

Minutes

DVD No. 243

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 18, 2010. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None.

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

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Consent Agenda Item No. 10AA – Continued to the November 1, 2010, Governing Body meeting
- Addition of Item No. 12 – Report from Councilmember Azeltine

A motion to approve the amended agenda was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0.

3. APPROVAL OF CARRIE REZAC AS WARD THREE CITY COUNCILMEMBER

A motion to approve Carrie Rezac as Ward Three City Councilmember was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0.

4. OATH OF OFFICE ADMINISTERED TO CARRIE REZAC, TO FILL A PORTION OF FORMER COUNCILMEMBER MIKE GILL'S UNEXPIRED TERM UNTIL APRIL, 2012 FOR WARD THREE

City Clerk Deb Harper administered the Oath of Office to Carrie Rezac, Ward Three Councilmember.

5. ROLL CALL OF NEW COUNCIL

6. 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.

David Morantz, 10341 Cherokee Lane, wanted to solicit involvement from the City Council regarding concerns with two of the recent proposals from the Superintendent's office of the Shawnee Mission School District. The proposals include closing Mission Valley Middle School and moving Brookwood Elementary out of the Shawnee Mission East attendance area. This would have a detrimental impact on unity within Leawood. Brookwood is the only public school in Leawood north of I-435 and has become an important part of the northern Leawood community. He submitted a petition representing over 600 signatures from parents and neighbors in opposition of moving Brookwood Elementary School and a report in opposition of the proposal to close Mission Valley Middle School. He requested that the Council issue a letter to the Shawnee Mission School District stating their opposition to these proposals as well. Passing them would result in lower property values and less tax revenue for the City. He urged the Council to speak with their constituents about the proposals and reasons they purchased their homes in this area.

7. PROCLAMATIONS Double Ten Day, October 10, 2010

Mayor Dunn recognized Double Ten Day, October 10, 2010 and the City of Leawood's Sister City relationship with I-Lan, Taiwan and extended her congratulations and best wishes to the Republic of China on Taiwan in their celebration.

Leawood Historic District II

Mayor Dunn read the proclamation into the record.

Sypher House, 8746 High Drive, Historic Structure

Mayor Dunn read the proclamation into the record.

**8. PRESENTATIONS/RECOGNITIONS County Commissioner Ed Peterson-
Johnson County Budget Update**

Johnson County Commissioner Ed Peterson reported that the CARS Program was down by approximately \$2 Million due to decreases in State highway funds and the County cutting back their general operating costs.

Wastewater projects are increasing and the County is under a higher interest of the Environmental Protection Agency [EPA] regarding clean water outputs from their treatment facilities. They are investigating alternatives to handle this. Most issues arise because of aging infrastructure. The EPA's recommendation of the entire system will cost hundreds of millions of dollars. A co-generation plant is currently being installed at one of their treatment facilities, which will treat fats from restaurants and the ongoing waste that's being treated at the station. Natural gas will be used to create steam to generate electricity and will save \$450,000-\$600,000 per year. Expenditures have increased from \$735 Million to \$794 Million, which is attributed to stimulus and other grant money. Staff has found ways to reduce operating expenses by approximately \$12 Million. This included salary and hiring freezes, which have since been lifted. The County has increasingly supplemented their budget with other resources and has been able to hold the mill levy. As a result, property taxes are decreasing as a total percent of the budget. Transfers are up slightly at 12%, which is also attributed to stimulus and grant programs. They have obtained \$35 Million in stimulus money for grants. The co-generation plant is their biggest stimulus project, which has \$17 Million in federal guaranteed loans. These loans will be forgiven once the project is completed. There is also \$5-\$10 Million going toward the transit system, which is being used to upgrade equipment and on capital improvements on their expanding routes. The largest expenditure is on public safety and judiciary expenses. The County's general operation debt has declined over the last five years, which is very favorable with the increase in population. All of this information is available on their website.

9. SPECIAL BUSINESS – None

10. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 2010-37, 2010-38, 2010-39, & 2010-40
- B. Accept minutes of the September 20, 2010 Governing Body meeting
- C. Accept minutes of the September 20, 2010 Governing Body Work Session
- D. Accept minutes of the September 7, 2010 Governing Body Work Session
- E. Accept minutes of the August 25, 2010 Stormwater Committee meeting
- F. Accept minutes of the August 24, 2010 Arts Council meeting
- G. Accept minutes of the August 10, 2010 Parks and Recreation Advisory Board
- H. Accept minutes of the August 10, 2010 Historic Commission meeting
- I. Accept minutes of the July 22, 2010 Ironhorse Advisory Board meeting – ***[Continued from the September 7, 2010 and September 20, 2010 Governing Body meetings]-CONTINUED TO THE NOVEMBER 1, 2010 GOVERNING BODY MEETING***
- J. Accept minutes of the June 24, 2010 Leawood Foundation meeting
- K. Authorize staff to proceed with Request for Proposals [RFP] for Geotechnical Services for future Justice Center to be located at 117th & Tomahawk Creek Parkway
- L. Approve Mayoral Appointment of Anne Blessing to the Leawood Arts Council [Term: 2011]
- M. Approve Mayoral Appointment of Councilmember Andrew Osman as Vice-Chair of the Gezer Region Sister City Committee

- N. Approval Mayoral Appointment of William 'Bill' Ramsey to Planning Commission to fill former Commissioner Rezac's unexpired term to 2012
- O. Approval of 2011 Budget and Capital Improvement Project [CIP] Calendars
- P. Approve purchase in the amount of \$41,166.57, to Professional Turf Products pertaining to parts for the irrigation system
- Q. Approve renewal of retail liquor store license for Lancaster Liquor, located at 3731 W. 133rd Street
- R. Approve issuance of Temporary Alcohol Permit to conduct DeLaSalle 19th Annual Movie Benefit Event at AMC Town Center Theatre, 11701 Nall Avenue, on Wednesday, November 10, 2010, in accordance with Code § 3-216
- S. Approve Massage Therapist License for Ahimsa Massage & Healing, to be located at 11111 Nall
- T. **Resolution No. 3467** approving and authorizing the Mayor to execute 2011 Employee Benefit Plan documents
- U. Approve renewal for employee assistance program [EAP] with New Directions; life/AD&D; and long term insurance with Sun Life Assurance
- V. **Resolution No. 3469** designating holidays for the year 2011, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- W. **Resolution No. 3466** calling for a public hearing to be heard on Monday, November 1, 2010, regarding amendments to the 2010 Fiscal Budget for the City of Leawood, Kansas
- X. **Resolution No. 3470** approving and authorizing the Mayor to execute a Letter of Engagement between the City and Rubin Brown, LLP, for an amount not to exceed \$38,100, pertaining to 2010 audit services
- Y. **Resolution No. 3471** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$46,766.00 to Regents Flooring, for carpet replacement of Council Chambers, stairwell, 1st and 2nd lobby areas
- Z. **Resolution No. 3472** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$46,195.00, to MTS Contracting, Inc., for the City Hall Exterior Concrete Replacement Project
- *AA. Resolution approving and authorizing the Mayor to execute a Service Agreement in the amount of \$45,400.00 to KR Lamming, for Parks Maintenance Emergency Generator replacement -***THIS ITEM HAS BEEN CONTINUED TO NOVEMBER 1, 2010 GOVERNING BODY MEETING***
- BB. Approve Change Order No. 1 in the amount of \$ 26,695.70_, to Miles Excavating, Inc., pertaining to the 2010 Parking Lot Improvement Project [Parks Maintenance # 76012; Public Works Facility # 76015; and Ironhorse Golf Course Maintenance # 49116]
- CC. Approve Change Order No. 1 in the amount of \$58,683.50, to Wiedenmann & Godfrey, for the 98th Street Storm Sewer Improvement Project [Project # 76022]
- DD. Approve Change Order No. 2 in the amount of \$18,965.00, to Miles Excavating, Inc., pertaining to the 103rd Street Mill & Overlay Project between Mission Road and State Line Road [Project # 72014]
- EE. **Resolution No. 3473** approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Overland Park, pertaining to the operation and maintenance of the Street Light System

- FF. **Resolution No. 3474** approving and authorizing the Mayor to execute a renewal to that certain Maintenance Agreement dated January 14, 2002, between the City and Harris Corporation [f/n/a M/A-COM Private Radio Systems, Inc.] for the annual maintenance of police radio equipment
- GG. **Resolution No. 3476** approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Prairie Village pertaining to the usage of the 800 MHz police radio system
- HH. **Resolution No. 3477** adopting the National Incident Management System [NIMS] for the City of Leawood, Kansas
- II. **Resolution No. 3478** approving a Sign Plan for Ironhorse Centre - Trendz, located at 5409 W. 151st Street (PC Case #84-10) *[from the September 28, 2010 Planning Commission meeting]*
- JJ. **Resolution No. 3479** approving a Final Plan for a tenant finish for Sullivan's Steakhouse – Power Screen, located at the southeast corner of 119th Street and Roe Avenue (PC Case #87-10) *[from the September 28, 2010 Planning Commission meeting]*
- KK. **Resolution No. 3480** approving a Sign Plan for Parkway Plaza Offices – Mohn & Smiley Dental, located at 13430 Briar (PC Case #88-10) *[from the September 28, 2010 Planning Commission meeting]*
- LL. **Resolution No. 3481** approving a Sign Plan for Tomahawk Pointe – Euronet Worldwide, located at 3500 College Boulevard (PC Case #93-10) *[from the September 28, 2010 Planning Commission meeting]*
- MM. **Resolution No. 3482** approving a Final Plan for a tenant finish for Town Center Plaza – Dr. Deb's, located at 4817 W. 117th Street (PC Case #90-10) *[from the September 28, 2010 Planning Commission meeting]*
- NN. **Resolution No. 3483** approving a Final Plan for a tenant finish for One Nineteen – Fo Thai Restaurant, located at the southeast corner of 119th Street and Roe Avenue (PC Case #91-10) *[from the September 28, 2010 Planning Commission meeting]*
- OO. **Resolution No. 3484** approving a Final Plan for City of Leawood Parks Maintenance Facility Emergency Generator, located at 2008 W. 104th Street (PC Case #94-10) *[from the September 28, 2010 Planning Commission meeting]*
- PP. Fire Department Monthly Report [September]
- QQ. Police Department Monthly Report [September]
- RR. Municipal Court Monthly Report [September]

Mayor Dunn requested to pull Item No. 10N for discussion and noted Item No. 10O, the 2012 Budget/Financial Calendar, had been updated and forwarded to the Council electronically. The revised date to discuss the Governing Body Near and Long-Term Goals is January 31, 2011. Councilmember Osman pulled Item No. 10NN and requested recusal due to a conflict of interest. Councilmember Azeltine pulled Item No. 10CC.

A motion to approve the remaining Consent Agenda items was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

- 10N. Approval Mayoral Appointment of William ‘Bill’ Ramsey to Planning Commission to fill former Commissioner Rezac’s unexpired term to 2012

Mayor Dunn acknowledged Mr. Ramsey for his willingness to step up as a Planning Commissioner.

A motion to approve Item No. 10N was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

- 10CC. Approve Change Order No. 1 in the amount of \$58,683.50, to Wiedenmann & Godfrey, for the 98th Street Storm Sewer Improvement Project [Project # 76022]

Councilmember Azeltine confirmed with Public Works Director Joe Johnson that both the 90th and 98th Street Storm Sewer Projects were being funded by the 1/8 cent sales tax.

A motion to approve Item No. 10CC was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 8-0.

- 10NN. **Resolution No. 3483** approving a Final Plan for a tenant finish for One Nineteen – Fo Thai Restaurant, located at the southeast corner of 119th Street and Roe Avenue (PC Case #91-10) [*from the September 28, 2010 Planning Commission meeting*]

A motion to approve Item No. 10NN was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Osman recused).

11. MAYOR’S REPORT

- A. Attended two events sponsored by the Johnson County Public Policy Council: first was a forum for the 3rd District Congressional seat and the second was a forum for Johnson County Commission Chair. The Leawood Chamber of Commerce is involved in the Public Policy Council.
- B. The Leawood Police and Fire Departments held a wonderful annual open house. Mayor Dunn thanked Police Chief John Meier, Fire Chief Ben Florance and their departments for putting this on for everyone in the community. Also in attendance were Councilmembers Rawlings and Osman.
- C. Attended the 14th Annual Leawood Rotary Club “Bids for Kids” fundraiser. This was a very successful fundraiser for local children’s charities. Rotary President and Councilmember Gary Bussing went above and beyond as the auctioneer that evening.
- D. The Leawood Chamber of Commerce Board of Directors held their last board meeting at the Blue Valley CAPS [Center for Advanced Professional Studies] Program, located at 150th and Metcalf. They had an informative tour afterward. The program provides wonderful opportunities for juniors and seniors in the Blue Valley School District with a wide variety of professions in which to participate.

- E. Mayor Dunn had the privilege of once again this year being a participant in the Greater Kansas City 2010 Leadership Exchange to Indianapolis, with approximately 90 others from the metro region. This was again organized by Cathy Bennett, sister of City Attorney Patty Bennett. She did a great job, and this provided an educational resource for everyone who attended.
- F. Mayor Dunn thanked Human Resource Director Lovina Freeman for organizing the terrific United Way “Kick-off Breakfast.” Councilmembers who would like to participate in the campaign that have not yet signed up were invited to please contact Ms. Freeman for details.
- G. The Johnson & Wyandotte Counties’ Council of Mayors’ meeting was held at Lake Quivira, hosted by Mayor Larry Meeker.
- H. Mayor Dunn asked the Council to save the date of December 8, 2010, for the Council of Mayors’ Annual December Social. An R.S.V.P. will be necessary.
- I. Attended the Leawood Chamber of Commerce ribbon cutting ceremony for CoreFirst Bank & Trust, located at 123rd and State Line Road. They are headquartered in Topeka and have been in business for 50 years. This is their fourth location in Johnson County. Mayor Dunn wished them much success.
- J. Leawood hosted a reception for an artist delegation from the Gezer Region of Israel, Leawood’s Sister City. The reception was organized by City Administrator Scott Lambers with assistance from Parks and Recreation Director Chris Claxton. They were visiting for the semi-annual Jewish Community Center Art Festival. Attendees at the reception included a number of Councilmembers, as well as members of the Leawood Arts Council, Leawood Foundation and the Gezer Region Sister City Committee. Gadi Fraiman, sculptor of the Gezer calendar in Gezer Park, led the delegation and gifted the City with a piece of art that is located in the City Hall foyer. The art piece is titled “The Bull” and is sculpted from a piece of Jerusalem stone. A painting by another delegation member, Enon De Groot, has also been gifted to the City and is located in the administrative offices of City Hall. This painting depicts the beautiful landscape of Tel Gezer. Mayor Dunn expressed her appreciation to Councilmember Julie Cain for her leadership with this group, with assistance from Councilmember Andrew Osman. Mayor Dunn, along with her husband, Terry Dunn, attended the Jewish Arts Festival with thousands of others in attendance.
- K. Director General Jacqueline Liu of the Taipei Economic and Cultural Office in Kansas City hosted the Ninety-Ninth National Day Celebration of the Republic of China on Taiwan. Mayor Dunn extended her appreciation to Director General Liu. There were officials from Kansas, Missouri and Nebraska, along with hundreds of friends of Taiwan in attendance.
- L. Mayor Dunn had the privilege of serving as the Voting Delegate to the Kansas League of Municipalities, held at the Overland Park Convention Center. This was the 100th Anniversary of the League.
- M. Mayor Dunn joined Police Chief John Meier and members of his department, along with City Administrator Scott Lambers, for the 2010 Johnson County Fall Forum for MOCSA [Metropolitan Organization to Counter Sexual Assault]. Councilmember Cain was also in attendance.

- N. The Leawood Lions Club held a terrific “Pancake Days” breakfast this past weekend. This was a great success and included an increase in attendance this year.
- O. The Leawood Stage Company had a wonderful presentation of a concert-style production of “Sunday in the Park with George,” by Stephen Sondheim. There was outstanding talent in a very impressive production and was held at the Ironwoods Lodge, located in Ironwoods Park. Mayor Dunn thanked Stage Company Chairman Paul Anderson. There were a total of 750 attendees over the three days of performances.
- P. The “Leawood Lifestyle” Magazine had a great feature of Councilmember Osman and his family. Mayor Dunn noted it was very nicely done.

12. COUNCILMEMBERS’ REPORT – Councilmember James Azeltine

Councilmember Azeltine attended the Blue Valley Educational Foundation’s Donor Recognition Ceremony. This foundation is an auxiliary organization that provides grants to fund worthwhile school programs not funded in the district’s budget. The City of Leawood gives annually to this and the City’s cumulative donations merited a place on the donor recognition wall of honor, along with receiving a certificate of recognition.

13. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

14. ARTS COUNCIL

[from the May 25, 2010 Arts Council meeting]

Resolution No. 3485 approving and authorizing the Mayor to execute an Artwork Agreement in the amount of \$50,000 between the City and Jesse Small, for the purchase and installation of public art piece, ‘Gate to I-Lan,’ to be placed at I-Lan Park, 12601 Nall Avenue

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

Cultural Arts Coordinator April Bishop confirmed the art piece was scheduled to be installed in the spring of 2011.

15. IRONHORSE ADVISORY BOARD

[from the August 26, 2010 Ironhorse Advisory Board meeting]

Resolution No. 3486 approving and authorizing the Mayor to execute an Independent Contractor Agreement for an amount not to exceed \$50,772, between the City and Rasmuson Contracting Services, LLC, pertaining to irrigation retro-fit project at Ironhorse Golf Course, located at 15400 Mission Road

Jeff Thomasson, General Manager of Ironhorse Golf Course, stated they didn’t include the purchase of the turf products in with the contractor agreement because they can purchase the parts at a savings, compared to the contractor’s costs.

Councilmember Azeltine confirmed with Mr. Thomasson that this project will require funding in 2010, outside the budgeted capital monies. Mr. Lambers confirmed the funds would be derived from savings achieved from the parking lot improvements this year.

Councilmember Bussing reported he continues to receive outstanding reports regarding Ironhorse Golf Course and thanked Mr. Thomasson and his team for their efforts.

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

Councilmember Rezac requested recusal from Item Nos. 16A through 16G since these were previous Planning Commission cases. Ms. Rezac temporarily left the meeting at 8:35 P.M.

16. PLANNING COMMISSION

[from the August 16, 2010 Planning Commission meeting]

- A. Resolution approving the Planning Commission's recommendation to deny a request for a Rezoning, Preliminary Site Plan, and Preliminary Plat for Reed's Addition, located at 146th Terrace and Mission Road (PC Case #70-10)-***[Continued from the August 16, 2010 and September 7, 2010 Governing Body meeting] -APPLICANT HAS REQUESTED A REMAND TO THE PLANNING COMMISSION TO MODIFY THE PLAN TO INCLUDE ADDITIONAL NEIGHBORING PROPERTIES***

A motion to remand this item to the Planning Commission was made by Councilmember Bussing; seconded by Councilmember Filla. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac recused).

[from the August 24, 2010 Planning Commission meeting]

- B. Resolution approving the Planning Commission's recommendation to deny an amendment to Section 16-4-1.3 of the Leawood Development Ordinance entitled, "Permitted Accessory Uses, Buildings and Structures", pertaining to Recycle Bins (PC Case #73-10)

Community Development Director Richard Coleman confirmed this amendment resulted from the direction of Council at a Work Session. Mayor Dunn noted there was a minor change since the Planning Commission had recommended denial. Mr. Coleman stated comments were made regarding the placement of the dumpsters on concrete and asphalt and clarified concrete block pavers were acceptable. The containers need to be kept on a hard surface since they are picked up by skids and will tear the turf. Mayor Dunn confirmed the screening requirements would not take effect until 18 months after ordinance publication. Mr. Coleman stated recycle containers in commercial districts will require screening with a masonry wall and gate. Mayor Dunn clarified a gate is only required if the containers are located in a commercial district. Mr. Coleman confirmed that containers located at churches and schools require screening on three sides; however, containers at commercial districts require screening on all four sides.

Councilmember Filla thought the Planning Commission wanted to address this in a Work Session. Mr. Coleman confirmed they were concerned of additional costs to schools and were not in favor of regulating recycling bins at all.

A motion to approve the Planning Commission's recommendation to deny the amendment to the Leawood Development Ordinance [LDO] pertaining to recycle bins was made by Councilmember Rasmussen; seconded by Councilmember Osman.

Dave Hill, Executive Director of Facilities and Operations for the Blue Valley School District, stated the City of Overland Park had passed a similar ordinance requiring them to address the screening issues and locations on the campuses. The Overland Park ordinance provides a provision if the container is beyond 150' feet from a public street or residential neighborhood, screening is not required. They were able to find locations for the containers that would not require screening; however, would still allow them to be accessible and visible to the public. He asked the Governing Body to consider allowing a certain distance for which no screening is required and also allow the Planning staff to use their discretion in working with schools and churches to find appropriate locations. There are certain locations where the requirement of screening on all three sides could be reconsidered for flexibility.

Mayor Dunn noted she had received numerous complaints regarding the appearance of the bins located in the front of Leawood Elementary School. She was surprised by the motion to deny the amendment since there was unanimous consensus in the Work Session that something needed to be done due to several complaints.

Councilmember Bussing confirmed with Mr. Hill that the school district is contracted to coordinate placing the bins. They limit every campus to two containers, one for paper recycling; the other for all recyclable materials, with exception to glass. The district receives no compensation; however, the schools receive \$80-\$120 per month, per bin.

Councilmember Osman confirmed with Mr. Coleman that if commercial property owners want to place a container, they would be required to submit the plan before the Planning Commission and City Council; however, churches and schools would be approved administratively.

Councilmember Bussing thought in light of comments from Mr. Hill and the Planning Commission, they should remand this to the Planning Commission to reconsider a distance provision. Mayor Dunn concurred.

Councilmember Filla noted a complaint of a third container and trash at Brookwood Elementary School was what prompted their Work Session discussion. She too, felt they should consider a provision for distance; however, not have double standards for the commercial sector.

Councilmember Rasmussen felt the City did not need to regulate everything and noted they are trying to encourage recycling. Mayor Dunn noted a greater awareness of recycling thanks to the efforts of the Sustainability Advisory Board. Councilmember Osman concurred with Councilmember Rasmussen's comments of over-regulating and screening.

The motion to approve the Planning Commission's recommendation to deny the amendment to the Leawood Development Ordinance [LDO], pertaining to recycle bins failed with a vote of 2-5. Yea: Councilmembers Rasmussen and Osman. Nay: Councilmembers Filla, Azeltine, Rawlings, Bussing, and Cain. (Councilmember Rezac recused).

A motion to remand this to the Planning Commission for further consideration of comments made by Mr. Hill of the Blue Valley School District, specifically regarding consideration of a distance provision and to ensure an easy administrative appeal process for the schools and school district was made by Councilmember Bussing; seconded by Councilmember Filla. Mayor Dunn added that the reason for the remand should include Mr. Hill's presence this evening and his agreement to abide by several of the requested recommendations.

Councilmember Rasmussen made a formal amendment to include that staff notify all those affected of this proceeding; seconded by Councilmember Osman. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac recused).

The motion to remand this to the Planning Commission for further consideration carried following a vote of 6-1. Nay: Councilmember Rasmussen. (Councilmember Rezac recused).

[from the September 28, 2010 Planning Commission meeting]

- C. **Resolution No. 3487** approving a Final Plan for Ranchmart North – Signage and Remodel, located at the northeast corner of 95th Street and Mission Road (PC Case #47-10)

Henry Klover, Klover Architects, stated due to signage issues, they hadn't been successful with tenants. They were requesting approval of an upper level signage area made of brick and are proposing brick columns as well. The owners of the shopping center have requested they come as close as possible to matching the existing grocery store. They plan to divide the remodel into three phases: 1) the former Seasonal Concept site, 2) the 95th Street side of the complex, and 3) the Mission Road side. The timeline and location to begin the remodel will be economically driven by the tenants.

Councilmember Osman confirmed with Mr. Klover that the 13,500 square foot Seasonal Concept area was 90' foot in depth and could be divided into five tenants.

Otto Westerfield, 20190 Dearborn, Stillwell, Kansas, stated they intend to improve the property; however, it must be tenant driven since they need to have a return on their investment.

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

Mayor Dunn was concerned with the architectural differences of Ranchmart South and Ranchmart North. Mr. Westerfield stated when designing the remodel, the grocery store had to be taken into consideration since it was such a large key element.

The motion carried following a unanimous vote of 7-0. (Councilmember Rezac recused).

- D. **Ordinance No. 2464** approving a Special Use Permit for a temporary bank building for Plaza Pointe – Crossfirst Bank Leawood, located at the southwest corner of 135th Street and Roe Avenue (PC Case #89-10) [ROLL CALL VOTE]

Amy Fauss, Crossfirst Bank, stated this permit would be used while remodeling their facility. They will be relocating their corporate headquarters from Overland Park to Leawood and plan to complete construction within 90 days.

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous roll call vote of 7-0. (Councilmember Rezac recused).

- E. **Ordinance No. 2465** approving a Preliminary Plan for a drugstore with drive-thru for Town Center Plaza – Lot 9 – Walgreens, located at 4701 Town Center Drive (PC Case #64-10) [ROLL CALL VOTE]

Fred Logan, Esq., Logan, Logan and Watson, represented Douglas Henzlik of Henzlik Oliver Real Estate. This project has the support of its neighbors. The site has been vacant for 18 months. This particular Walgreens is expected to generate \$8 Million in sales per year. This will be a smaller building than usual because of the size of the site. The building is 11,785 square feet, with a basement of 2,500 square feet. They have requested two deviations, both of which fall between the parameters of the ordinance. A pharmacy drive-thru is far different than a fast food drive-thru. A peak time could include 12 vehicles at a pharmacy, whereas a fast food drive-thru may have up to 100 vehicles during peak time. The applicant has agreed to all of the stipulations listed, including stipulations made by the Public Works Department.

Nick Telowitz, Nova Group Architects, stated the building would be situated with green space around the main intersection corner of Town Center and Roe Avenue with parking located on the west and south sides. The south elevation will house the drive-thru, which will face Town Center Plaza. This Walgreens will be an upgrade from their typical prototype with four-sided architecture and masonry detail. The service/receiving side facing east will be completely screened with a masonry wall and gates. The brick material is similar to that of Town Center. There is one wall sign proposed on the east elevation. Typically, there are six wall signs placed on a Walgreens. The pedestrian space provides a plaza to the front entrance of the building, which leads to a sidewalk on the west side into the remaining development.

Seth Reece, Engineer, Olsson Associates, stated the landscaping meets all of the City's requirements. There will be trees along the signage as shown on the plan.

Councilmember Rasmussen confirmed with Mr. Reece that they plan to utilize the two current ingress and egress locations.

Assistant Planning Director Mark Klein confirmed that the monument sign would be located outside the site triangle, 30' feet from the property line.

Tom Fulton, Traffic Engineer, Olsson Associates, stated there were concerns from the Planning Commission regarding maneuvering through the drive-thru area. He confirmed vehicles should be able to make the radiuses and clear the curbs.

Mayor Dunn wanted clarification of the building setback along Town Center Drive. She noted the average site area for a Walgreens in Johnson County was 92,770 square feet and the average floor area is 14,394. This proposed Walgreens has a floor area of 14,285 with the site area approximately 40,000 less square feet, which was a concern of staff. She asked if the deviation was necessary or if they could allow the smaller floor area without it. Mr. Logan stated the deviations were essential for the project. The floor area of 14,285 square feet includes the basement. Mayor Dunn noted that the current building (Coyote Grill) is a little more than 6,000 square feet and the proposed Walgreens will be almost twice that size. Mr. Logan stated this will be the smallest Walgreens in the greater Kansas City area. The basement will be used for storage only.

Councilmember Cain confirmed with Mr. Telowitz that the height of the proposed building is 27' feet. The typical height is 22' feet with some areas 24' feet. Mr. Klein confirmed that the LDO encourages buildings located in this zoning to have a two-story appearance. Mr. Telowitz clarified the interior ceiling height would be 13' feet. He confirmed there were no recent Walgreens constructed without a drive-thru.

Councilmember Bussing confirmed with Mr. Telowitz that the windows would be a tinted glass with an interior lit showcase window. Mr. Bussing was concerned of being able to see through the store and also having signs posted in the windows. Mr. Telowitz stated they intended for people to see into the store. Mr. Logan confirmed they would comply with all of the sign ordinances.

Mr. Logan stated there were no changes to the setback in comparison to Coyote Grill. Mayor Dunn clarified Coyote Grill doesn't comply with the current LDO 40' foot setback requirement. Mr. Logan felt their deviation requests were appropriate given the nature of the project and its use and is allowed by the ordinance.

Mr. Telowitz confirmed they wanted windows that would provide light into the building; however, there will not be windows on the east side (Roe Avenue). The upper area of the windows on the north and west side will be clear and the bottom area will be glazed.

Mr. Klein stated staff was concerned with safety issues of the traffic circulation and pedestrian crossing of the drive-thru. Mr. Fulton stated there could be traffic conflicts in all parking lots. The estimated timeframe for vehicles in the drive-thru is 2-5 minutes.

Councilmember Rawlings confirmed that the drive-thru lane is 12' feet wide. From a marketing standpoint, retailers would prefer that customers come inside and asked the reasoning for providing a drive-thru. Mr. Logan clarified it's a matter of customer convenience. Pharmacies are not being constructed without them. There is no record of safety issues on any of the Walgreens projects in the Kansas City area.

Councilmember Rawlings voiced concerns of only five Planning Commissioners present at the meeting with a 3-2 vote. He understood this met the quorum; however, with a project of this significance, he asked if the City had precedent with regards to the number voting. City Attorney Patty Bennett clarified the Planning Commission requires they have a majority vote, not super majority. Mr. Logan noted the Planning Commission Chair did not vote; however, he had agreed that all the Golden criteria had been met. Mr. Lambers noted in his nine years of employment with the City, there has never been a 3-2 vote.

Councilmember Filla confirmed their hours of operation would be 9:00 A.M. to 9:00 P.M. She asked if they had given consideration to moving the drive-thru to the west side (the entrance closest to Town Center) of the building. Mr. Reece stated they considered several site plans and that arrangement would not function with the building internally. Mr. Telowitz clarified the store is laid out with the sales area located in the front and the pharmacy to the back for security and marketing reasons.

Councilmember Filla concurred with Councilmember Bussing regarding not wanting to see inside the store.

Mr. Coleman clarified this was a Preliminary Plan approval and they were not requesting approval of architectural design at this time. He also commented staff had recommended denial of this ordinance; therefore, all of the Golden criteria had not been met as stated by Mr. Logan. Mayor Dunn noted comments regarding the Final Plan were appropriate, should this project move forward this evening. Mr. Logan confirmed they would work with the staff and Council at the Final Plan approval to ensure an outstanding project.

Councilmember Bussing had aesthetic concerns to the overall scale of this building being placed on an already elevated site. Mayor Dunn reiterated her concerns with the deviation request of the building setback of 30' feet and the height of the building. Mr. Telowitz stated the encouragement of having a two-story appearance was the driving factor for the scale of the building and noted they were willing to adjust the height.

A motion to pass the ordinance and request that the applicant give consideration to all comments regarding windows, height, buildings materials, landscaping, etc., before the Final Plan approval process was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rezac recused).

- F. **Ordinance No. 2466** approving a for a Special Use Permit for a drugstore with drive-thru for Town Center Plaza – Lot 9 – Walgreens, located at 4701 Town Center Drive (PC Case #64-10) [ROLL CALL VOTE]

A motion to pass the ordinance was made by Councilmember Azeltine; seconded by Councilmember Osman.

Mr. Klein confirmed that unless otherwise stated, the ordinance limits the Special Use Permit [SUP] to 20 years and is not transferrable.

Mr. Coleman confirmed after reviewing several different plan options, this particular plan was the only solution for this site.

A formal amendment to include a stipulation that the SUP have a term limit of five years for purposes of analyzing the drive-thru traffic for safety issues was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Mr. Logan confirmed with Mayor Dunn that if there were no safety issues, the SUP would be renewed in five years.

The motion for the formal amendment carried following a unanimous vote of 7-0. (Councilmember Rezac recused).

The motion to pass the ordinance carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rezac recused).

- G. **Resolution No. 3488** approving a Final Plan for a tenant finish for One Nineteen – Rasputin Restaurant and Vodka Bar, located at the southeast corner of 119th Street and Roe Avenue (PC Case #77-10)

Jason Doyle, Doyle Restaurant Group, stated they agreed to the stipulations regarding signage.

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac recused).

Councilmember Rezac rejoined the meeting at 10:45 P.M.

17. OLD BUSINESS – None.

18. OTHER BUSINESS

Discuss Committees and Boards' Mission Statements

Mayor Dunn noted these Mission Statements were compiled from their work session discussion. Councilmember Bussing has provided suggested revised language for the Ironhorse Advisory Board Mission Statement

Councilmember Rasmussen suggested that the last sentence of the Ironhorse Advisory Board Mission be changed to read: "The committee will be provided copies of golf course operations and financial reports for their information, review, and making recommendations."

A motion to approve these Mission Statements and forward them to their respective committees with the revised language as stated for the Ironhorse Advisory Board was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

19. NEW BUSINESS

- A. Schedule a Governing Body Work Session on Monday, January 3, 2011, at 6:00 P.M., to discuss Transportation Development District [TDD] Financing for One Nineteen Development

A motion to approve the Work Session was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

- B. Schedule a Governing Body Work Session on Tuesday, January 18, 2011, at 6:00 P.M., for a continued discussion on future use of current Police Facility and former City Hall buildings

A motion to approve the Work Session was made by Councilmember Filla; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

- C. Schedule a Governing Body Work Session on Monday, February 21, 2011, at 6:00 P.M., to review 'Draft' Proposals for design of Justice Center and former City Hall buildings

A motion to approve the Work Session was made by Councilmember Rawlings; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 8-0.

- D. Schedule a Governing Body Work Session on Monday, March 7, 2011, at 6:00 P.M., to review 'Draft' Proposals for design of Justice Center and former City Hall buildings

A motion to approve the Work Session was made by Councilmember Rawlings; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 8-0.

ADJOURN

There being no further business, the meeting was adjourned at 11:00 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk