

Minutes

DVD No. 223

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, October 5, 2009. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, James Azeltine, Gary Bussing, Lou Rasmussen, Debra Filla, and Julie Cain.

Mayor/Councilmembers absent: Councilmembers Peppes and Gill

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Lovina Freeman, HR Director
Jack Reece, Web Master
Deb Harper, City Clerk

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Mark Klein, Assistant Planning Director
Chris Claxton, P&R Director
Richard Coleman, Community Dev. Dir.
Pam Gregory, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- *Item Nos. 7E and 7O have been pulled
- *Addition of Item No. 9B – Report from Councilmember Filla

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and 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 Double Ten Day, October 10, 2000

Mayor Dunn read the proclamation into the record.

Fire Prevention Week, October 4-10, 2009

Mayor Dunn read and presented the proclamation to Chief Ben Florance of the Leawood Fire Department.

5. PRESENTATIONS/RECOGNITION – None.

6. SPECIAL BUSINESS – None.

7. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 2009-37, and 2009-38
- B. Accept Minutes of the September 21, 2009 Governing Body meeting
- C. Accept Minutes of the August 18, 2009 Public Works Committee meeting
- D. Accept Mayoral Appointment of Jennifer Hassler to Green Initiative Task Force Committee
- *E. Approve Change Order No. 4 in the reduced amount of \$60,000 to O'Donnell & Sons, pertaining to the 2009 Residential Mill & Overlay Project [Project # 70006] - THIS ITEM HAS BEEN PULLED**
- F. Approve 3rd and Final Payment in the amount of \$3,400 to Delta Innovative for the Parks and Recreation material storage building [Project # 74034]
- G. Approve renewal of employee health insurance benefits with Blue Cross Blue Shield
- H. Approve renewal of employee dental insurance benefits with Delta Dental Insurance
- I. Approve amendments to the Leawood Flexible Benefit Plan to increase the healthcare FSA amount
- J. Approve amendments to the Leawood Flexible Benefit Plan regarding the HIPAA Privacy Plan; USERRA Amendment; and the definition of dependent
- K. Approve expenditure for an amount not to exceed \$20,000 pertaining to the maintenance of the golf cart fleet at Ironhorse Golf Club, located at 15400 Mission Road
- L. **Resolution No. 3271** designating holidays for the year 2010, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- M. **Resolution No. 3272** authorizing a grant in the amount of \$5,000 from the Med James, Inc., Heritage Rewards Program to the Leawood Fire Department
- N. **Resolution No. 3273** approving and authorizing the Mayor to execute a Grant Agreement in the amount of \$5,000 from the Johnson County Heritage Trust Fund to conduct a survey in the Historic District [HD] of the City of Leawood

- *O. **Resolution approving and authorizing the Mayor to execute a Service Agreement in the amount of \$39,100, between the City and Becerra Masonry, pertaining to the reconstruction of stone islands on Lee Boulevard and on Meadow Lane, north of 81st –Street – *THIS ITEM HAS BEEN PULLED***
- P. **Resolution No. 3274** approving and authorizing the Mayor to execute a Converged Network Solutions Agreement between the City of Leawood and Sprint Solutions, Inc., pertaining to the in-building cell phone coverage
- Q. **Resolution No. 3275** approving a Sign Plan for Leawood Executive Centre – Monument Sign, located on the southeast corner of College Boulevard and Roe Avenue (PC Case 52-09) [*From the September 22, 2009 Planning Commission meeting*]
- R. Declaration of Surplus Property; various Public Works vehicle equipment

Mayor Dunn referred to Item No. 7M and congratulated Chief Ben Florance and the Leawood Fire Department for receiving a \$5,000 grant from the Med James, Inc., Heritage Rewards Program.

Mayor Dunn referred to Item No. 7N and congratulated Historic Commission Chair Janine Joslin and the Historic Commission for receiving a \$5,000 grant from the Johnson County Heritage Trust Fund to conduct a survey in the Historic District [HD] of the City of Leawood to have a possible second HD designation.

A motion to approve the Consent Agenda was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

8. MAYOR'S REPORT

- A. Attended a ribbon cutting and grand opening ceremony for Leawood's first hotel, The Aloft, located in Park Place. The ceremony was assisted by the Leawood Chamber of Commerce. Also in attendance were Councilmembers Filla, Rasmussen, Rawlings, Cain and Azeltine, along with hundreds of others. Mayor Dunn wished them much success.
- B. Attended a retirement celebration with Councilmember Azeltine for Leawood Police Officer Rick Clodfelters. Mayor Dunn wished him well in his retirement.
- C. Attended a meeting with City Administrator Scott Lambers, sponsored by the Kansas City Leadership Forum, to hear from Canon Andrew White, Director of the Foundation for Relief and Reconciliation in the Middle East [FRRME].
- D. Mayor Dunn congratulated Councilmember Gary Bussing, who recently served as Chairman of the very successful Leawood Rotary's Bids for Kids Auction, and Rotary President Kathy Rogers.
- E. The 2009 International City/County Management Association [ICMA] conference was recently held in Montreal. Several awards were given, including one in recognition of City Administrator Scott Lambers for 25 years of public service and professional management at the local level.

The City of Leawood was also recognized with a Certificate of Achievement in recognition of its use of performance measurements in local government management, including training, verification and public reporting. This was the first year the City participated in the ICMA program with the Public Works and Community Development Departments. It is anticipated that more departments will participate in the future.

9. COUNCILMEMBERS' REPORT

A. Councilmember Lou Rasmussen's recommendations from the Amphitheatre Committee

Councilmember Rasmussen reported that the City had approved \$500,000 for the first phase of the amphitheatre construction. He was concerned about the completion of this project by the next theatre season and asked the Council to waive the selection process and hire Continental Design Engineering [CDE] as the project manager.

Councilmember Rasmussen made a motion to authorize staff to engage CDE as project manager for Phase I of the amphitheatre project for design of parking, infrastructure and stormwater crossing, and to select architects for the design of restrooms, concessions and subsequent bids for construction, not to exceed the Capital Improvement Program [CIP] amount of \$500,000; seconded by Councilmember Filla.

Mayor Dunn noted the restrooms and parking were important aspects of the project. When they discussed this at the last work session, there were several things they wanted to accomplish with the \$500,000 and had to prioritize them.

Councilmember Bussing understood the need for expediency; however, was concerned about not following the standard bidding process.

Councilmember Rasmussen felt the best way to stay within their budget was to have a reliable engineering firm that could handle multiple aspects of the project.

Public Works Director Joe Johnson stated there wasn't a written policy that the City is required to follow. The Stormwater and Public Works Committee's generally have consulting firms submit their qualifications, and then they go through a selection process.

Mayor Dunn noted when they have waived the selection process in the past; it was typically from a recommendation from Mr. Johnson for cost savings.

Mr. Johnson clarified they wanted to include the construction plans from CDE for the parking lot and storm sewer improvements with the street reconstruction improvements. There will be a bid process for the construction of the public improvements; however, the standard process for selecting a design consultant would be waived. There is generally a difference of 1%-2% in fees for design between the different firms.

Councilmember Rasmussen confirmed with Mr. Johnson that when they seek proposals from engineers, it is not based upon price, but is based upon their qualifications. Mr. Johnson confirmed that CDE has the technical expertise to handle this project.

Councilmember Bussing confirmed with City Attorney Patty Bennett that there is no statutory requirement to bid services.

Councilmember Rawlings confirmed with Mr. Johnson that CDE completed the excavation of the lake and did minor grading improvements when developing Ironwoods Park. The construction cost was approximately \$500,000 with fees running 10%-12% of this. He thought the design and survey work from CDE should cost approximately \$55,000 with an additional fee from the architect. If CDE oversees the restroom and concession stand facilities, there will be additional fees negotiated.

Mr. Johnson noted if the Council intended on following the bid process; it would take approximately two months to have the plans designed and approved. If they wanted to start construction in early 2010, they would need to move quickly to have the project bid by April. He reiterated that his recommendation was to hire CDE and waive the bid process.

Councilmember Bussing stated that no one questioned the quality of CDE's work; however, they also used them for a stormwater project and he was concerned this may prevent other engineering firms from bidding future projects, assuming they would be given to CDE. Mr. Johnson felt with the current economy, everyone that could, would submit a bid.

Mayor Dunn was concerned because of the many different services required to complete the project and asked if any services could be done by the City's Engineering Department. Mr. Johnson indicated overseeing the inspections would be handled by the City. City staff may be capable of overseeing the restroom and concession portion of the project and they would determine this once construction begins.

The motion to hire CDE as the project designer for the items listed in the motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

A motion to authorize the Mayor, Staff and Steering Committee to engage in the grant application process that may or may not require matching funds for the amphitheatre project was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Councilmember Azeltine confirmed with Mr. Lambers that the City doesn't currently have a written policy regarding applications for grants. Mr. Lambers stated if there is a match required from the City, it would come before the City Council for approval to apply and to show the location of the funds to be matched.

Councilmember Azeltine confirmed that they could develop a written policy that would identify under what circumstances they could apply for grants.

Mayor Dunn noted that the Historic Commission, Arts Council, Stage Company, Leewood Foundation, Police and Fire Departments, and many others actively seek grants.

Councilmember Bussing confirmed with Mr. Lambers that Chris Claxton or Joe Johnson would be requesting the grant for this project. Councilmember Rasmussen had suggested that there may be FEMA money available for a basement storm shelter, which would be Joe's jurisdiction. Mr. Bussing was concerned that staff could spend too much time applying for grants. Mr. Lambers indicated that the City currently receives no more than 10–15 grant applications per year. If this were to develop into a needed position, it would be brought before Council for approval since it is currently not in the City's budget.

Mayor Dunn thought other than the FEMA grant, the majority of grants would be better achieved by the volunteers.

Mr. Lambers clarified for Councilmember Bussing that utilization of the existing \$500,000 was intended for the storm box, parking lot and restrooms, if funds are available. This is construed as Phase I. Phase III has currently become Phase II, which is the construction of the amphitheatre stage area. Phase III is not on the current horizon; however, it includes the ticket area, more concessions, etc.

Councilmember Bussing confirmed with Mr. Lambers that the City Council endorsed Phase II of the project and encouraged the Advisory Committee to move forward with fundraising.

Mayor Dunn noted there was considerable discussion regarding timing and some people felt this was not the most opportune time to seek funding.

The motion to authorize the Mayor, Staff, and Steering Committee to engage in the grant application process carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

***B. Report from Councilmember Debra Filla**

A motion was made by Councilmember Filla to recommend that the Planning Commission schedule a work session to discuss green initiatives; seconded by Councilmember Cain.

Councilmember Cain indicated she was approached by some of the Planning Commissioners regarding their interest for more interaction and thought it would be a welcome work session.

Mayor Dunn applauded the work of the Green Initiative Task Force and felt there would be value in a work session with the Planning Commission; however, she was hesitant of getting into mandates in the development community, versus preference for education and awareness.

Councilmember Azeltine noted he was in favor of their intentions; however, as a former member of the Planning Commission, they are a statutorily established entity. If the Planning Commission wants to schedule a work session on this, he thought it should originate from them. He concurred with Mayor Dunn that they should be careful in issuing directives.

Mr. Lambers felt given the broad nature of this and where it could lead, it was important for Council to express their interest in education and to possibly provide incentives; however, not mandate compliance with green initiatives.

Mayor Dunn noted there have been incentives, such as expediting the planning process. She asked if he was also considering the F.A.R. as an incentive. Mr. Lambers didn't want to rule anything out and thought if there was a way to promote a sustainable endeavor, additional square footage could be a trade off. The Council should clearly state that the intent is to not anticipate a mandate from the City for any initiatives requested.

Councilmember Filla wanted to include that the green initiatives could be as simple as rain gardens, water conservation, or having a checklist asking whether there are bike racks included in the proposal from the developer. Ms. Filla understood that this would be voluntary with incentives and guidelines and they would not be re-writing the Leawood Development Ordinance [LDO] requiring green building materials as a mandate.

Councilmember Bussing thought the issues that Councilmember Filla was discussing should go through the planning staff to develop criteria for consideration, and then to the Planning Commission for review.

Councilmember Filla wanted this to be a cooperative effort and noted that the work session was intended for discussion and education and come to consensus for direction.

Councilmember Azeltine thought the Council should have a work session on this for an update from the Green Initiative Task Force. From this, the Council could review the information and refine it to know exactly what they want to refer to the Planning Commission.

Mayor Dunn reminded the Council that there were no open dates for work sessions until 2010.

Councilmember Filla thought it would be a compliment to suggest that the Green Committee has the interest and experience for their thoughts and the planning staff would be included as well.

Councilmember Azeltine concurred; however, he thought it was important for them to be clear and define the scope of what is to be considered.

Councilmember Cain stated the motion she seconded wasn't asking to consider anything specific and was intended to be informational and enlightening. It was the Green Committee's desire to have interaction with the Planning Commission and City Council.

Mayor Dunn stated this wasn't her understanding in the motion and thought they could ask the planning staff to draft a list of the items mentioned by Councilmember Filla and return with a report for Council before they schedule a work session. They can review it and direct additions or changes in the process of approving commercial developments.

Councilmember Filla confirmed with Mayor Dunn that the Planning Commission can request to hold a work session on green initiatives.

Councilmember Filla changed her motion to encourage the Planning Commission to conduct a work session with input from the Green Initiative Task Force along with staff submitting a list of items for consideration; seconded by Councilmember Cain. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the September 22, 2009 Planning Commission meeting]

- A. **Resolution No. 3276** approving a Final Site Plan for a Tenant Finish for Park Place – Bella B’s Boutique, located at 11555 Ash Street (PC Case 53-09)

Jeffrey Alpert, Park Place Village, stated this is a women’s boutique that is relocating from Overland Park and was previously approved by the Planning Commission and City Council. Some changes have been made; however, and they were requesting re-approval.

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

Mayor Dunn noted there was discussion of the color on the storefront and confirmed with Mr. Alpert that the color on the material board was the proposed color. There was also discussion of the hardy board with a wood grain look. Mr. Alpert stated they wanted a durable smooth surface, not a wood look.

The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- B. **Resolution No. 3277** approving a Final Site Plan for a Tenant Finish for Park Place – Bella Bambino Boutique, located at 11553 Ash Street (PC Case 58-09)

Mr. Alpert indicated this was a sister company to the Bella B Boutique and will market children’s clothing. The architecture is identical with a different color to create distinction between them.

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

Mr. Alpert clarified for Councilmember Cain that Bella B’s Boutique was a locally owned, single proprietor business.

The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- C. **Resolution No. 3278** approving a Final Site Plan for a Tenant Finish for Park Place – Hathaway Shoe, located at 11531 Ash Street (PC Case 56-09)

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- D. **Resolution No. 3279** approving a Final Site Plan for a Tenant Finish for Park Place – Daniel Couture, located at 11527 Ash Street (PC Case 54-09)

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- E. **Resolution No. 3280** approving a Final Site Plan for a Tenant Finish for Park Place – Cupcake A La Mode, located at 11529 Ash Street (PC Case 57-09)

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- F. **Resolution No. 3281** approving a Final Site Plan for a Tenant Finish for Park Place – Carmen Café, located at 11526 Ash Street (PC Case 55-09)

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

Mayor Dunn noted that an electronic version of Stipulation No. 3 was previously sent to Council that matched the motion made at the Planning Commission meeting.

Mr. Alpert displayed a drawing of the outdoor dining area located directly outside the storefront and indicated it was approved for five tables. There is a 10' foot clear pedestrian walk along the façade of the building with the café extending to the curb.

Mayor Dunn confirmed with staff that the outdoor furniture would need further administrative approval and is covered under Stipulation No. 3.

The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

Mayor Dunn congratulated Mr. Alpert on their success in the addition of these businesses to the Park Place Development.

12. OLD BUSINESS – None.

13. OTHER BUSINESS – None.

14. NEW BUSINESS

- A. **Ordinance No. 2416C** amending Chapter 4, Article 2 of the Code of the City of Leawood, 2000, by adding a new Section 4-920, entitled International Building Code, Basement Required [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 6-0. Nay: None. (Councilmembers Peppes and Gill absent).

- B. **Ordinance No. 2417** granting to Sprint Communications Company, L.P., a Contract Franchise to construct, operate, and maintain a telecommunications system in the City of Leawood, Kansas [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Bussing. The motion carried following a unanimous roll call vote of 6-0. Nay: None. (Councilmembers Peppes and Gill absent).

- C. **Resolution No. 3282** approving and authorizing the Mayor to enter into a Public Land Use Agreement between the City of Leawood, Kansas and Sprint Communications Company, L.P., pertaining to the installation and maintenance of communications facilities within existing conduit

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

- D. Schedule a Governing Body Work Session on Monday, October 26, 2009, at 6:30 P.M., to discuss TDD for One Nineteen Development Project [119th & Roe Avenue]

A motion to approve the work session was made by Councilmember Rawlings; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 6-0. (Councilmembers Peppes and Gill absent).

There being no further business, the meeting was adjourned at 8:55 P.M.

ADJOURN

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk