Deb Harper, City Clerk
Mark Andrasik, Info. Systems Director	Pam Gregory, Assistant City Clerk
Kathy Rogers, Finance Director	

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Addition of Item No. 6 – Special Business
- Addition of Item No. 7Q - Consent Agenda
- Word Revision of Item No. 12C – Planning Commission

A motion to approve the amended agenda was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

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 – None.

5. PRESENTATIONS/RECOGNITIONS – None.

***6. SPECIAL BUSINESS**

- A. Resolution No. 3426 authorizing the issuance and delivery of \$5,005,000 principal amount of General Obligation Temporary Notes of the City of Leawood, Kansas, for the purpose of financing a portion of the costs of certain public improvements in the City; and prescribing the terms and details of said notes and certain covenants and agreements with respect thereto**

David Arteberry, George K. Baum & Company, City Financial Advisor, stated the principal amount of the bond issue was initially anticipated to be \$19.9 Million. Because of decreased project costs and large pre-payments of the special assessments, the total bond issue was \$16,980,000. Initially, they had projected a 5.0% interest rate on the bonds; however, the overall interest cost was 2.873%. This is a blended average rate on a 16-year issue. The individual maturities for the bonds ranged from .40% in 2011 to 3.51% in 2026. The present value savings associated with the City's recent refunding is 5.72% of the issue, which is a very good present value savings. The final cost for restructuring the debt was \$884,000.00, half what they had initially anticipated. The taxable temporary note interest rate yield to investors was 1.0%. In comparison to last year, the yield to investors was 1.15%. Overall, this was a very good offering and they were very pleased with the results.

Councilmember Bussing confirmed with Mr. Arteberry that approximately 30% of the bond issues were currently unsubscribed.

A motion to approve the resolution was made by Councilmember Azeltine; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- B. Ordinance No. 2451 authorizing and providing for the issuance and delivery of \$5,005,000 principal amount of General Obligation Temporary Notes of the City of Leawood, Kansas, to provide funds to finance the cost of certain public improvement projects within the City; and making certain covenants with respect thereto [Roll Call Vote]**

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous roll call vote of 7-0. Nay: None. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- C. Ordinance No. 2452 authorizing the issuance and delivery of \$16,980,000 principal amount of General Obligation Improvement and Refunding Bonds, Series 2010-A of the City of Leawood, Kansas; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the bonds as they become due; and making certain covenants with respect thereto [Roll Call Vote]**

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous roll call vote of 7-0. Nay: None. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- D. Resolution No. 3427 prescribing the form and details of and authorizing the delivery of \$16,980,000 principal amount of General Obligation Improvement and Refunding Bonds, Series 2010-A, of the City of Leawood, Kansas, authorized by Ordinance No. 2452 of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith**

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

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. 2010-26
- B. Accept minutes of the June 21, 2010 Governing Body Work Session
- C. Accept minutes of the June 8, 2010 Parks and Recreation Advisory Board
- D. Accept minutes of the May 11, 2010 Historic Commission meeting
- E. Accept minutes of the April 22, 2010 Leawood Foundation meeting
- F. Accept minutes of the April 28, 2010 Stormwater Management Committee meeting
- G. Approve bid in the amount of \$42,869.00 for the purchase of a Crackfiller [Bid No. 2010-5] from Paving Maintenance Supply, [trade-in allowance \$6,000.00; total price \$36,869.00]
- H. Approve bid in the amount of \$178,280.00 for the purchase of a Sweeper [Bid No. 2010-6] from American Equipment, [trade-in allowance \$37,500.00; total price \$140,780.00]
- I. Approve bid in the amount of \$23,825.54 for the purchase of a Tractor [Bid No. 2010-7] from Heritage Tractor, Inc., [trade-in allowance; \$4,650.00; total price \$19,175.54]
- J. Approve \$28,000 purchase from Challenger Teamwear, for soccer league uniforms for the Parks & Recreation Department
- K. **Resolution No. 3428** approving a Final Site Plan for a Tenant Finish for One Nineteen – Charming Charlie, located at the southeast corner of 119th Street and Roe Avenue. (Planning Commission Case # 59-10) [from the June 22, 2010 Planning Commission meeting]
- L. **Resolution No. 3429** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$47,995.00 between the City and Infrastructure Management Services [IMS] for the inspection of all public streets located with the City

- M. Declaration of Surplus Property [vehicles]
- N. Fire Department Monthly Report [June]
- O. Police Department Monthly Report [June]
- P. Municipal Court Monthly Report [June]
- *Q. **Approve Mayoral Appointment of Murali Ramaswami to the Sustainability Advisory Board**

Mayor Dunn requested to pull Item No. 7K and Councilmember Osman pulled Item No. 7J for discussion.

A motion to approve the remaining Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- 7J. Approve \$28,000 purchase from Challenger Teamwear, for soccer league uniforms for the Parks & Recreation Department

Councilmember Osman asked if this process was done by an open bid. Parks and Recreation Director Chris Claxton stated when a bid is awarded, the Council will receive documentation showing all bid amounts; however, this information wasn't included because this was the second bid-year from Challenger Teamwear.

Mayor Dunn noted the cost of the uniforms is recuperated through user fees.

A motion to approve Consent Agenda Item No. 7J was made by Councilmember Osman; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- 7K. **Resolution No. 3428** approving a Final Site Plan for a Tenant Finish for One Nineteen – Charming Charlie, located at the southeast corner of 119th Street and Roe Avenue. (Planning Commission Case # 59-10) [*from the June 22, 2010 Planning Commission meeting*]

Tony Rivera, 5999 Savoy Drive, Houston, Texas, stated he was the project designer for Charming Charlie. There were two additional signs they wanted to utilize that were not part of the Planning Commission submittal.

Assistant Planning Director Mark Klein noted he was unaware of this.

Mr. Rivera wanted to use the existing blade sign from the previous "West Elm" occupant; however, they would replace the panels with new facing. Mayor Dunn noted the Planning Commission had approved a wall sign.

Mr. Klein stated the One Nineteen Development requires that blade signs be located on the front promenade. The development also has wall signs; however, these aren't visible from the walkway.

Mr. Rivera wanted the blade sign placed vertically because of the branding on the logo and indicated it would be placed on the front upper corner.

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

Mr. Rivera clarified Charming Charlie's is a women's retail accessory store.

Mayor Dunn stated they would need six affirmative votes to override the Planning Commission.

The motion carried following a vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

Mr. Rivera also wanted to replicate the sign over the entrance doors with the Charming Charlie logo.

Mr. Klein thought staff would not be supportive of this sign. There was a lot of controversy with the "West Elm" application because they wanted several signs. Staff did not support the sign over the entrance; however, it was eventually approved.

Mayor Dunn felt they should wait to vote on this particular sign and remand it to the Planning Commission for review and recommendation.

Mr. Rivera stated if they could not get the sign over the entrance doors approved this evening, they would forgo it. He confirmed that the present wood panels will be removed and the gray panel would remain.

Councilmember Bussing asked if they could remand this to the Planning Commission so if the applicant decided to pursue it, they could.

City Attorney Patty Bennett clarified they would need to remand it in its entirety, not for just the one sign. The applicant would then be required to present a new application.

8. MAYOR'S REPORT

- A. Mayor Dunn congratulated the Leawood Stage Company and Stage Company Chairman Paul Anderson on a terrific production of "Guys & Dolls," presented at the Ironwoods Park Amphitheatre. The cast, orchestra, production and technical staff all did a fabulous job. The production has been enjoyed, thus far, by hundreds in the audience. There are three more shows to come: July 22nd, 23rd and 24th, at 8:00 P.M. Councilmember James Azeltine's daughter, Andrea, will be in the 6th Grade at the Overland Trail Middle School and participated as a cast member. Mayor Dunn thanked Parks and Recreation Director Chris Claxton and the Parks and Recreation, Police and Public Works Departments for all of their work.

- B. Mayor Dunn congratulated the Leawood Lightning Dive Team for winning the MOKAN League Championship. The team of 29 divers took first place. This was their first win since they joined the league over 10 years ago.
- C. Several City staff members participated in a Police/Fire Department community-wide blood drive competition, won by the Fire Department. Mayor Dunn noted appreciation to all who participated.
- D. Mayor Dunn congratulated Finance Director Kathy Rogers for completing her presidency in the Leawood Rotary. Ms. Rogers recently passed the gavel to Councilmember Gary Bussing as the new Leawood Rotary President. Mayor Dunn thanked them for their wonderful service with a terrific organization.

9. **COUNCILMEMBERS' REPORT** – None.

10. **STAFF REPORT** – None.

COMMITTEE RECOMMENDATIONS

11. **STORMWATER MANAGEMENT COMMITTEE**

[From the June 30, 2010 Stormwater Management meeting]

- A. **Resolution No. 3430** waiving the bidding process, in accordance with Charter Ordinance No. 32, pertaining to repairs of the storm sewer between 90th and 91 Streets, [Accelerated Stormwater Program] [Project # 76022]

Councilmember Rawlings reported that Public Works Director Joe Johnson had brought this to the Stormwater Committee to review waiving the bidding process for these streets. The Public Works Department has previously worked with Wiedenmann & Godfrey; a company that has been successful in repairing pipe with a process called “Pipe Bursting,” and wanted to utilize their services for these repairs. This should be considerably less expensive than the traditional repair method.

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- B. **Resolution No. 3431** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$46,800,00 between the City and Wiedenmann & Godfrey, for the repairs of the storm sewer between 90th & 91 Street, [Accelerated Stormwater Program] [Project # 76022]

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

12. PLANNING COMMISSION

[From the June 22, 2010 Planning Commission meeting]

- A. **Resolution No. 3432** approving a Sign Plan for Parkway Plaza – Emily Hart Bridal, located at 4800 W. 135th Street Suite 240. (Planning Commission Case # 50-10)

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion carried following a unanimous vote of 7-0. Councilmember Filla [via teleconference]. (Councilmember Gill absent).

- B. **Ordinance No. 2453** approving a Rezoning from RP-3 [Planned Cluster Attached Residential District] and RP-4 [Planned Apartment Residential District] to RP-3 and RP-4 [Reconfiguration of Zoning Lines] and a Preliminary Site Plan, Preliminary Plat, Final Site Plan, and Final Plat for Siena Phase II; located on the southeast corner of 137th Street and Mission Road [Oddo Development; Siena Subdivision] (Planning Commission Case # 57-10) [Roll Call Vote]

Jim Bowers, Esq., White Goss Bowers, representing Oddo Development, Inc., asked the Governing Body to accept the recommendations made by the City's professional staff and the Planning Commission with respect to the five applications for Phase II of Siena. Acceptance is subject to 41 stipulations, with exception to Stipulation No. 29, which the Planning Commission has revised. Mr. Bowers stated they have reviewed and accepted all stipulations.

Councilmember Gill joined the meeting via teleconference.

The Planning Commission held a public hearing on June 22, 2010, at which time they made a full presentation. There were persons in the audience in opposition that made their comments known. The Planning Commission recommended unanimous approval of all five applications.

Councilmember Rasmussen wanted clarification of Stipulation No. 35. Mr. Bowers stated the appeal period would begin 30 days from the approval date. The applicant then has 30 days from that date to file the plat for the project, for a total of 60 days. Recent law passed by the State Legislature provides for development rights vested on or after July 1, 2009, such rights will continue for 10 years. Mr. Rasmussen confirmed this supersedes their past limitations of 5 years.

Bill Prelogar, Architect with Nearing, Staats, Prelogar and Jones, gave a presentation of the Siena Project.

Safe rooms are located in the basements of every twin villa. In every apartment building, a safe room has been designed to fully conform to FEMA requirements and is easily accessible for all residents.

There will be an additional third access point off of Mission Road. This will be an emergency access, until Mission Road is improved. If this becomes a median divided road, the access will become right in/right out only.

Aluminum fencing with the appearance of wrought iron will surround all of the property. Stone monuments will be located at each entry point and stone piers at every corner, not to exceed 150' feet. The three entrances will have electronically controlled access gates. The gates will be equipped with a "yelping" device that will allow emergency vehicles to sound their sirens to automatically open the gates.

The plan has been amended to include a maximum of 270 apartment units and 20 twin villas. Twelve of the twin villas will be located along the east property line to provide a like-kind buffer separating the existing Tuscan neighborhood. They are spaced approximately 45' feet apart with an extensive landscaped berm.

The twin villas and clubhouse will be roofed with slate or concrete tile. The apartment buildings will be roofed with a timberline-style laminated shingle and is compatible in style and color to the twin villas and clubhouse.

All of the setbacks are in compliance with the Leawood Development Ordinance [LDO] requirements with a minimum of 30' feet. The property is being zoned into two categories; RP-3 [Planned Cluster Attached Residential District] along the south and west portion, and RP-4 [Planned Apartment Residential District] for the balance of the tract.

Councilmember Filla physically joined the meeting at 8:20 P.M.

The twin villas and clubhouse will have a minimum of 40% stone veneer. The front of the apartment buildings will consist of 40% stone veneer with some added to the balance of the buildings, totaling a minimum of 25% stone veneer. The remaining exterior of the twin villas, clubhouse, and apartment buildings will be stucco.

Each twin villa will have two garage spaces. There will be slightly more than one garage for every apartment, located in the apartment buildings. In addition, there will be off-street parking distributed throughout the site so there is at least one additional parking space for each apartment. This fully meets the LDO requirements. There are 170 "reserve" parking spaces; the driveways for the twin villas can house two additional vehicles, along with locations in front of the apartment garages for visitor parking. These additions were done to prevent the need for on-street parking so the streets can always remain open for emergency access.

All of the streets are lined with sidewalks. This is in addition to the sidewalk/trail system that circulates around the site amenities.

Councilmember Bussing confirmed with Mr. Prelogar that they have no objection to having a full access intersection placed at Mission Road if there is no median.

Councilmember Bussing confirmed with Mr. Klein that the applicant was the sole property owner and he would be responsible for the maintenance and landscaping.

Councilmember Cain confirmed with Mr. Prelogar that the safe rooms were located in the front portion of the apartments and will resemble garages. They are constructed with structurally safe materials. As part of the FEMA requirements, there will be signage to identify these as safe rooms.

Mr. Prelogar clarified that the residents are not precluded from parking on the street; however, they had agreed to post “No Parking” signs on one side of the street.

Councilmember Rasmussen was concerned because there were no stipulations regarding the responsibility of ongoing maintenance or the possibility of selling part of the development. Historically, a developer has placed this on a third party and the City has had a difficult time enforcing the stipulations. Mr. Klein clarified this is a single-entity development and if they chose to sell part of the property, it would need to be platted. At that point, there would be multiple owners and a stipulation would be added to require a developers or homes association. Mr. Rasmussen was still concerned that the existing owner wouldn’t be obligated to maintain the development. Mr. Klein stated if there were any codes violations or the development fell into disrepair, the owner would be notified to correct it.

Mr. Bowers concurred with Mr. Klein. In addition, he noted that Oddo Development has a long history of being an equity owner, always owning and maintaining their property.

Mayor Dunn recommended adding the following language to Stipulation No. 24 from Page 7 of the Staff Report:

“The clubhouse and duplexes are proposed to have concrete tile roofs, and the apartment buildings are proposed to have laminated composite roofs in the color of “weathered wood.”

Mr. Prelogar confirmed they had no objection to modifying this stipulation.

Mayor Dunn recommended that they include an additional stipulation regarding fencing utilizing the language from Page 7 of the Staff Report:

“A fence is proposed to circumscribe the entire development. The fence will be constructed of a 5’ foot, black aluminum, interspersed with columns faced with either cast stone or natural stone veneer. The tops of the pickets of the fence will be tapered to have the appearance of finials.”

Mr. Prelogar confirmed they had no objection to this additional stipulation.

Mr. Klein noted there was a typo on Stipulation No. 4 and should read: “Currently the fee is calculated as \$201,528.00,” not \$412,386.00.

Mr. Prelogar reiterated that when the Mission Road improvements are designed, they would have no objection to making the Mission Road intersection full access.

Mr. Klein confirmed that stipulations regarding this were in the Public Works Memorandum under Stipulation Nos. 1 and 5 and were part of the Planning Commission approval.

Mr. Johnson clarified that discussion of the future Mission Road improvements included a four-lane undivided roadway and a median at this intersection. Mayor Dunn confirmed that the Public Works Memorandum, dated June 15, 2010, would not preclude the City from making this a full access intersection, if deemed necessary.

Councilmember Rasmussen confirmed with Mr. Johnson that the right-of-way on 137th Street south would be wide enough for a turn lane with the full development of Mission Road.

Mr. Prelogar stated the project would consist of three phases. Phase I will include the western portion of the property with the clubhouse, leasing center, some of the twin villas, and apartments.

Councilmember Rawlings confirmed with Mr. Bowers that, if approved, they could begin construction when the market demand and financing improved.

Mayor Dunn referred to Stipulation No. 29 and confirmed with Mr. Prelogar that the berms for the perimeter would be installed within six months of the issuance of a construction permit, which would be with the construction of Phase I. The landscaping and fencing will be installed prior to the issuance of a Certificate of Occupancy.

Mr. Lambers recommended that Stipulation No. 29 be modified to read; “prior to the issuance of *any* Certificate of Occupancy.” This clarifies it cannot include a temporary Certificate of Occupancy.

Mr. Bowers confirmed they had no objection to this modification.

A motion to pass the ordinance with the recommended additional stipulation regarding perimeter fencing and modifications to Stipulations Nos. 24 and 29, and the typo correction to Stipulation No. 4 was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Councilmember Bussing confirmed with Ms. Bennett that this met the terms of the agreement.

The motion carried following a unanimous roll call vote of 8-0. Nay: None. Councilmember Gill [via teleconference].

Mayor Dunn noted this was approved unanimously as an override to the Planning Commission.

Councilmember Gill left the meeting via teleconference.

- *C. Ordinance No. 2454 amending § 16-2-10.3 of the Leawood Development Ordinance [LDO] entitled ‘Materials and Colors’ pertaining to roofing in RP-4 [Planned Apartment Residential Districts] and in Single Family Residential Districts [PC Case 49-10] [Roll Call Vote]**

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Gill absent).

City Clerk Deb Harper referred to Item No. 7K and confirmed with Mayor Dunn that the resolution was approved along with the addition of a blade sign, which was an override of the Planning Commission.

13. OLD BUSINESS – None.

14. OTHER BUSINESS – None.

15. NEW BUSINESS – None.

ADJOURN

There being no further business, the meeting was adjourned at 9:00 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk