

Minutes

DVD No. 199

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 6, 2008. Mayor Peggy Dunn presided.

Councilmembers present: Gregory Peppes, Jim Rawlings, Julie Cain, James Azeltine, Mike Gill, Debra Filla, and Lou Rasmussen.

Mayor/Councilmembers absent: Gary Bussing.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Richard Coleman, Comm. Dev. Director
Karl Weinfurter, Info. Systems Specialist
Joe Johnson, Public Works Director
Kathy Rogers, Finance Director

Patty Bennett, City Attorney
Mark Klein, Asst. to the Planning Dir.
Jeff Joseph, Senior Planner
Chris Claxton, P&R Director
Pete Spratlin, Ironhorse Golf Superintendent
Deb Mansfield, City Clerk
Pam Gregory, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn referred to the Amended Agenda and noted the following modifications:

- * Item Nos. 12B through 12G and Item Nos. 12K and 12L were continued to October 20, 2008.
- * Item Nos. 12I and 12J were remanded to the Planning Commission.

A motion to approve the Amended Agenda was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing 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 Tenth Day, October 10, 2008

Mayor Dunn extended congratulations and best wishes to the Republic of China on Taiwan during this celebration.

Fire Prevention Week, October 5-11, 2008

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

**Portland Cement Association's
Sustainability Leadership Award for the
pervious concrete parking lot at I-Lan
Park**

Several individuals introduced themselves, followed by the Mayor reading the proclamation into the record. Some individuals made comments and extended appreciation to the City's decision and presented the Mayor with the award.

5. PRESENTATIONS/RECOGNITIONS

6. SPECIAL BUSINESS

- A. Presentation of 2008 Comprehensive Plan and Map – ***CONTINUED TO THE OCTOBER 20, 2008, GOVERNING BODY MEETING***
- B. Resolution approving the Planning Commission's recommendation to adopt the 2008 Leawood Comprehensive Plan and map, in accordance with K.S.A. § 12-7-47 [*From the August 12, 2008 Planning Commission meeting*]- ***CONTINUED TO THE OCTOBER 20, 2008, GOVERNING BODY MEETING***
- C. Acceptance of replacement letter of Letter of Credit COR Development, LLC, in the amount of \$683,114.00 issued by UMB. [Materials have been previously distributed to the City Council]

City Attorney Patty Bennett confirmed that the updated amount was \$683,114.00 and had changed to five years of assessments.

Mayor Dunn recused herself on the matter of the letter of credit due to a conflict of interest. Councilmember Gill presided in her absence as Presiding Officer.

A motion to approve the replacement letter of credit was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

Mayor Dunn rejoined the meeting at 7:50 P.M.

Bob Adams, Manager of COR Development, stated the loan packaged by M & I Bank was sold last week. They had requested, approximately six weeks earlier, that the steel be removed from the site, since this is part of their collateral; therefore, they needed to obtain consent.

Mr. Adams spoke with the new owner of the loan and he noted they had bought this as part of a package of several hundred million dollars of loans and indicated they would assign someone this week as a portfolio manager for their loan.

Mayor Dunn asked if he could give Council a more definitive report at the Council meeting on October 20, 2008. Mr. Adams stated it was possible; however he didn't anticipate an answer that quickly. The managers had already given approval of the action; they only needed to have lender consent.

Councilmember Rasmussen asked if there was anything the City could do to help convince them to remove the steel. Mr. Adams suggested waiting for their initial response. If there is reluctance, he suggested involving them in a discussion with the City Administrator's office.

Councilmember Filla asked what the plan would be if given permission immediately and how long it would take. Mr. Adams stated the companies involved in the de-erection of steel do this on a salvage basis. They move quickly due to their revenue being based on spot market prices. They would request the necessary permits to allow them to move forward right away. Mr. Adams hadn't seen the ordinance; however, assumed it would require permits and bonds in order to complete this type of project within the City.

Ms. Filla asked if this work could be done in parallel while waiting for sign-off from the portfolio manager. Mr. Adams noted they needed to acquire consent from the lender before asking the contractor to engage their time and resources.

Councilmember Azeltine indicated he had received calls/comments on this frequently and noted anything Mr. Adams could do to speed the process would be appreciated.

Mr. Adams thanked the Council for their approval of the letter of credit.

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. 111B, 1112A, and 1112B
- B. Accept Minutes of the September 15, 2008 Governing Body meeting
- C. Accept Minutes of the September 8, 2008 Governing Body meeting
- D. Accept Minutes of the September 4, 2008 Audit Services Selection Task Force Committee meeting
- E. Accept Minutes of the August 28, 2008 Green Initiative Citizen Task Force Committee
- F. Accept Minutes of the June 13, 2008 Stormwater Management Committee meeting
- G. Accept Minutes of the August 19, 2008 Public Works Committee meeting
- H. Accept Minutes of the March 11, 2008 Leawood Historic Commission meeting
- I. Accept Minutes of the May 13, 2008 Leawood Historic Commission meeting

- J. Accept Minutes of the July 8, 2008 Leawood Historic Commission meeting
- K. Accept Minutes of the July 21, 2008 Arts Council meeting
- L. Accept Minutes of the July 8, 2008 Parks and Recreation Advisory Board meeting
- M. Approve Mayoral Appointment of Tom Robinett to Board of Zoning Appeals
- N. Approve Massage Establishment License for Tom Dusterhoft at 4800 W. 135th Street [Massage Heights]
- O. Approve 5th and Final Pay Estimate in the amount of \$28,367.00 to Barge-Turley Construction Company, Inc., pertaining to the 8745 High Drive and Storm Sewer Maintenance Curb Inlet Repair Project
- P. **Resolution No. 3112** approving and authorizing the Mayor to execute a Professional Service Agreement between the City and Rubin Brown, LLP, pertaining to audit services
- Q. **Resolution No. 3113** approving and authorizing the Mayor to execute a Letter of Engagement Agreement for an amount not to exceed \$31,000, between the City and Rubin Brown, LLP, pertaining to the 2008 audit
- R. Accept Progress Report No. 1 pertaining to the Aggressive Maintenance Plan at Ironhorse Golf Course

Mayor Dunn requested to pull Item Nos. 7P and 7R for discussion.

A motion was made by Councilmember Peppes; seconded by Councilmember Gill to approve the remainder of the Consent Agenda. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- P. **Resolution No. 3112** approving and authorizing the Mayor to execute a Professional Service Agreement between the City and Rubin Brown, LLP, pertaining to audit services

Mayor Dunn recognized the Audit Services Selection Task Force Committee, coordinated by Finance Director Kathy Rogers, along with other members: City Administrator Scott Lambers, Accounting Manager Dawn Long, Information Systems Director Mark Andrasik, and Human Resources Director Lovina Freeman. Also serving on the committee were the following citizen volunteers: Jim Morris, David Schwarz, and Katherine Markes. Mayor Dunn thanked them all for their service.

A motion to approve Item No. 7P was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- R. Accept Progress Report No. 1 pertaining to the Aggressive Maintenance Plan at Ironhorse Golf Course

Mayor Dunn confirmed with Ironhorse Superintendent Pete Spratlin that Council would receive monthly reports on the progress at the golf course and asked if he had received any positive feedback from clientele. Mr. Spratlin noted he had received good feedback from weekend play and Triple Crown members that have played in the last few weeks.

Ms. Filla noted many people thought they had done astounding things. Mr. Spratlin noted were a few things he would like to see improve; however, ergonomically the course has been outstanding and the weather had been a blessing.

Mayor Dunn recognized Dick Fuller, Chair of the Ironhorse Golf Course Advisory Board and citizen volunteer, for his assistance.

Councilmember Gill indicated every week the course had improved and noted an e-mail he had received regarding a tournament held there stating they were very pleased.

Mayor Dunn noted she had also heard positive comments from the community and thanked Mr. Spratlin for all of his hard work.

A motion to approve Item No. 7R was made by Councilmember Gill; seconded by Councilmember Peppes.

Councilmember Rasmussen indicated there were three areas where legal counsel was involved, and noted progress was being made on all of them. Holes 9 and 10 were being taken care of and hole number 5 was the only one that still had some problems.

Councilmember Azeltine indicated this was a good example of what could be accomplished when they reach out to the citizens in situations like this. He recognized George Waterman, one of the citizens who helped formulate the list of items to improve upon, and noted he lives on the course.

Mayor Dunn noted her appreciation to Councilmembers Azeltine and Rasmussen, who were involved in the improvements as well.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

8 MAYOR'S REPORT

- A. Attended the Faith Community Luncheon, hosted by Leawood's 60th Anniversary Co Chairs Alice and Mel Hawk at the Church of the Resurrection with the Faith Community leadership. There were many people in attendance. Mayor Dunn recognized Parks & Recreation Director Chris Claxton for her assistance and attendance.
- B. Attended a retirement reception for Fire Captain Edward Seacord in recognition of his 24 years of dedicated service to the City of Leawood. Mayor Dunn thanked Chief Florance and the entire Fire Department and wished Captain Seacord much success.
- C. Attended a breakfast meeting at the Jewish Community Center, sponsored by the Jewish Community Relations Bureau/American Jewish Committee, with remarks from the Honorable Orli Gil, Counsel General of Israel to the Midwest.

- D. Attended the Central Exchange reception at the Nelson-Atkins Museum of Art, honoring five recipients receiving awards at the 2008 Salute to Leadership. Two Leawood residents were honored: Robin Sterneck, "Mentor of the Year" Award and Sandra Lawrence, "Woman on the Move" Award. Mayor Dunn congratulated them as well as others honored that evening.
- E. Participated in the Greater Kansas City Leadership Exchange in Nashville, Tennessee, coordinated by Greater Kansas City Chamber of Commerce representative Cathy Bennett, sister to City Attorney Patty Bennett. Mayor Dunn complimented her on a job well done and noted all 110 in attendance enjoyed the leadership exchange.
- F. Attended the Leawood Rotary Club 'Bids for Kids' Benefit, with Theresa Strubbe serving as Rotary President. It was a very successful fundraiser benefitting three children's charities: St. Joseph Institute for the Deaf, First Downs for Downs Syndrome, and Marillac. Councilmembers Rawlings and Bussing, Rotary Club members, along with Councilmembers Peppes, Azeltine, and Cain attended. The keynote sponsor was The National Bank of Kansas City. Mayor Dunn congratulated everyone and thanked them for their generosity and hard work.
- G. Attended the Romero Britto ribbon cutting and dedication ceremony for the children's tile wall at Children's Mercy South Hospital. Town Center Plaza was one of the sponsors for this event in coordination with the Leawood Arts Council. Romero Britto, a Brazilian sculptor, has had works displayed at Town Center Plaza earlier in the season.
- H. Attended the Council of Mayors meeting, hosted by Olathe Mayor Mike Copeland. Guest speaker Greg Musil, Chair for the Johnson Countians for Justice, gave a presentation on the "Ballot Issue; Election of Judges."
- I. Attended the Chamber of Commerce ribbon cutting ceremony at "Imagery," a new retail store in the Mission Farms Development. The store was formerly located on Wornall Road in Kansas City, Missouri, for 20 years. Mayor Dunn noted it was a great addition to Mission Farms and wished them much success.
- J. Reminder of the United Way Kick-Off Breakfast for City staff and Councilmembers on October 7, 2008, at 8:00 A.M., located in the Oak Room at City Hall.
- K. Reminder of the special homes association meeting/dinner on October 9, 2008, from 6:00 – 8:30 P.M., to be held at the Ironwoods Lodge, hosted by the Green Initiative Task Force Committee. Councilmembers Cain and Peppes, and approximately 80 other individuals have registered to attend.
- L. Mayor Dunn noted each Councilmember had a note regarding the Council of Mayors December Social and asked that they make a reservation for themselves and their spouse confirming their attendance in a timely manner.
- M. Attended the 2008 Johnson County Leadership Summit, along with Councilmember Lou Rasmussen and City Administrator Scott Lambers, hosted by Chairwoman Annabeth Surbaugh. After discussion and debate, five of the most pressing priorities were agreed upon and prioritized as follows: (1) Transportation, (2) Building Leadership Capacity, (3) Economic Stability, (4) Strategic Planning, and (5) Infrastructure Replacement. These issues will move forward with municipalities and the county in collaboration in 2009.

- N. Mayor Dunn noted appreciation to Police Chief John Meier and his wife for representing the City of Leawood at the Institute of Interfaith Dialogue's Iftar dinner.
- O. Mayor Dunn noted the Kansas City Regional Association of Realtors [KCRAR] announced \$100,000 in grants to nonprofit organizations in the Kansas City area through the Centennial Grant Program. Ten organizations were selected to receive \$10,000 each; one was within the Leawood community, the Kansas City House of Hope. The Mayor noted congratulations to the Kansas City House of Hope and appreciation to the KCRAR.
- P. Mayor Dunn congratulated Eric Butler and Shane Chambers of the Leawood Police Department for both being honored on November 13, 2008, by KMBC-TV Channel 9 and the Metropolitan Chiefs and Sheriffs Association, Award of Valor, for their action on April 25, 2008, in reviving a woman who had been injured in a car accident at 95th and Mission Road.
- Q. Mayor Dunn noted Mary Tierney was being honored with the "Outstanding Alumni" Award at Missouri State University. The award ceremony will be held on October 10, 2008, at the University Plaza Convention Center in Springfield, Missouri. The Mayor thanked Councilmember Bussing for writing a letter of nomination for Mrs. Tierney and congratulated her for her good work.
- R. Blue Valley North High School received an award for the 2008 Blue Ribbon School Award, which honors 320 schools nationwide that are considered exemplary and were awarded in the academically superior category for serving as a role model for other schools throughout the nation. Mayor Dunn extended congratulations to Blue Valley North High School and Superintendent Tom Trigg.
- S. The Theatre in the Park's "42nd Street" production was judged "Best Show" for the 2008 season and a third Demmi Award was presented to Director Brian McGinness. Stephanie Cain, a junior at Blue Valley High School, and also the daughter of Councilmember Julie Cain, won the Demmi Award for best actress in a lead role for her portrayal of Peggy Sawyer. Mayor Dunn congratulated Ms. Cain and her daughter Stephanie.
- T. Human Resources Director Lovina Freeman held and coordinated a wellness fair for the Leawood staff on October 1st, 14th, and 17th, 2008. There were health screenings and health risk assessments with 111 employees, representing 43% of the City's employees taking part. Mayor Dunn thanked Ms. Freeman for her efforts and wished them all healthier lifestyles.

9. COUNCILMEMBERS REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the July 8, 2008 and August 19, 2008 Public Works Committee meetings]

- A. Recommendation to approve establishment of Curb & Island Repair & Replacement Program [PAYGO]

Councilmember Gill, Chair of the Public Works Committee, stated there were approximately six miles of curb that were in various stages of deterioration. The cost of getting these replaced would be more than \$2 Million. Some need immediate replacement and others could be deferred over some time. The committee recommendation was twofold: (1) To establish a five-year curb and island repair/replacement program for the City, (2) When the City is preparing the budgeting and capital improvement planning, to consider up to a one mill levy earmarked for the curbs.

Mayor Dunn confirmed with Mr. Gill that the action requested by the committee was to have Council discuss the proposal during the Capital Improvement Program [CIP].

Mr. Lambers stated the action needed was to direct staff to place the program in the draft CIP for Council consideration, which as Mr. Gill indicated, was a funding mechanism for it. This is anticipated to be a one time mill levy increase that would be a Pay-As-You-Go Program [PAYGO]. Each year the money that was generated by this mill levy increase would sustain the program through the five-year cycle that is anticipated to be needed.

Councilmember Azeltine understood the idea of developing a five-year program; however, thought it was unusual to ask for it in a proposal and noted they were going to consider this in the CIP process.

Mr. Lambers stated it was the committees' position recognizing that the City's resources were currently being utilized for other programs; they did not anticipate replacing an existing program with this was the best way to proceed. They felt that by establishing a new program of this magnitude that a new revenue source would be necessary and this program would go beyond the five years. Initially, establishing five years with a cash amount identified each year and projects identified for each of those years would be an appropriate way to start with the upcoming CIP discussions, 2010 through 2014.

Mr. Azeltine indicated they may need to raise the mill levy to a mill or half a mill; however, it seemed a little out of the ordinary suggesting integrating it into the CIP. The process should require prioritizing these things and making choices. He felt the five-year plan was a good idea, but thought it wasn't appropriate to suggest a funding mechanism at this level. This is something the Governing Body should discuss in the CIP at the budget level.

Mr. Lambers felt this wasn't inappropriate, since the committee consists of Governing Body members there would be representation of the City Council along with citizens. Mr. Azeltine stated if it passes in it's present form, it comes with an assumption that they're going to increase the mill levy to pay for it.

Mayor Dunn noted she had read the minutes thoroughly and realized that was why it was worded this way and it would be discussed by the Governing Body when the CIP was done on how to fund it.

Mr. Azeltine noted if you're voting for this the way it is written in Item No. 11A, it includes a mill levy increase.

Mayor Dunn noted they were voting on the recommendation to approve the establishment of a curb and island repair/replacement program.

Mr. Azeltine stated he was in favor of that.

Mayor Dunn stated staff would bring it for Council review and discussion and could then determine funding with the committee's recommendation that it was to be funded up to one mill.

Mr. Azeltine confirmed with Mayor Dunn that the purpose of the motion was to only establish the five-year program.

Councilmember Rasmussen was concerned about possible media headlines and made it clear they were not voting for a one mill increase in the tax levy to support this. Mr. Rasmussen stated he was in favor of establishing the five-year program; however, wanted to be sure they were coordinating the stormwater inlet replacement programs with the curbs. He noted in the road improvement program that had been bonded, there was also money included for curbs and other items that go in with the streets and wanted to be sure to have that included under their consideration.

Mr. Lambers stated this would be a supplemental program where there would not be any street improvements associated with them; it would be to only replace the curbs and gutters along the street and the islands.

Mr. Rasmussen was concerned about tying mill levies or taxes to specific items and later discovering it doesn't work. He wanted to be clear this would not be diverted over to homes association islands and was only for city-owned traffic islands.

Mr. Lambers stated the committee wanted to make sure if a program was adopted, that the islands were a part of it because they are a part of the stormwater management system. Most of it would be the curbs and gutters along the outside lanes on both sides of the street.

Councilmember Filla made a motion to accept the recommendation of the Public Works Committee to establish a curb and island repair/replacement program and to include this in the CIP discussions with the appropriate recommendation for funding, as it may be required to support that for Council consideration; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

[from the August 19, 2008 and September 16, 2008 Public Works Committee meetings]

B. Traffic Signalization at 133rd and Roe Avenue

Councilmember Gill noted this item had been discussed previously by the Governing Body and was referred to the Public Works Committee for a traffic warrant study. Mr. Gill indicated there has been an increase in the amount of traffic and an increase in the number of collisions located at this intersection. The warrant study concluded that a traffic signal is needed. The average traffic speed is 45-47 miles per hour.

Councilmembers Cain and Peppes concurred with Mr. Gill's comments. Dr. Peppes felt action needed to be taken quickly.

A motion to approve signalization at 133rd and Roe Avenue was made by Councilmember Peppes; seconded by Councilmember Azeltine.

Councilmember Rasmussen referred to the memo from Olsson Associates and noted it stated "Based on the available count data, a traffic signal is not warranted." He felt if Council was planning this for 2010 through 2012 when the warrants would be available, he would support it; however, not at this time.

Mayor Dunn noted it met three of the warrants.

Public Works Director Joe Johnson stated most of the time all of the warrants are not met. When they considered the posted speed limit and the volume of cars through this intersection; this didn't meet warrants for a traffic signal. The second analysis considered the actual speed people were driving, which 85% of the time, they were driving anywhere from 40-47 miles per hour. In this case, there are enough warrants met for installation of a traffic signal. It only required that one be met.

Councilmember Azeltine indicated he frequented that intersection every day and was glad that the Public Works Committee had acted on this.

Mayor Dunn noted if the project was approved, it would be presented for programming at the next CIP review. She clarified this would be in 2011.

Mr. Lambers stated if Council wanted to accelerate it to 2010, they would need to do a budget amendment to provide for the engineering and design of the traffic signals in 2009, with construction in 2010. Normal process would be to approve it in 2011 with the cost for the work to be done the prior year, which would be 2010.

Mayor Dunn asked if there was anything the City could do in the interim period to make it safer, such as installing flashing lights.

Police Chief John Meier stated they could patrol it more frequently, however; noted they already work that area much of the time.

Mayor Dunn asked if they should consider a four-way stop. Mr. Johnson indicated there would be significant problems if a four-way stop was installed on Roe Avenue. The report had some recommendations as far as beacons; however, after a little time, people get used to them and begin going back to the speed they are comfortable at driving.

Councilmember Gill encouraged the Council to vote in the affirmative for this and noted the committee would continue to consider the timing issues. In 2007 there were five traffic accidents noted in the report and so far this year, there have been four.

Mr. Gill asked for part of the motion to include the committee to continue to look at timing and work with staff on timing options of whether they could push it into 2010.

Councilmember Azeltine concurred with Councilmember Gill's comments and felt they needed to move this up on the schedule, if possible.

Councilmember Filla asked if the traffic patterns could be changed to make it a right hand turn only; therefore, would have people backtrack. Mr. Johnson stated this would require reconstructing the intersection and installing permanent curbing. If barricades were in place, they would be plowed over during the winter. This would be too costly for only a temporary solution.

Mayor Dunn noted there was a friendly amendment to the motion to review the timing of this and return to Council with recommendations for funding.

Mayor Dunn called for the question. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

12. PLANNING COMMISSION

[From the July 8, 2008 Planning Commission meeting]

- A. **Ordinance No. 2348** approving a Preliminary Site Plan, Final Site Plan and Final Plat for Leawood Public Library Addition, located on the northwest corner of Roe Avenue and Town Center Drive (Case #35-08) [Roll Call Vote]

Joe Waters, Director of Facilities for Johnson County Government, Charley Vogt, Chairman of the Library Board, and Fred Logan, Legal Counsel to the Board, gave a presentation of the Leawood Public Library addition. Mr. Waters noted Council had challenged them to incorporate the roof top equipment into a pitch roof position that would better match the existing roof lines and he felt they had accomplished this. There were different ideas on the shape of the roof lines; however, concealing the equipment seemed to be their biggest obstacle. They located a smaller piece of equipment that would fit into the well area of the existing structure. They presented a gable roof with a series of shed roofs and rectangular shapes that helped to identify the main entry to the library. The other piece of mechanical equipment will be placed back from the south edge of the roof line. Mr. Waters noted you could see a small amount of the roof line as you enter the parking lot.

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Councilmember Peppes noted appreciation to the applicants for their work and effort put into the design, indicating they had heard the requests of Council.

Mayor Dunn concurred with Dr. Peppes and noted the more traditional classic appearance was complimentary to the City Hall building and thanked them and their architect for the modifications made.

The motion carried following a unanimous roll call vote of 7-0. Yea: Councilmembers Rasmussen, Filla, Gill, Rawlings, Peppes, Azeltine, and Cain. Nay: None. (Councilmember Bussing absent).

Mr. Vogue thanked the City Council for their time and patience of this plan on behalf of the Library Board. He noted the library was currently open in a temporary location in Town Center Plaza in place of the "Sharper Image" facility.

[From the September 9, 2008 Planning Commission meeting]

- *B.** Ordinance amending § 16-2-9.2 of the Leawood Development Ordinance [LDO], pertaining to Performance Criteria - Non-Residential Uses [Deviation to Minimum 10 Acre Requirement for Commercial Development] (PC Case # 08-06) [Roll Call Vote] - ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***

- *C.** Ordinance amending § 16-3-9 of the Leawood Development Ordinance [LDO], pertaining to Deviations [Deviation to Minimum 10 Acre Requirement for Commercial Development] (PC Case # 09-06) [Roll Call Vote] - ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***

Councilmember Rasmussen asked if anyone remembered why Council had chosen the 10 acre requirement and noted there was concern to the possibility of spot zoning. He thought they had chosen a number that represented new areas in Leawood.

Mayor Dunn referred to comments made by Mr. Lambers at the Planning Commission meeting and stated it was for an attempt to have land owners work together and acquire 10 acres to not have the spot zoning and to have more of a planned district. Mr. Lambers stated it was felt that the 10 acre size was the minimum size of the type and quality development that regulations would impose to make the project pencil out. This is no longer relevant to the City at this time, since it is built out.

Mr. Rasmussen stated they still have situations on State Line Road.

Mr. Lambers noted in situations that may arise on State Line, or otherwise, the City would allow them to come forward on their own merits and evaluate them. It's not necessary at this point, since they can evaluate each application that comes in.

- *D.** Ordinance amending § 16-2-6.1 of the Leawood Development Ordinance [LDO], pertaining to SD-O Planned (Office District) [Deviation to Minimum 10 Acre Requirement for Commercial Development] (PC Case # 83-08) [Roll Call Vote] - ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***

- *E. Ordinance amending § 16-2-6.2 of the Leawood Development Ordinance [LDO], pertaining to SD-NCR (Planned Neighborhood Commercial Retail) [Deviation to Minimum 10 Acre Requirement for Commercial Development] (PC Case # 74-08) [Roll Call Vote] – ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***
- *F. Ordinance amending § 16-2-6.3 of the Leawood Development Ordinance [LDO], pertaining to SD-CR (Planned General Retail) [Deviation to Minimum 10 Acre Requirement Development] (PC Case # 75-08) [Roll Call Vote] – ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***
- *G. Ordinance amending § 16-2-6.4 of the Leawood Development Ordinance [LDO], pertaining to MXD (Mixed-Use Development) [Deviation to Minimum 10 Acre Requirement for Commercial Development] (PC Case # 76-08) [Roll Call Vote] – ***CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING***
- H. **Ordinance No. 2349** amending § 16-4-1.3 of the Leawood Development Ordinance [LDO], pertaining to Accessory Uses (PC Case # 64-08) [Regulation of Temporary Storage Containers-PODS] [Roll Call Vote]

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

Councilmember Peppes asked if this included dumpsters.

Planning Director Richard Coleman stated the construction storage dumpsters were under the construction permits and these would be separate.

Councilmember Rasmussen asked if there was an ordinance that stated there needed to be at least two garages, in terms of parking. He was concerned that the pods would interfere with garaging and cause parking on the street.

Mr. Coleman stated if they own several cars, some would need to be temporarily parked on the street. The ordinance requires two parking spaces per unit in residential zoning.

Councilmember Azeltine referred to the 30-day limit for the pods and asked how the City decided on this time frame. Mr. Coleman stated 30 days seemed a reasonable amount of time and was also the length of time to lease the units from the businesses. Mr. Azeltine asked if they could have the option to continue the lease after the 30-day time frame. Mr. Coleman stated the City could issue a second permit; however, would want to make sure it was in conjunction with the construction permit since they want to limit them to temporary use.

Mr. Azeltine asked if someone wanted to abuse it, if the City would have the discretion to deny the permit application.

Mr. Lambers stated the intention was tied to permit activity and with people moving in or out. That's why there is a 30-day time period. Mr. Azeltine confirmed with Mr. Lambers the residents would need a purpose to put in there. The permit process will require the reason for the portable storage and give the City the ability to track and enforce the 30-day time period.

Councilmember Cain asked how a neighbor might know if they had gone through the proper channels to have the pod there. Mr. Coleman stated they could call the office to see if there was a record of it.

The motion carried following a unanimous roll call vote of 7-0. Yea: Councilmembers Gill, Filla, Azeltine, Rasmussen, Peppes, Rawlings, and Cain. Nay: None. (Councilmember Bussing absent).

- *I. Ordinance amending § 16-2-9.2 of the Leawood Development Ordinance [LDO], pertaining to Performance Criteria (PC Case # 79-08) [Lighting Standards Regarding Visibility of Light Sources and Uniformity] [Roll Call Vote] - **REMANDED TO THE PLANNING COMMISSION**
- *J. Ordinance amending § 16-4-5.7 of the Leawood Development Ordinance [LDO], pertaining to Off-Street Parking Requirements in Office, Commercial, and Industrial Districts (PC Case # 80-08) [Lighting Standards Regarding Visibility of Light Sources and Uniformity] [Roll Call Vote] - **REMANDED TO THE PLANNING COMMISSION**

Mayor Dunn noted staff was making the request to remand this to provide additional information as to how the uniformity of lighting should be measured. The Mayor confirmed with Ms. Bennett these two items could be combined in one motion.

A motion to remand Item Nos. 7I and 7J to the Planning Commission was made by Councilmember Rasmussen; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- *K. Ordinance amending § 16-4-5.7 (B)(1) of the Leawood Development Ordinance [LDO], pertaining to Off-Street Parking Requirements in Office, Commercial, and Industrial Districts - Improvement of Parking Areas [Parking Lot Pavement Standards] (PC Case # 66-07) [Roll Call Vote] - **CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING**
- *L. Ordinance amending § 16-4-10.1 of the Leawood Development Ordinance [LDO], pertaining to Home Occupations [Home Occupation Vehicles and Vehicle Signage] (PC Case # 73-06) [Roll Call Vote] - **CONTINUED TO THE OCTOBER 20, 2008 GOVERNING BODY MEETING**

13. OLD BUSINESS – None.

14. OTHER BUSINESS

Mayor Dunn noted the Leawood Police Color Guard gave a presentation at the beginning of the Kansas City Chiefs vs. Denver Broncos football game on Sunday, September 28, 2008.

Councilmember Rasmussen asked what was causing the delay on Item Nos. 12K and 12L. Mr. Lambers stated the reason for the continuance was due to a technical discrepancy between the Planning Commission action and the staff report. This is dealing with Leawood Development Ordinances [LDO] amendments that impact people; therefore, staff didn't want to have any procedural issues brought up later.

15. NEW BUSINESS

- A. **Ordinance No. 2350C** amending Sections 14-101 through 14-112 of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating traffic within the corporate limits of the City; incorporating by reference the 'Standard Traffic Ordinance for Kansas Cities, 2007 Edition,' [STO] with certain amendments, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, and K.S.A. § 12-3301 and 12-3302; repealing existing sections 14-101 through 14-112; and other sections in conflict herewith [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous roll call vote of 7-0. Yea: Councilmembers Azeltine, Rawlings, Peppes, Filla, Gill, Rasmussen, and Cain. Nay: None. (Councilmember Bussing absent).

- A. **Ordinance No. 2351C** amending Sections 11-101 through 11-107 of the Code of the City of Leawood, 2000, pertaining to regulating Public Offenses within the corporate limits of the City; incorporating by reference the 'Uniform Public Offense Code for Kansas Cities,' 2007 Edition, [UPOC] with certain amendments and omissions, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, and K.S.A. § 12-3301 and 12-3302, and repealing existing § 11-101 through 11-107, and other sections in conflict herewith [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Peppes. The motion carried following a roll call vote of 6-1. Yea: Councilmember Rawlings, Peppes, Azeltine, Gill, Filla, and Cain. Nay: Councilmember Rasmussen. (Councilmember Bussing absent).

- C. Discussion regarding amending § 16-4-5.4 of the Leawood Development Ordinance [LDO], pertaining to an exception to the two-car garage requirement

Councilmember Gill asked if this could be handled as a variance to the Board of Zoning Appeals [BZA]. Mr. Lambers stated the City's requirement does not necessarily meet the statutory requirements; therefore, if the BZA were to deny them, they would have no recourse. They could not proceed with improvements because they would not meet the City's ordinance requirement.

Mr. Lambers felt there were certain circumstances that would allow remodeling to occur and not impose a two car garage requirement. For example: There is an irregular shaped lot with the home irregularly shaped on the lot and currently has a one car garage. If a two car garage were to be installed, it would significantly encroach onto the side yard setback, which would be detrimental to the property owner next to them. He requested Council to authorize him to prepare an LDO amendment to establish a procedure that he could approve administratively if he felt it was reasonable; if not, he would recommend denial. It could always return before the Governing Body to have final say in the matter. The procedure would only be to consider a waiver on a case-by-case basis of the two car requirement.

Mayor Dunn confirmed with Mr. Lambers that he was asking Council to direct staff to draft an amendment to establish the procedure to obtain the waiver for existing structures.

A motion to approve the request was made by Councilmember Gill; seconded by Councilmember Azeltine.

Councilmember Peppes asked if this would be tied to square footage. Dr. Peppes was concerned of someone adding a second floor to their home and only have a one car garage with many cars. Mr. Lambers stated it would depend upon lot configuration and the setbacks of the unusual configuration as it restricts construction of buildings. The question is, which way is better to proceed. Currently, there is no option other than to require a two car garage.

Councilmember Filla felt there were several places property owners would like to have a second car garage. There are homes worth \$400,000; however, they can't obtain that price because they only have a one car garage. Ms. Filla felt no one would be interested in over-investing in a house with a one car garage.

Mayor Dunn confirmed with Mr. Lambers that a rear entry garage was not attainable due to being land locked.

Councilmember Rasmussen asked Mr. Lambers to clarify. Mr. Lambers stated the procedure would be for any improvement to a house that would trigger the two car garage requirement. Mr. Rasmussen confirmed with Mr. Lambers this would include or exclude occupying the garage as living space. Mr. Lambers stated even if he denied it, they could still come before Council for approval.

Mayor Dunn asked Mr. Lambers if there was anything he needed to discuss with them to ascertain their comfort level. Mr. Lambers stated there was no other option for the house that was in question. They are in the process of constructing the home and need an immediate response to this to be allowed to receive an at risk permit for this one car garage to be done. They want to complete construction before winter. The driving factor will be the desire to have two car garages and this type of situation shouldn't happen very often. Mr. Lambers stated this home met the criteria for him to approve.

The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

- D. Recess into Executive Session regarding matters protected by the Attorney/Client privilege

A motion to recess into Executive Session for a period of 20 minutes regarding matters protected by the attorney/client privilege was made by Councilmember Rawlings; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

The Governing Body recessed into Executive Session at 9:20 P.M.

A motion to extend the Executive Session for a period of 20 minutes was made by Councilmember Azeltine; seconded by Councilmember Filla.

The Mayor and Council reconvened into regular session at 10:00 P.M.

A motion to suspend enforcement of political sign rules and direct the City Attorney and City Administrator to review and recommend language or changes to the ordinance was made by Councilmember Gill; seconded by Councilmember Peppes.

Councilmember Rasmussen asked if this affected commercial sign restrictions. Mayor Dunn clarified that this was for political signs. Mr. Lambers added that this pertained to the ordinance regarding informational signs and stated all would be suspended for enforcement.

Councilmember Gill clarified that his motion was for political signs only.

The motion to suspend carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

A motion to adjourn the regular meeting was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Bussing absent).

ADJOURN

There being no further business, Mayor Dunn adjourned the meeting at 10:05 P.M.

Debra Mansfield, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk