

Minutes

DVD No. 356

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, October 5, 2015. Mayor Peggy Dunn presided.

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

**Councilmembers Absent:** Carrie Rezac

**Staff Present:**

Scott Lambers, City Administrator	Patty Bennett, City Attorney
Dawn Long, Finance Director	Karl Weinfurter, Info Service Specialist II
Richard Coleman, Planning Director	Tony Nichols, Aquatic Director
Brian Anderson, Parks Superintendent	Chief Dave Williams, Fire Department
Nic Sanders, Human Resources Director	Chris Claxton, Parks & Recreation Director
Chief Troy Rettig, Police Department	Joe Johnson, Public Works Director
Debra Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

**Others Present:** Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. **PLEDGE OF ALLEGIANCE** – Led by Boy Scouts from Troop 10.

2. **APPROVAL OF AGENDA**

Mayor Dunn pointed out the revised cover memorandum labeled Agenda Item 15.A. – 15.G., which had been previously provided to the Council electronically.

**A motion to approve the agenda was made by Councilmember Sipple; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 7-0.**

3. **CITIZEN COMMENTS**

Ms. Katy Jennings, 10303 Howe Lane, Leawood, stood on behalf of Dorset Manor Home Owners Association [HOA] and read a petition on behalf of those HOA members who had signed and other concerned residents to request the City immediately enforce code violations at 3709 W. 103<sup>rd</sup> Street, owned by Kickaroo LLC, Johnson County Property Tax Number HF251310-1009, consisting of approximately 4.76 acres. Ms. Jennings showed photographs of the property alleging deterioration, significant damage, tree decay, noxious weeds, rubbish and rodent infestation, and mentioned a recent collapse of a tree that landed on her driveway where children were playing moments prior. This resulted in a significant cost expense to her to have the tree removed from her driveway. She stated numerous City-issued courtesy notices had not resolved the health and safety concerns, and the City had a right and obligation to enforce codes.

Mayor Dunn thanked Ms. Jennings and instructed her to present the petition to City Clerk Debra Harper. Mayor Dunn stated the City Administrator was aware of the case, which was currently under review. Mr. Lambers stated the City continues to work with the estate, but responses have been lagging. The property is secure and can only be accessed through the estate, and citations are issued to the estate.

Councilmember Rasmussen asked Mr. Lambers what other remedies might be available to the HOA if administrative routes have not resolved, and he recalled the property was on a list of vacant residences that had been requested by Council and prepared by staff one year ago. Mr. Lambers replied he could provide specific actions he has taken this regard no later than the November 1, 2015, Governing Body meeting, if not earlier. The estate had received various courtesy notices over the past two years and those issues are addressed in a timely manner. The property owner is deceased and whether the estate is in dispute was unknown. The estate wants to sell and sub-divide the property.

Councilmember Rawlings noted the property was located on 103<sup>rd</sup>, east of Mission, between Brookwood and Mission, and has a chain-link fence.

#### **4. PROCLAMATIONS**

**Double Ten Day, October 10, 2015  
Fire Prevention Week, October 4-10, 2015**

Mayor Dunn read the I-Lan Double Ten Day proclamation into the record and stated the proclamation would be sent to General Director Jack Yang of the Taipei Economic & Cultural Office now located in Denver. She reflected upon Leawood's wonderful Sister City relationships with I-Lan Taiwan and Gezer Region Israel, and stated that often local students are unaware of these relationships.

Mayor Dunn asked Fire Chief Dave Williams to stand and she read the Fire Prevention Week proclamation into the record. Mayor Dunn stated she had seen smoke alarm banners displayed at all the fire stations. Chief Williams thanked the Mayor and stated he was scheduled to visit schools this week and Fire Department staff are happy to install smoke alarms.

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

#### **6. SPECIAL BUSINESS**

**Resolution No. 4502**, ratifying revision to City Fee Schedule providing waiver of late fees for a one-time event, in accordance with § 1-701, of the Code of the City of Leawood, 2000

Mayor Dunn invited Parks & Recreation Director Chris Claxton to speak. Ms. Claxton stated the resolution had been requested as part of Barktoberfest, a celebration at the Leawood Dog Park that occurred Friday, October 2, 2015. City Licensing staff were present at the event and provided five licenses to residents as well as education on licensing requirements; vaccination is one of these. To create awareness and promote a safe environment for both people and pets, licensing information would continue to be posted on the City's website and at the dog park. Police Chief Troy Rettig added loose dogs picked up by Animal Control are taken to State Line Animal Hospital. If identified as a dog owned by a Leawood resident, but not properly licensed, a vast majority of the time the resident will receive a citation for licensing, not a courtesy notice.

**A motion to approve Agenda Item 6. was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.**

## 7. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 2015-36, 2015-37 and 2015-38
- B. Accept minutes of the September 21, 2015 Governing Body meeting
- C. Accept minutes of the June 23, 2015 Leawood Arts Council
- D. Accept minutes of the August 4, 2015 Leawood Arts Council
- E. Approve Mayoral Reappointment of Catherine Lawless to Drug & Alcohol Council [DAC] for a term ending in 2018
- F. Approve Massage Therapy Establishment, Lily 811, located at 4707 College Boulevard, in accordance with Code § 5-510
- G. Approve 1<sup>st</sup> and Final Pay Request in the amount of \$390,693.33 to Intermountain Slurry Seal, Inc., pertaining to the 2015 Slurry Seal Program [Project # 70017]
- H. Approve Change Order No. 2 in the amount of \$28,886.50 to Miles Excavating, Inc., pertaining to the 143rd Street Improvement Project between Nall Avenue and Windsor Street [Project # 80162] [KDOT Project # 46 N-0426-01]
- I. Approve Change Order No. 1 in the amount of \$16,537.53, to Delta Services, Inc., pertaining to roof repairs at Fire Station No. 2, located at 12701 Mission Road
- J. **Resolution No. 4503**, approving and authorizing the Mayor to execute an Amendment to that certain Service Agreement dated June 15, 2015, between the City and Securitas Security Services USA, for an amount not to exceed \$48,560.00, to provide School Crossing Guard Services for the intersections at 119<sup>th</sup> & Mission and 143<sup>rd</sup> and Nall Avenue
- K. **Resolution No. 4504**, establishing a Privately Owned Street Light LED Replacement Policy
- L. **Resolution No. 4505**, approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$ 17,446.00 between the City and Creative Displays of KC, Inc., pertaining to the holiday lighting of City Hall
- M. **Resolution No. 4506**, accepting a Permanent Storm Sewer easement from Gary Lewis Trust, for property located at 8915 Mission Road, Lot 1227, located in Leawood Subdivision, pertaining to 89<sup>th</sup> & Mission Road Stormwater Project [Project # 80550]
- N. **Resolution No. 4507**, accepting New Infrastructure [street/storm sewer and street lights] for property located on 137<sup>th</sup> Street between Mission Road and Pawnee [Milano Apartments], in accordance with GASB-34 Guidelines of reporting Inventory of Assets
- O. **Resolution No. 4508**, approving a Final Sign Plan for Christ Community Church – Revised Sign Criteria, located north of 143<sup>rd</sup> Street and west of Kenneth Road. (PC Case 83-15) *[from the September 22, 2015 Governing Body meeting]*
- P. **Resolution No. 4509**, approving a Revised Final Plat for Mission Farms – 7<sup>th</sup> Plat, located north of I-435 and east of Mission Road. (PC Case 86-15) *[from the September 22, 2015 Governing Body meeting]*
- Q. **Resolution No. 4510**, approving Final Landscape Plan for Siena of Leawood – Landscape Plan, located north of 141<sup>st</sup> Street and east of Mission Road. (PC Case 97-15) *[from the September 22, 2015 Governing Body meeting]*
- R. **Resolution No. 4511**, approving a Revised Final Plat for LeaBrooke – 9<sup>th</sup> Plat, located west of Kenneth Road and north of W. 148<sup>th</sup> Street. (PC Case 100-15) *from the September 22, 2015 Governing Body meeting]*

- S. **Resolution No. 4512**, approving a Final Landscape Plan for Steeplechase – Landscape Plan, located south of W. 143<sup>rd</sup> Street and east of Mission Road. (PC Case 107-15) [from the September 22, 2015 Governing Body meeting]

Councilmember Sipple requested Consent Agenda Items 7.A. and 7.Q. be pulled.  
Councilmember Rasmussen requested Consent Agenda Item 7.K. be pulled.  
Councilmember Azeltine requested Consent Agenda Items 7.G. and 7.I. be pulled.

**A motion to approve the remaining Consent Agenda Items was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 7-0.**

- A. Accept Appropriation Ordinance Nos. 2015-36, 2015-37 and 2015-38

Councilmember Sipple stated his wife was listed as a contractor providing services to the Parks & Recreation Department and he would recuse from voting. Councilmember Rawlings expressed appreciation to Councilmember Sipple for abstaining, noting this had and would continue to happen in the future. He questioned if there was a mechanism which would allow Councilmember Sipple to vote on remaining appropriation ordinance items. Mayor Dunn appreciated Councilmember Sipple's appearance of conflict. She stated it was not possible to recuse by line item and through consultation with Ms. Bennett, the check would need to be pulled and presented as separate agenda item. Councilmember Sipple stated he would counsel with Ms. Bennett.

**A motion to approve Agenda Item 7.A. was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-0; Councilmember Sipple recusing.**

- G. Approve 1<sup>st</sup> and Final Pay Request in the amount of \$390,693.33 to Intermountain Slurry Seal, Inc., pertaining to the 2015 Slurry Seal Program [Project # 70017]

Councilmember Azeltine stated he had received several telephone calls from residents about the work and inquired if there were regulations regarding sub-contracting. Mr. Johnson stated a sub-contractor must perform to terms agreed to by the contractor. He stated that although it was not intended to sub-contract the project, the sub-contractor had worked for the City for many years. The contractor had personnel and mix issues, and the City had them stop work after one day. Mayor Dunn stated she had also received telephone calls related to slurry seal projects and suggested weather may have been an impact. She was pleased with resolution by sub-contracting. Councilmember Cain also received a telephone call from a resident and the sub-contractor, Vance, was very accommodating to their immediate needs.

Councilmember Azeltine inquired if the cost was final; Mr. Johnson confirmed.

**A motion to approve Agenda Item 7.G. was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.**

- I. Approve Change Order No. 1 in the amount of \$16,537.53, to Delta Services, Inc., pertaining to roof repairs at Fire Station No. 2, located at 12701 Mission Road

Councilmember Azeltine noted a dramatic price increase. Mr. Johnson stated the increase was not due to a bid process issue. Some wood rot repair had been included in the original project scope, but additional rot had been discovered during the work.

Councilmember Rasmussen noted the agenda item listed the address of Fire Station No. 2 as 12701 State Line Road instead of Mission Road.

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

- K. **Resolution No. 4504**, establishing a Privately Owned Street Light LED Replacement Policy

Councilmember Rasmussen pointed out the need for clarification on record of the 100% installation cost reimbursement by the City, with regard to HOA annual maintenance cost savings, as stated in the approved minutes from the September 21, 2015, Governing Body meeting [Consent Agenda Item 7.B.] and his discussions with staff. Mr. Lambers stated that as part of the City review, HOA maintenance savings will be deducted. Mayor Dunn and Councilmember Sipple suggested revision of the last bullet point under “Eligibility Criteria” on Page 1 of the policy to read “Payments will be made annually over a period of years determined by the City using the calculated annual savings in electrical consumption from going to LED’s.”

Mayor Dunn stated the City had not heard if the Halbrook HOA Board had approved their proposed LED installation project.

**A motion to approve Agenda Item 7.K. with suggestion modification was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.**

- Q. **Resolution No. 4510**, approving Final Landscape Plan for Siena of Leawood – Landscape Plan, located north of 141<sup>st</sup> Street and east of Mission Road. (PC Case 97-15) *[from the September 22, 2015 Governing Body meeting]*

Councilmember Sipple stated since his residence was part of the Siena HOA [total 43 homes], he was a past HOA President, he had been actively involved when the plan was drafted and acquainted with the landscape artist, he would recuse from voting. He added he did not present the plan to the Planning Commission.

Councilmember Azeltine pointed out that recusal was only necessary if there was personal benefit.

**A motion to approve Agenda Item 7.Q. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 6-0; Councilmember Sipple recusing.**

## 8. MAYOR'S REPORT

- A. Privilege of joining 110 business leaders and elected officials on the 13<sup>th</sup> Annual Best Practices Leadership Exchange to Portland, Oregon, sponsored by the Greater Kansas City Chamber of Commerce. There were discussions on bi-state economic development activities as well as evidence of a remarkable transit program that has been decades in the making. Cathy Bennett, sister to Leawood City Attorney Patty Bennett, was in charge and organized the successful and educational trip.
- B. Joined by Councilmember Jim Rawlings at the retirement celebration for Officer Randy Wiler. He served a total of 38 years in law enforcement, 25 years in Leawood. As noted by Police Chief Troy Rettig, Officer Wiler touched the lives of 40,000 youth as a Drug Abuse Resistance Education [D.A.R.E.] Officer for many years. In 2007, out of 35,000 D.A.R.E. Officers world-wide, he was recognized as the International D.A.R.E. Officer of the Year. We wish him much success during this retirement and thank him for his years of service.
- C. Director of Parks & Recreation Chris Claxton and her team hosted a terrific Barktoberfest to celebrate Leawood's dog park, Leawoof. Councilmembers Lou Rasmussen and Julie Cain joined me with many two-legged and four-legged friends. The dog agility course equipment, some pavement and sodding are now in place. All looks fantastic!
- D. The City of Leawood United Way Campaign Kick-Off was held this morning in the Oak Room of City Hall. The event was organized by Director of Human Resources Nic Sanders, and Councilmembers Jim Rawlings and Chuck Sipple, all Department Heads and a great number of employees attended. After a breakfast prepared by Two Sisters Catering, presentations were made by Mr. Steve Rees of MINDRIVE, a stand-alone, non-profit entity, and Ms. April Diaz of the United Way. City Administrator Scott Lambers announced that once again a raffle with incentive prizes would be conducted to encourage employee participation and that Mr. Sanders would be supplying instructions for the new option of electronic pledges. All Councilmembers are invited to join in the campaign.

## 9. COUNCILMEMBERS' REPORT

### **Councilmember Rasmussen**

Referral to Public Works Committee to review traffic control device at the intersection of 101<sup>st</sup> Street and Mohawk

Councilmember Rasmussen recalled the history of the intersection. In the early 1990s, the City had spent \$115,000 to improve and the traffic control devices were left standing. There had been a gentle slope when turning on Mohawk going south, but now is a T-intersection. Many drivers now make quick rolling stops at the stop signs. He stated it was time to review if the stop signs are necessary.

**A motion to refer to Public Works was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.**

## 10. STAFF REPORT – None

## **COMMITTEE RECOMMENDATIONS**

### **11. STORMWATER MANAGEMENT COMMITTEE**

*[From the August 26, 2015 Stormwater Management meeting]*

**Recommendation:** City divest themselves of the property [8701 Ensley Lane] purchased on the Leawood Heritage Stormwater Project and deed property to the two abutting property owners of the lot; splitting the lot in a manner that best benefits the City [Project # 77014]

Mayor Dunn invited Mr. Johnson to comment. Mr. Johnson stated the new stormwater channel split the residential lot, with insufficient land available for a park setting. He had spoken with adjacent land owners who were agreeable to incorporate into their properties and assume maintenance. Councilmember Rawlings stated the property is in a flood plain.

**A motion to divest the City of the property per the recommendation was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.**

### **12. PLANNING COMMISSION**

*[From the April 28, 2015 Planning Commission meeting]*

- A. Ordinance approving a Revised Preliminary Plan for Ranch Mart, located north of 95<sup>th</sup> Street and east of Mission Road (PC #61-13) **[ROLL CALL VOTE]** - **[Continued from the June 1, 2015, July 6, 2015, August 17, 2015, and September 21, 2015 Governing Body meetings – CONTINUED TO THE NOVEMBER 16, 2015 GOVERNING BODY MEETING]**

*[From the August 25, 2015 Planning Commission meeting]*

- B. **Resolution No. 4513**, approving a Revised Final Landscape Plan for Leawood Commons – Commerce Bank, located at the northeast corner of Nall Avenue and Town Center Drive (PC Case 84-15)

Mr. Kurt Kraisinger, Lorax Design Group, 8021 Santa Fe Drive, Suite 200, Overland Park, stood on behalf of his client Commerce Bank, who had purchased the property late last year and has been in business for 100 years. Leawood Commons was developed in mid-1980 and over time has deteriorated. His client wants to improve the landscaping and create a streetscape / boulevard effect similar to the one to the south. He believed they had achieved agreement with the City on the plan, but had received three additional comments from the City just this morning.

The proposed plan would add 63 new trees, but remove 19 existing trees and leave 15 trees. Ash Street runs through the property and has many dead or missing trees. Staff recommended denial based on applicant proposing to remove mature, healthy trees throughout the site, although the City does not have a tree preservation ordinance. He stated properties such as AMC and other developments had removed trees.

Mr. Kraisinger expressed confusion in regard to staff denial of the plan for a non-compliant 10 ft. landscape buffer. The Leawood Development Code [LDO] requires a 10 ft. buffer of living plant material. Landscape Plan, Drawing L101, dated September 8, 2015, depicts a 10 ft. landscape buffer. Per the City's request and to meet Planning Commission Stipulation 2, this plan drawing had been sent to the City on September 8, 2015, at 8:54 A.M.

Mr. Kyle Knecht, Landscape Architect, Lorax Design Group, 8021 Santa Fe Drive, Suite 200, Overland Park, Kansas, stood and added that when staff was questioned why the plan did not comply with the 10 ft. buffer, they could not provide any further reason.

Mr. Kraisinger spoke about the need for clarification and distinction of nurserymen and retailer terminology for plant sizing. Nurserymen use size classifications of “Number 1 Pot, Number 2 Pot...”, while retailers refer to gallons. Leawood’s ordinance states stock must be a 5-gallon pot and a minimum of 36” in height the day of planting. A Number 5 Pot would never be 36” in height, and if it was, many nurseries shear their plants for transport. Planting with Number 7 or higher pots would quadruple the price. He stated if client is going to be held to a standard, ensure the ordinance is correct. The client has expended quite of bit of money and wanted to move forward to make the May 2016 the planting season.

Mayor Dunn asked Mr. Kraisinger if he had brought any photographs; he stated he had not.

Councilmember Rasmussen asked why the client wanted to remove mature English Oak trees. Mr. Kraisinger replied it was what the bank wanted and street trees would be replaced with Ginkgo and other trees per the current LDO.

Councilmember Filla stated the City has had many discussions regarding tree preservation, removal of mature trees and decreasing species diversity. She supported staff denial and questioned why the landscaping plan approved 20 years ago was not still valid; the point of a landscaping plan and annual review by the City was to ensure compliance. She stated the applicant would save money by not purchasing new trees and that any additional trees could be planted to grow under the canopy of the oaks. Mr. Kraisinger stated that some trees would need to come out because they were not planted in accordance with the prior approved plan and that his client plans to keep 15 trees; two Japanese Maples against the building, maples at all property corners, four Birch trees in parking lot islands and the Columnar Oaks on Ash Street.

Councilmember Cain stated without photographs it was hard to make a determination. She questioned if the landscape plan approved in the 1980s was grandfathered. Mr. Coleman stated the applicant wanted to remove 23 trees. When he and Parks Superintendent Brian Anderson inspected the property, only three trees were in poor health. The balance of trees could remain, with some trees and shrubs added to meet standards. He stated a 10 ft. living material buffer is required. The buffer cannot contain 18” of rock or mulch unless this area would also contain plantings.

Mayor Dunn pointed out the meeting documentation packet included a version of the landscape plan drawing dated August 17, 2015, and that this version would have been available at the August 25, 2015, Planning Commission meeting.

Councilmember Azeltine pointed out that the City does not currently have a tree preservation ordinance. Mr. Coleman stated the staff recommendation for plan denial was based on planning principles and that it takes 20 years for mature-growth trees. Businesses typically replace landscaping every five years.

Mayor Dunn stated the denial was based on planning principles in general. She asked Mr. Kraisinger if any of the 19 trees proposed to be removed could be transplanted. He replied he did not believe the trees would survive due to cutting of the root ball. Mr. Kraisinger stated the City requires 4-inch caliper trees, but if the root ball is cut, slower growth or tree death can result. He stated that is why the City Parks Department plants only 2-inch caliper trees.

Councilmember Osman recalled his recent discussions with four landscape architects regarding re-development of several shopping centers, including one 40-years old. He stated that landscaping of 20 years ago may not fit today. He provided the example that when a 1970s kitchen is remodeled, most of it would not be saved or reused. He was agreeable to approve the landscape plan, but shared concern with saving as many trees as possible.

Councilmember Sipple stated approval to include the September 8, 2015, landscape drawing.

Mayor Dunn appreciated all comments and noted that although the City did not have a tree preservation ordinance, the Council's prior discussion of the topic had included requiring services of certified arborists and landscape architects; Mr. Kraisinger is one. She noted the issue of the required 10 ft. buffer had been met as depicted on the landscape drawing dated September 8, 2015.

Ms. Bennett pointed out the Council would be approving exactly what the Planning Commission had recommended, just with an updated landscape drawing.

Councilmember Rasmussen made a suggestion to staff to provide drawing plans in the meeting documentation packet printed on paper larger than 8.5 inch x 11 inch to increase legibility.

**A motion to approve Agenda Item 12.B. with the September 8, 2015 landscape drawing was made by Councilmember Osman; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 5-2; nay votes from Councilmembers Rasmussen and Filla for reasons previously stated.**

- C. **Resolution No. 4514**, approving a Final Landscape Plan for the Swarts Residence, located south of 151<sup>st</sup> Street and west of Mission Road (PC 85-15)

Mr. Doug Swarts, 4203 W. 151<sup>st</sup> Street, Leawood, home owner, stated both he and the Planning Commission were satisfied with the plan. He stated they had broken ground on the build 1.5 years ago, that he was overwhelmed and had now engaged the services of a landscape architect. There had been issues with the driveway and delay since July. Once the driveway, retaining walls and grading are finished, the irrigation system would be installed, so that sod, seed and landscaping could be placed and watered.

Mayor Dunn asked Mr. Swarts if he understood Planning Commission Stipulation 2 which requires a revised landscape plan be submitted that shows sod a minimum of 50 ft. from the exterior property lines, with the balance of the property to be either seeded or sodded at his discretion; Mr. Swarts confirmed.

Councilmember Sipple questioned if it might be advantageous to sod the entire property. Mr. Swarts replied the property has only a single-service water main and it would be difficult to water 2.9 acres of sod.

Councilmember Osman pointed out that if sod could not be installed this planting season, next spring there would not be property landscaping along a major thoroughfare. Mr. Swarts stated his hopes that the project would proceed without further issue, and that Mr. Coleman had stated to him that funding could be escrowed if needed. Mayor Dunn noted she had seen successful installation of sod in December. Mr. Coleman stated that sod suppliers usually cut sod until late in the year, but the sod would need to be watered through the winter otherwise the roots dry up.

Councilmember Cain stated she was glad the City and Mr. Swarts had come to an agreement for temporary occupancy.

**A motion to approve Agenda Item 12.C. was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 7-0.**

- D. **Resolution No. 4515**, approving a Final Plan and Revised Final Plat for Ironhorse Centre – The Fairways of Ironhorse, located south of 151<sup>st</sup> Street and east of Nall Avenue (PC Case 87-15)

Applicant Mr. Curtis Holland, Polsinelli, PC, 6201 College Boulevard, Suite 500, Overland Park, stood and introduced Mr. Brett Johnson and Mr. Matt Gilham of Overland Property Group [OPG], and Mr. Brad Sonner of Olsson Associates. He recalled about seven months ago he had presented the plan for a senior living facility to the Council, located on the corner that finishes the development. In the interim, they had worked out numerous details and zoning was revised from SD-NCR to Mixed-Used. He thanked staff for their assistance. He stated he was agreeable to all stipulations. Mr. Holland played a brief computer-generated imagery [CGI] video titled “The Fairways of Ironhorse – A Boutique Living Community.”

Mayor Dunn asked about the reason for replat of Lot 9, as stated on Page 5 of the staff report. Mr. Holland replied this makes the property one single lot, per plan.

Councilmember Sipple noted the video did not depict the off-property creek at Fairway 16 of the golf course and inquired if the creek had been filled. Mr. Holland stated the creek still exists.

Councilmember Azeltine noted the park impact fee had been included, but the art impact fee was missing. Mr. Coleman clarified the art impact fee was applicable to commercial property only; the senior facility was residential.

Councilmember Cain asked Mr. Holland when construction would commence. Mr. Gilham, 5345 W. 151<sup>st</sup> Terrace, Leawood, stood and stated they hoped to break ground in February, 2016, and have a 14-month construction schedule for the large building. He noted his OPG office would be directly across from the facility.

**A motion to approve Agenda Item 12.D. was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.**

**13. OLD BUSINESS** – None

**14. OTHER BUSINESS** – None

## 15. NEW BUSINESS

- A. **Charter Ordinance No. 41**, Repealing Charter Ordinance No. 22, relating to Elections, Dates of City Elections, Terms of Office, and matters related thereto and repealing any provisions in conflict herewith [ROLL CALL VOTE]

Ms. Bennett stated the changes stem from recent Kansas legislation impacting timing of municipal elections. For example, elected official terms expiring in April, 2016, would now expire in January, 2018, with elections held in November, 2017, and elected official terms expiring in April, 2018, would now expire in January, 2020, with elections held in November, 2019. Mayor Dunn thanked Ms. Bennett for her extensive review and stated the Council of Mayors and others had lobbied against the legislation.

Mayor Dunn questioned if the City's budget calendar would change or if newly-elected Governing Body members would need to work with an inherited budget. Mr. Lambers stated consideration of advancing the budget calendar to begin in May instead of June. In 2018, regulation requires a public vote for any increase in revenue. To have a November election, the budget must be complete earlier so the City can provide the election cycle deadlines to the County Clerk.

Councilmember Azeltine stated he wanted to ensure the Governing Body understood the impact of an increase in revenue due to mill-levy or property taxes. Mr. Lambers stated there were some exceptions to the nominal deductions to gross revenue that can be taken into account, such as interest payments and penalties and judgments against municipalities. Currently, a city must report that they are taking more revenue after calculation. To do so after 2018, a city must have approval of the people. He stated he had adjusted the recently approved 2017 budget calendar in this regard, to ensure the City would not be one year in arrears, should the legislators revise the effective date to 2017.

Mayor Dunn stated the Governing Body would be provided additional information in this regard as it becomes available.

Councilmember Rasmussen expressed concern for a potential lack of quorum in regard to Agenda Item 15.F. Mayor Dunn clarified that councilmembers serving on committees as Council Liaisons are not to vote and therefore not part of a quorum. She stated all committees and their composition are provided in the City Roster, maintained by the City Clerk. Public Works, Stormwater and Sister City Committees have councilmembers that are committee members and not Council liaisons. Mayor Dunn stated for additional clarification, she would forward her cover memorandum regarding committee assignments.

Councilmember Filla expressed disappointment that there was no choice but to incorporate these changes. Mr. Lambers stated there was strong advice that April elections are now null and void, and elected officials with 4-year terms need to be extended. A roll call vote was required for individual items.

**A motion to approve Agenda Item 15.A. was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The ordinance was passed with a roll call vote of 6-1; nay vote from Councilmember Osman for personal reasons; state representatives did not listen to the voice of the people or municipalities.**

- B. **Charter Ordinance No. 42**, Exempting the City of Leawood, Kansas From the Provisions of K.S.A. § 13-513 Which Relates to Vacancies in the Office of Mayor or Councilman and Repealing Charter Ordinance No. 23, and any provisions in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.B. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The ordinance was passed with a roll call vote of 6-1; nay vote from Councilmember Filla for reasons of protest, the same as Councilmember Osman for Agenda Item 15.A.**

- C. **Ordinance No. 2749C**, amending Section 6-101 of the Code of the City of Leawood, Kansas, 2000, Entitled “City Elections; Terms of City Offices; Officer Qualifications” and Repealing Existing Section 6-101 and other Sections in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.C. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The ordinance was passed with a unanimous roll call vote of 7-0.**

- D. **Ordinance No. 2750C**, amending Section 1-206 of the Code of the City of Leawood, Kansas, 2000, Entitled “Organizational Meeting” and Repealing Existing Section 1-206 and Other Sections in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.D. was made by Councilmember Rasmussen; seconded by Councilmember Cain. The ordinance was passed with a unanimous roll call vote of 7-0.**

- E. **Ordinance No. 2751C**, amending Sections 1-210 and 1-211 of the Code of the City of Leawood, Kansas, 2000, pertaining to Vacancy in the Office of Mayor or Councilmember, and Repealing Existing Sections 1-210 and 1-211 and Other Sections in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.E. was made by Councilmember Rasmussen; seconded by Councilmember Sipple. The ordinance was passed with a unanimous roll call vote of 7-0.**

- F. **Ordinance No. 2752C**, amending Section 1-116 of the Code of the City of Leawood, Kansas, 2000, Entitled “Committees” and Repealing Existing Section 1-116 and Other Sections in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.F. was made by Councilmember Cain; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 7-0.**

- G. **Ordinance No. 2753C**, amending Section 1-602 of the Code of the City of Leawood, Kansas, 2000, entitled “Membership Terms and Qualifications” and Repealing Existing Section 1-602 and Other Sections in conflict herewith [ROLL CALL VOTE]

**A motion to approve Agenda Item 15.G. was made by Councilmember Cain; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 7-0.**

- H. Discuss amendment to Leawood Development Ordinance [LDO] Section 16-4-5.9, to limit the amount of time a passenger vehicle may remain stored on a private drive or adjacent pad

Mr. Lambers stated the Governing Body desired additional research and information in this regard. Enforcement can be difficult over time, as owners may say the vehicle had been moved. Ms. Bennett reviewed other municipal ordinances and discovered the City of Olathe has an ordinance which deems a vehicle is inoperable if it is parked back-ward, giving the City of Olathe the right to have the owner prove the vehicle is functional. This facilitates the ability to view Kansas License Plate/Tag, affixed to the back of the vehicle, without trespass. The City of Olathe also has an ordinance that prohibits tarped vehicles for the same reason.

Councilmember Rasmussen suggested the City's existing ordinance prohibiting the obstruction of sidewalks be amended to include right-of-way. Mr. Lambers stated the City's right-of-way extends far beyond the sidewalk, and if right-of-way was included in the sidewalk ordinance a resident would not be allowed to use one-half the length of their driveway. Ms. Bennett added that provision comes from standard traffic ordinance, most other cities do not regulate right-of-way and parking was only allowed in street right-of-way for 24 hours.

Ms. Bennett stated this would be an amendment to the inoperable vehicles code. Therefore, it would not need to go before the Planning Commission.

**A motion to move forward with an ordinance amendment with language similar to the City of Olathe was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 7-0.**

## **ADJOURN**

There being no further business, the meeting adjourned at 9:52 P.M.

---

Debra Harper, CMC, City Clerk

---

Cindy Jacobus, Assistant City Clerk