

Minutes

DVD No. 200

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 20, 2008. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Gregory Peppes.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Richard Coleman, Comm. Dev. Director
Jack Reece, 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
Lovina Freeman, HR Director
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. 12E through 12J were continued to the November 3, 2008, Governing Body meeting
- * The addition of two Councilmembers Reports – Item No. 9A Councilmember Filla and Item No. 9B Councilmember Azeltine

A motion to approve the Amended Agenda was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

4. **PROCLAMATIONS - None**
5. **PRESENTATIONS/RECOGNITIONS – None**
6. **SPECIAL BUSINESS**

[From the August 12, 2008 Planning Commission meeting]

- A. Presentation of 2008 Comprehensive Plan and Map ***CONTINUED FROM THE OCTOBER 6, 2008, GOVERNING BODY MEETING***

Diane Binckley, Ochsner Hare & Hare, presented the Leawood Comprehensive Plan [Comp Plan] and Map before the Governing Body.

Ms. Binckley stated there were two goals she was asked to accomplish; to update the statistical portion of the Comp Plan and update the land use map. Areas of review in the statistical portion were population, households, minority information, income level, and education. These are important to analyze each year as required by Kansas statute. A projected population growth evaluation was done to ensure that targets previously evaluated were still on target. Potential developments were reviewed, which included how much square feet is available in different types of zoning. There have been minor changes since the Planning Commission's review. Formatting issues were amended and close attention was paid to population numbers.

Ms. Binckley reviewed the map indicating it remained intact with no amendments. There were two areas north of I-435 on the previous Comp Plan showing medium density residential based on zoning; Chartwell West and the Estates of Old Leawood. In staff evaluation of density in those areas, low density residential could remain classified as low density; however, for continuity on the map, those two areas have been changed from medium to low density. Zoning on the property does not change as it relates to those homes.

Further south at Mission Farms; I-435 and Mission Road, there was mixed-use shown adjacent to I-435 with a strip on the north end showing low density. The line was adjusted to include the Villas that were part of the Mission Farms mixed-use approval. Continued south on Mission Road as it turns into Tomahawk Creek, the previous map was shown as low density residential. This area has been rezoned as office and the map has been adjusted to reflect the change.

On Tomahawk Creek, behind the American Academy of Family Physicians building, a piece of city-owned property previously shown as public, is currently office. Along Tomahawk Creek is the second phase of Camelot Court; city-owned shown as public. Across 117th Street on the north side, an area in Town Center Business Park is shown as public, which was formerly retail. Further south is the One-Nineteen project shown as residential and office; however, has currently been adjusted back to retail.

Along the 135th Street Corridor, a number of different land uses were shown across the Corridor Plan. This Comp Plan identifies the whole Corridor as mixed-use to allow flexibility for the City.

Ms. Binckley noted the Siena Apartments were shown with a dotted line to identify the current City's litigation.

Along 135th Street there were indications of different intersections and bonus options previously shown that had been removed because the mixed-use supersedes those. At 137th and Kenneth Road, a parcel north of the existing apartments and west of Target, formerly shown as retail, has been adjusted to medium density residential. At 143rd and Kenneth Road, the Christ Community Church property was previously shown as retail and has currently been adjusted to mixed-use, matching a potential proposal coming forward.

On Nall, property at Highlands Creek is shown as public because of the water district. There was an adjustment on Leabrook to currently match what the City has zoned.

The property at the northeast corner of Mission Road and 151st Street is zoned R-1 and shown as low density due to power lines and traffic. This was adjusted to medium density residential at that intersection and then buffers into a lower density as you go further east.

Councilmember Gill referred to the area regarding the water district and asked Ms. Binckley to recall the location. She noted it was at Nall, just south of 143rd Street, with approximately five or six acres on the north side.

City Administrator Scott Lambers stated the water district had proposed building a reservoir at this location, similar to the one at 131st and Quivira, in which they will construct an underground reservoir and build a 10–15 foot concrete covering. They are disputing the City's zoning process authority. Two years ago, the water district was successful in condemning the property from the developer and it has not been brought before the City Council for construction of the facility yet. Mr. Lambers stated the change in the plan is shown as the water district owning the property.

Mayor Dunn referred to page 33 of the Comp Plan and noted the projection that Leawood would be built out over the next 15 years. The approximate population estimate is close to 39,000. The Mayor asked what logic or formulas were used to change the number from the previous estimate of 45,000. Ms. Binckley stated they looked at how much land was still available and estimated how many lots per acre, depending on the density allowed, and evaluated the fact that there is mixed-use that has potential. She noted the numbers could adjust since they don't know for sure how intense some of the mixed-use options could be. When comparing the rate and the densities that the City has developed at this point, that number seemed reasonable.

Mayor Dunn referred to page 60 in the prior report regarding discussion of Park Place and future phases including a hotel, additional offices, and retail space. She noted these future phases included a second hotel and confirmed with Ms. Binckley that this was not documented in the plan. The Mayor asked her to include the second hotel in the future phase.

Councilmember Bussing asked how the 135th Street Corridor guidelines and the development ordinances fit in with the master plan.

Ms. Binckley stated in the past it had been identified as an appendix and hadn't been copied and provided to Council. It has always been part of the Council approval process.

[From the August 12, 2008 Planning Commission meeting]

- B. **Resolution No. 3114** approving the Planning Commission's recommendation to adopt the 2008 Leawood Comprehensive Plan and map, in accordance with K.S.A. § 12-7-47- ***CONTINUED FROM THE OCTOBER 6, 2008, GOVERNING BODY MEETING***

A motion was made by Councilmember Bussing to approve Item Nos. 6A and 6B with a stipulation referencing the 135th Street Corridor guidelines in a manner deemed appropriate and to include other minor adjustments made this evening; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

7. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 1113A and 1113B
- B. Accept Minutes of the October 6, 2008 Governing Body Work Session
- C. Accept Minutes of the September 11, 2008 Green Initiative Citizen Task Force Committee meeting
- D. Accept Minutes of the September 12, 2008 Stormwater Management Committee meeting
- E. Accept Minutes of the September 9, 2008 Parks and Recreation Advisory Board meeting
- F. Approve 2010 Budget Calendar
- G. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the Fundraiser for DeLaSalle Education Center, to be held at 11701 Nall [AMC Movie Theatre] on November 19, 2008
- H. Approve Change Order No. 1 in the amount of \$5,870.00 to Teague Electric Company pertaining to the 128th & State Line Road Traffic Signalization Improvement Project [#80400]
- I. Approve 3rd and Final Payment in the amount of \$15,355.85 to Mega Industries pertaining to the Trail Renovation project located at 123rd and Mission Road
- J. Approve 4th and Final Payment in the amount of \$52,885.39 to O'Donnell & Sons Construction pertaining to the Villaggio Development [CIP # 80403]
- K. **Resolution No. 3115** approving and authorizing a Construction Agreement in the amount of \$243,937, between the City and Miller Paving & Construction, LLC, pertaining to Gezer Park, [Phase I] located at 133rd and Mission Road [# 76006]
- L. **Resolution No. 3116** approving the granting of a Utility Easement to the City of Leawood for additional utility corridor relocations located at the Public Works Facility located at 14303 Overbrook
- M. Approve renewal of employee health insurance benefits with Blue Cross Blue Shield

- N. Approve renewal of employee dental insurance benefits with Delta Dental Insurance
- O. **Resolution No. 3117** designating holidays for the year 2009, in accordance with the personnel rules and regulations of the City of Leawood, Kansas
- P. Police Department Monthly Report
- Q. Fire Department Monthly Report
- R. Municipal Court Monthly Report

Mayor Dunn requested to pull Item No. 7I, Councilmember Filla requested to pull Item No. 7R, and Councilmember Bussing requested to pull Item No. 7E for discussion.

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

- 7E. Accept Minutes of the September 9, 2008 Parks and Recreation Advisory Board meeting

Councilmember Bussing noted in the minutes that the board had some excellent discussion regarding the additional feasibility study and stated he would be voting to oppose Item No. 11A.

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

- 7I. Approve 3rd and Final Payment in the amount of \$15,355.85 to Mega Industries pertaining to the Trail Renovation project located at 123rd and Mission Road

Mayor Dunn complimented the efforts of everyone involved in getting the trail renovation accomplished and noted it was beautiful.

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

- 7R. Municipal Court Monthly Report

Councilmember Filla asked if there was specific reason the monthly Court Report was down. Police Chief John Meier stated much of this was due to the department currently being down six officers; there are two recent graduates from the academy, two in the field training program, one in Iraq, and down one more officer. This amounts to missing approximately 17% of the patrol force.

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

8 MAYOR'S REPORT

- A. Attended the United Way Employee Campaign Kick-off Breakfast, coordinated by Human Resources Director Lovina Freeman and her committee. Participation was up over 23%, with the campaign ongoing. The United Way is one of many ways City employees show their generosity throughout the year. Mayor Dunn expressed her appreciation to Ms. Freeman and her committee for organizing this event and thanked everyone for their participation.
- B. Attended the Green Initiative Citizens Task Force dinner meeting, hosted by Chairwoman and Councilmember Debra Filla. It was a very well orchestrated and informative meeting with a terrific networking opportunity for officers of the Leawood homeowners associations. There were over 100 in attendance along with nearly all Councilmembers. The objective of the meeting was to provide information on the current state of waste management, ideas on how to address the challenge and a plan of action to develop a city-wide plan for homes associations in Leawood. Mayor Dunn noted special appreciation to Vice-Chairman and Councilmember James Azeltine and Public Works Department staff Julie Staci for her assistance in coordinating the event.
- C. Mayor Dunn was joined by Councilmember Filla, members of the I-Lan Sister City Committee, and staff liaison Franki Shearer at the Taipei Economic and Cultural office in Kansas City Double Ten Celebration commemorating Taiwan's "National Day." Mayor Dunn noted it was a grand event.
- D. Attended the TLC for Children and Families ribbon cutting and dedication ceremony in honor of their campus extension, along with Senator Sam Brownback and Congressman Dennis Moore. There were over 100 in attendance. TLC provides services to children in the Kansas City metro area and throughout the state. This expansion will address critical needs in foster care, residential treatment, and transitional living that exist for children and youth in the area. Mayor Dunn expressed her congratulations to TLC on their expansion.
- E. Mayor Dunn was joined by City Administrator Scott Lambers at a ribbon cutting ceremony for the Estates of Old Leawood, coordinated by the Leawood Chamber of Commerce. There were approximately 100 in attendance. As a sign of their good corporate citizenry, partners of the development generously contributed to the United Way campaign, which was very much appreciated.
- F. Attended three political forums, sponsored by the local Chambers of Commerce: (1) The County Commission Race with Councilmember James Azeltine and Dave Lindstrom participating; (2) Forum on the Judicial Merit Selection Process; and (3) The U.S. Senate Race with Senator Pat Roberts and former Congressman Jim Slattery.
- G. Mayor Dunn congratulated Public Works Fleet Technicians Chris Gish and Chris Skaggs, who placed 3rd and 5th in the Mechanics Competition Event at the American Public Works Association Annual Snowplow and Equipment Expo. Leawood has been one of the top competitors in this event for many years. Mayor Dunn recognized Public Works Director Joe Johnson for his continued good leadership.

- H. Mayor Dunn expressed her congratulations to Leawood resident Robert Kipp, who received the Urban Land Institute “Lifetime Achievement” Award, and noted it was a well-deserved honor.
- I. Mayor Dunn noted reminders of two final grand finale events in honor of Leawood’s 60th Anniversary Celebration. Friday, November 7, 2008, a gala event to reminisce about the history of Leawood will be held at Ironwoods Lodge from 6:30 – 10:30 P.M. Reservations are needed and invitations will be going out this week. On Saturday, November 8, 2008, an anniversary parade will begin at 10:00 A.M. at City Park and conclude at 117th Street.

Parks and Recreation Director Chris Claxton stated the viewing for the parade will be along the west side. The event will move to Park Place afterward for many activities planned for the kids beginning at 11:30 A.M. and continuing until 5:00 P.M. Ms. Claxton noted tickets were on sale in the Parks and Recreation office at City Hall.

9. COUNCILMEMBERS REPORT

A. Report from Councilmember Filla

Councilmember Filla stated there were 110 in attendance at the homes associations’ dinner, which included Councilmembers, residents, staff, and representatives from Town & Country Disposal and Deffenbaugh Industries. Twelve people signed up for each sub-committees, which will be working together on two topics; Contracts and Education. They will be meeting on November 6, 2008, in the Oak Room from 7:00 – 8:00 P.M.

Councilmember Filla reported as part of the Green Initiative Citizens Task Force, there are recycling containers at City Hall and they will also be located at the City parks. City Intern George Ertle worked with Superintendent Brian Anderson researching how to create the containers, the best process for picking them up, and creating enough containers for both Ironwoods and City Park. The cost was approximately \$3,330 and asked that Council consider approval of this expenditure as budget allowed.

Mayor Dunn asked for clarification on the number of park sites. Mr. Anderson stated they considered the two largest parks; Ironwoods Park and Leawood City Park, and totaled the number of trash receptacles located at various sports fields and shelters. This came to approximately 28 locations for the receptacles. There will be recycled containers located next to the trash receptacles. Mayor Dunn confirmed with Mr. Anderson that they would be metal containers, not clear ones.

Mayor Dunn confirmed that the amount would be \$3,330 for 28 receptacles and the openings would only be large enough for a can or bottle to fit through, not trash.

A motion to approve the expenditure of \$3,330 for recycling containers was made by Councilmember Filla; seconded by Councilmember Gill.

Mr. Lambers stated the motion needed to reflect that the amount would need to come from City contingency funds.

Councilmember Filla amended her motion to reflect the change; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

B. Report from Councilmember Azeltine

Councilmember Azeltine recalled the last meeting when Council suspended the sign ordinance and noted he had received some communications regarding people running for office stating they witnessed City employees removing signs from rights-of-way. He couldn't recall any stipulation in the motion to exclude any part of the ordinance. He understood if there was a safety issue involved; however, felt this was somewhat arbitrary and thought Council needed to clarify what was decided at that prior meeting.

Mr. Lambers stated after the Council's directive, someone placed a very large sign between the sidewalk and the street at a busy intersection. Staff indicated it was creating a site distance hazard. The Council had indicated there was some question in regard to the ability of the City to regulate the size of signs. As a result, Mr. Lambers had directed staff that the rights-of-way were not to have signage placed in them. All the contested aspects of the sign ordinances have dealt with placement on private property, not public right-of-way; this was the basis of his decision. Mr. Lambers stated they keep the signs in case someone wants to reclaim them. He concurred with Councilmember Azeltine that clarification was needed so if there was an offending sign creating a problem, the City could issue a citation rather than removal.

Councilmember Azeltine confirmed with Mr. Lambers that a citation would be given in the event it was creating a hazard and the sign would remain.

Mr. Lambers stated the question had been raised whether the City can regulate any size of signage and he felt they were being consistent by stating there couldn't be any signs in the public rights-of-way. This way, no one could complain they were treating one candidate or political message differently than the other.

Mayor Dunn confirmed with Ms. Bennett that the City's sign ordinance that is currently suspended does address the rights-of-way and signs being prohibited in the rights-of-way.

Mayor Dunn confirmed with Mr. Lambers that the Code Enforcement Department had called the candidates to reclaim some of the larger more expensive signs. Mr. Lambers asked for direction from Council on how to proceed if there is a safety issue involved.

Councilmember Rawlings didn't recall talking about the rights-of-way. He noted signs were all over town and didn't understand how the City could begin to issue so many citations. Mr. Lambers stated the citation would only be given if they were creating a site distance hazard. The typical yard signs in the rights-of-way would not present a problem.

Councilmember Rawlings thought the discussion was to eliminate the sign ordinance until the election was over. Mr. Lambers stated that was correct; however, he didn't anticipate the current situation regarding the large board sign. Councilmember Rawlings noted they didn't discuss this and thought they were all regarding yard signs.

He felt if there was an issue creating a safety hazard, then staff should make the determination on whether to issue a citation. He felt the intent of Council suspending the sign ordinance was because of the freedom of speech and right issue; however, there was no definition at that time.

Mayor Dunn confirmed with Mr. Lambers he needed direction from the Governing Body regarding signs that may be causing a site issue.

Councilmember Gill stated he had made the motion regarding this and his recollection was the same as Mr. Rawlings. For clarification purposes, Mr. Gill noted his motion would have contemplated yard signs sitting between the sidewalk and the curb on someone's property and he still favored that. He wanted to find a way to solve the issue of site distance without issuing a rule to pick up all kinds of signs. He asked if he needed to amend his motion to clarify the removal of signs only if they are causing a site hazard.

Mr. Lambers stated Council could give him that direction; however, the discretion is what causes the problem with the power of the ACLU. Mr. Gill stated the first amendment does contemplate discretion and thought public health and safety was an element that even the Supreme Court would recognize. If a sign impedes view and safety is an issue, he would stand behind Mr. Lambers' decision to remove it.

Ms. Bennett stated the City has had an ordinance that has banned signs in the rights-of-way, and year after year they have taken them down. Courts have traditionally approved cities regulating their own rights-of-way.

Mayor Dunn recalled the discussion regarding the rights-of-way at City Hall and noted staff was going to call the candidates regarding picking up some of the larger signs and not throwing them away.

Councilmember Filla stated she would support anything beyond a yard sign not allowed in the rights-of-way. She noted many signs were distracting and anything over a yard sign needed to be removed. Ms. Filla recommended they be consistent and remove them no matter what their size.

Councilmember Azeltine knew of the enforced ordinance for years; however, at the last Council meeting they suspended the sign ordinance and there were no stipulations made for exceptions. He agreed that if it impeded a view, it should be removed; however, Council can't suspend the ordinance and then have City employees pick them up. He thought they should consider the original intent of why they did this and make sure they don't do things in such a way that it could make matters worse. Every other city in the county has signs all over the rights-of-way.

Mayor Dunn noted the various views and stated staff needed direction on this issue.

Councilmember Azeltine made a motion to stick with the original plan to suspend the sign ordinance with the stipulation that if it impedes a view in such a way to endanger public safety, then staff was authorized to remove any political sign and try to notify the owner; seconded by Councilmember Rawlings.

Mayor Dunn stated the suspension was for political signs; however, it could be any sign that impedes a view.

Councilmember Gill felt this was the right thing to do when dealing with public safety.

Mayor Dunn confirmed with Ms. Bennett that the home association deed restrictions can supersede the suspension, so if they don't want the signs in the rights-of-way, they can take them down. Ms. Bennett stated this would be a private matter between the homes associations and the homeowner.

The motion carried following a roll call vote of 5-2. Yea: Councilmembers Cain, Gill, Azeltine, Filla, and Rawlings. Nay: Councilmembers Bussing and Rasmussen. (Councilmember Peppes absent).

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PARKS AND RECREATION ADVISORY BOARD

[from the September 8, 2008 Parks and Recreation Advisory Board meeting]

- A. Approve Change Order No. 1 in the amount of \$12,000 to Ankeny Kell Architects, Inc., pertaining to a feasibility study for a potential future Community Center for the City of Leawood ***CONTINUED TO THE DECEMBER 1, 2008, GOVERNING BODY MEETING.***

Staff Comment: There are no funds programmed into the 2008 budget for this Change Order

Ms. Claxton stated when they had spoken about this at the work session; there was consensus among the group that more information was needed. The way the analysis broke down was: One third of the people surveyed were in favor, which were families, one third were against it, which were the majority of singles and empty nesters, and one third were somewhere in the middle. There were concerns regarding the middle group of people surveyed, since this was a significant group. In summary, the consensus was if they could build and pay for a facility that included a fitness area, indoor track, indoor aquatics, aerobics, yoga, and a gymnasium area without raising property taxes more than \$5.00 - \$8.00 per month and the majority of the operating expenses be paid through user fees, the data suggested community support.

Ms. Claxton stated in order to get the additional information; they wanted to go beyond the market analysis. Currently, this information is planned for the work session on November 17, 2008. There was consideration among existing programs, potential revenue, and expenses. The market analysis can be done if that is the desire of Council. There will be no further information available beyond that.

Councilmember Gill commended Ms. Claxton on her summary and indicated he was interested in operating costs. Before committing to another \$27,000, Mr. Gill asked if they had tried to contact other cities in the area that have these facilities to get their operating and utilization numbers. He wanted assurance they were receiving enough funds and not coming up short.

Mayor Dunn confirmed with Ms. Claxton that the program development and operational costs Mr. Gill was referring to would be garnered with the \$12,000, not the \$27,000. This was a request for the first \$12,000.

Ms. Claxton stated they had access to facilities all over the metro and thought they could get this information; however, some of them were site specific to the amenities and that market so there could be a lot of differential. When referring to revenues and expenses, this depends upon the amenities put in. There are a lot of variables that get determined by the specific site and user potential.

Councilmember Bussing thanked Ms. Claxton and the Park Board for their work and indicated he had a slightly different perspective on the data presented at the work session. He felt there was no overwhelming desire among the community for a community center. He thought the one third of people in the middle were looking for something specific and every service Ms. Claxton had described could be found within close proximity of City Hall in multiple locations. The \$12,000 was almost an 80% increase that was an unbudgeted amount in excess of the cost that was originally programmed for this study. Mr. Bussing felt they had received their answers the first time and was disappointed that the market study hadn't been done at that time. He felt there was no reason to pursue this issue any further and stated he would not support the additional \$12,000 expenditure.

Mayor Dunn confirmed with Ms. Claxton that there were no funds programmed into the 2008 budget for this change order. The Mayor asked if the Parks and Recreation Department was able to do the marketing analysis in-house before going into this second phase, and if the funds would be available in the 2009 budget year. Ms. Claxton stated no funds were specifically budgeted in 2009. They could possibly have an alternative funding source. Her concern to an in-house market analysis was that sometimes people are not comfortable about the objectivity and was why they look to outside consultants who do it routinely. They are statistically consistent. Ms. Claxton stated they could get some information; however, it would not be of the detail that Council would want.

Mayor Dunn confirmed with Ms. Claxton that a portion of the market analysis was done by Ankeny Kell and, if authorized, they would do the second analysis. Ms. Claxton stated this was included in Phase I and they have the draft, but it's not concluded yet. This would be part of their presentation on November 17, 2008.

Councilmember Rawlings was concerned of moving forward with a community center with the unstable economy.

Mr. Lambers stated he was preparing the City's Capital Improvement Program [CIP] for the next five years and was in the process of scaling back the Residential Street Reconstruction Program and Stormwater Improvement Program due to economy concerns. As part of the five year modeling, instead of anticipating three new positions a year, he was only going to add two. He thought it was premature for the City to continue down the path of adding a community center and amphitheatre. He felt the best thing would be to budget the money for this phase as part of the 2010 budget, go through the CIP process, and see where things stand at that point. If things have improved next fall and Council wanted to evaluate this, they could exchange an expenditure in 2010 and in the Parks and Recreation budget, and have it to Council prior to discussion at the next round of the CIP. Mr. Lambers felt they should proceed with the land acquisition; however, this was something that had not yet been decided. He felt slowing things down would give more of a comfort level in regard to where the City stands with the CIP.

Mayor Dunn stated they were paying for and would meet on the completion of Phase I at the November meeting and the reason for the additional \$12,000 was because some of the questions asked by Council had not been answered in Phase I. This was one of the reasons this additional information was going to be offered for part of the Phase II costs.

Mayor Dunn referred to Mr. Lambers comments on scaling back and recommended that he program the Justice Center site for future possibilities of a community center. The Mayor felt Council shouldn't predict in 2008 what the future holds for Leawood.

Mr. Lambers stated he was only modestly scaling back programs and felt by trying to cut back on City expenditures both on a cash and bonding basis seemed prudent at this time. He thought this was something that needed to continue; however, just slow it down a little.

Mayor Dunn thought rather than deny the change order; it should be continued to the first meeting in December to allow for discussion at the November work session.

A motion to continue Item No. 11A to the Governing Body meeting on December 1, 2008, was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

12. PLANNING COMMISSION

[From the September 23, 2008 Planning Commission meeting]

- A. **Resolution No. 3118** approving a Revised Final Site Plan for Gezer Park, located on the northeast corner of 133rd Street and Mission Road

Ms. Claxton stated since Gezer Park was originally approved by the Planning Commission, they had changed architects and this project was now under the guidance of Phelps Engineering. She noted a lot of work had been done in a short amount of time. There were some minor changes to the plan, and the addition of a couple of foot bridges. One of the things they wanted to stay in scale with was making sure they were replicating some of the amenities of the park as close to the Gezer region as possible, both in the materials and the plants. Ms. Claxton noted they were happy with what they had been able to do using a lot of limestone and incorporating the water feature, walking paths and approaches that include some stepping stones to the shelters.

There are currently two covered structures. There is also an open air structure that will be down by the lake and will replicate some of the open air structures from their region.

Councilmember Rasmussen thought one of the pavilions was going to replicate the "Sukkot," which is a celebration where families go a certain time of year to get together.

Ms. Claxton noted the one he was referencing was planned. It has a lattice type roof and they had it designed from several of the pictures brought back. It is located on the northeast corner of the lake and is more of an open air concept. Councilmember Rasmussen reminded staff that this was part of the original plan in trying to mimic their customs and celebrations.

Roger Cassidy, Phelps Engineering, stated the fire pit would also be a gathering place. There is some flagstone and paths located around the pit.

Councilmember Rasmussen asked for clarification of the bridges. Ms. Claxton stated they were small foot bridges with no more than two feet off the ground so that some of the trails could go over the wadie/stream bed. She noted there would be slabs of limestone to hold them in place.

Councilmember Rasmussen asked if the foot stones would be similar to ones found in their region. Mr. Lambers indicated after the plan was presented to Council, they received different input from other entities and were advised that the term "Gezer" meant "bridge between two areas of Jerusalem and Tel Aviv" and felt it was appropriate to have a symbolic representation of what it means.

Councilmember Rasmussen reminded staff that the total cost should be no more than \$1.1 Million.

Mayor Dunn indicated she had not seen a monetary amount equated with this and they were just approving this final plan.

Ms. Claxton stated the only bid they had opened at this point, was the one approved from Miller Paving, which was for Phase I for \$243,000 for mass grading, construction of the parking lot, and utilities.

Mayor Dunn confirmed with Mr. Cassidy that they were still at approximately 20% - 25% of costs when based on the \$1.1 Million.

Councilmember Bussing confirmed with Ms. Claxton that the issue of the water not recirculating had been solved. Ms. Claxton stated they could chlorinate the water through the pump if there were concerns of mold and dirty water.

Councilmember Cain referred to the fire pit and asked if anyone would be able to get a permit to use it, or if it was only to be used for a City function.

Ms. Claxton stated they would have something placed over the top that could be locked and it could only be used with a permit so the City would know when it was being used. This way they could alert the fire department and they could come by afterward to make sure the fire was out.

Mayor Dunn indicated this was to be used primarily for ceremonial purposes and was the main reason it was built.

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

Councilmember Gill stated the park had a lot of community interest and wanted staff to consider seeking and receiving private donations for its construction.

- B. Resolution approving the Planning Commission's recommendation to deny a rezoning, preliminary site plan, and preliminary plat for Town Center Business Park - Walgreens, located at the northeast corner of 117th Street and Roe Avenue [Roll Call Vote]

John Peterson, Polsinelli Law Firm, stated there were two applications for approval; the rezoning and revised preliminary plan for the northeast corner of 117th and Roe, which is approximately 2.14 acres and a revised preliminary plan for approximately 2.5 acres to the east along 117th Street. Both of these applications have been zoned for retail use for some time. He felt they could bring a plan that would equal a high quality development to the City of Leawood.

Mr. Peterson stated they would like to have these applications remanded to the Planning Commission. He felt they had worked through the issues that were identified and thought they could be at or close to 100% compliance.

Mr. Peterson noted surprise to the action Council had taken previously this evening regarding the City's master plan and stated he had hoped the Mayor would open it up for public comment, particularly if the changes to the master plan impacted property owned by people in the room. He noted concern that with their pending zoning application through the master plan revision process, the very property under consideration this evening was changed as a designation of retail usage for which it is currently zoned and planned, to a designation of public use. This is in regard to the 4.5 acres located at the northeast corner at 117th and Roe. Public Use strongly suggests it's owned by the public. This property is not owned by the public and is owned by the group he represented this evening.

Mr. Peterson registered a very strong objection and wished he'd had an opportunity to do so prior to the vote of the Governing Body. The designation of their property had been changed in direct contradiction of its current zoning and its current plan.

Mayor Dunn advised Mr. Peterson that there are no public hearings at the Council table unless it calls for one. There is a sign-up sheet on the podium in the lobby for citizen comments; however, no one had signed in to speak. The Mayor noted if Mr. Peterson had indicated he wished to speak on this item, she would have recognized him. Mr. Peterson noted his appreciation and thanked the Mayor and Council for letting him register their concerns.

Mr. Peterson gave a presentation of the applications and stated the property was zoned as part of the Town Center Business Park back in the 1990's and has continued to receive that zoning (setting aside the recent master plan change in terms of designation to public use). This planned layout before Council was changed north across the creek. The original plan contemplated a certain set of factual circumstances regarding this property and has a significant creek system that runs along the north side. Although the site was designated and planned for retail use, it has some constraints in terms of the ability to have proper cross access. Discover O, which is currently doing business in the City of Leawood directly across the street to the south wants to reconfigure the site to allow them to bring, construct, and operate a new facility. Walgreens Company approached them and wanted to establish a pharmacy to serve the citizens of Leawood on the approximate 2.14 acres with the hope of bringing a good, clean, modern pharmacy facility with the convenience of having a drive-up window.

The plan brought forward addressed a number of issues in terms of design guidelines including, the right-of-way requests by the City of Leawood for future road improvements and utility easements that may be needed to serve a City-at-large need. Mr. Peterson stated a number of people appeared in support of their application at the Planning Commission meeting because they were willing to work with them and indicated they would start some landscaping elements in place that would help transition and buffer some of the office spaces. There was no record of opposition in terms of the uses or configurations they were proposing.

Mr. Peterson noted they wanted to earn the support of the Planning Commission and the Governing Body to develop this site to a productive commercial use since this was the reason they had bought the property. He touched on some of the key elements that were obstacles from gaining support. One was that they needed at least 60% street frontage on Roe and 119th Street. This plan meets or exceeds that requirement. This plan contemplates their dedication free of charge to the City of a full 15 feet of right-of-way for future improvement of 117th Street. Staff indicated they could support a right-in/right-out if it was located at least 360 feet from the intersection of 117th and Roe. Mr. Peterson noted it was at 365 feet. Mr. Peterson indicated that upon remand, they would be able to address both the F.A.R. and shared driveway issue. There were other issues in regard to the size of the sidewalks. As long as the staff report stayed consistent and the reasons stayed articulated by the Planning Commission, he felt they could bring back a plan that would meet all of the criteria.

Mr. Peterson requested that the rezoning, the Special Use Permit [SUP] for the drive-up window, and the revised preliminary plan be remanded to the Planning Commission for further consideration based on their willingness to meet all of the criteria.

Mayor Dunn asked when they had come up with this new plan. Mr. Peterson noted they had gone through some of the final touches over the weekend and if it was remanded to the Planning Commission it would give staff time to review it and they could return to Council at a later date.

Community Development Director Richard Coleman stated they had no objections to remanding it, since this was the first time staff had seen the plan and they hadn't had a chance to evaluate it.

Councilmember Gill thought this item should be continued to allow them time to work with staff so Council could hear staffs view. Mr. Gill asked if the deviations were for the NCR rating zoning, or to the change that was being requested.

Mr. Coleman stated they were deviations for both applications over a wide range of different topics. The Discover 'O' would be the F.A.R. and the Walgreens is the 60/40 rule with the setbacks and the buffer around the building.

Mr. Gill asked for clarification between the NCR and CR zoning. Mr. Coleman stated currently, all three properties were zoned SD NCR neighborhood retail. They were requesting a rezoning on just the corner piece of property for the Walgreens to rezone it to SD CR general retail and the other two would stay SD NCR unless they change their application at all.

Mr. Peterson reiterated that the Discover 'O' building was situated where it didn't need a rezoning. The only reason they were asking for rezoning on the corner was to include the drive-up window.

Councilmember Rasmussen confirmed with Mr. Peterson that they owned a portion of the creek channel on the property. Mr. Peterson stated the property line may go to the center line of the creek. Mr. Rasmussen was concerned that it hadn't been maintained.

Mr. Peterson noted in their revised site plan they had implemented the new BMP procedures in terms of water quality devices for holding in the natural setting stormwater runoff of the parking lot; therefore, it should improve the condition.

Councilmember Rasmussen stated Council had planned a pathway behind City Hall to go across and up to 117th Street. Mr. Rasmussen noted he couldn't see anything on the plan that reflected this long term plan for the extension of the pathway. Mr. Peterson stated no one from staff had suggested anything regarding a path through the site; however, that was something they were willing to look at as they review the plan.

Mr. Coleman stated they looked at this to find out where that crossing would be and where the path would be located. He indicated there was nothing in the plan that showed this and he would check into it again.

Councilmember Rasmussen felt they should deny this plan and let the applicant re-apply with their new plan.

Mayor Dunn confirmed with Mr. Peterson that this plan reflected an incorporated dedication of a 15 foot right-of-way.

Councilmember Bussing confirmed with Mr. Peterson they would level the tract of land so it would be relatively flat.

Councilmember Azeltine made a motion to continue this to the November 3, 2008, Governing Body meeting to allow the applicant time to confer with staff; seconded by Councilmember Bussing.

Mayor Dunn clarified that Items 12B, C, and D were all connected and would be continued to this date.

Mayor Dunn confirmed with Ms. Bennett they could incorporate all three items and would only need one motion to continue.

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

- C. Resolution approving the Planning Commission's recommendation to deny a Special Use Permit for Town Center Business Park - Walgreens, located at the northeast corner of 117th Street and Roe Avenue [Roll Call Vote]
- D. Resolution approving the Planning Commission's recommendation to deny a Preliminary Site Plan for Town Center Business Park - Discover O, located at the north of 117th Street and east of Roe Avenue [Roll Call Vote]

Items 12B, C, and D were continued to the November 3, 2008, Governing Body meeting.

[From the September 9, 2008 Planning Commission meeting]

- * E. 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) - **CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] - **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- * F. 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) - **CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- * G. 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) – **CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- * H. 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)–**CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- * I. 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) – **CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- * J. 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) – **CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING** [Roll Call Vote] **CONTINUED TO THE NOVEMBER 3, 2008 GOVERNING BODY MEETING**

Staff Comment: These ordinances are being continued so the changes can be consolidated with upcoming changes on November 3rd in order to save on publication costs.

- K. **Ordinance No. 2352** amending § 16-4-5.7 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) – ***CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING*** [Roll Call Vote]

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

Councilmember Bussing confirmed with Public Works Director Joe Johnson that the American Concrete Paving Association guidelines were more rigorous than the APWA National Public Works Association. Mr. Johnson stated the APWA dealt specifically in concrete.

Mayor Dunn asked if anything had been built recently that had these same standards since they didn't have this in place at that time. Mr. Johnson indicated staff recommended that the parking lots be built in accordance with this from now on.

Councilmember Filla asked if Mr. Johnson knew whether they abided by the staff recommendations. Mr. Johnson stated they were part of staff stipulations and they would have to be built in that way. He indicated they hadn't received any plans for those developments yet to review.

Councilmember Rasmussen indicated this was originally a project of the Public Works Committee and had been delayed only because of procedural problems.

Councilmember Azeltine asked how much more it was going to cost a developer to put in a parking lot with the new standards.

Mr. Johnson stated the cost of asphalt compared to concrete was similar and there would be no significant change in cost to the developer.

Councilmember Azeltine asked how neighboring cities measured up to this. Mr. Johnson stated most cities allow the consultant to design the parking lot and don't pay particular attention to this. Many of them are built with 2 or 3 inches of asphalt and have a much higher failure rate. Mayor Dunn referred to the money spent on Camelot Court when they were trying to rectify the failing parking lot and indicated this would be money well spent.

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

- L. **Ordinance No. 2353** 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) – ***CONTINUED FROM THE OCTOBER 6, 2008 GOVERNING BODY MEETING*** [Roll Call Vote]

Assistant to the Planning Director Mark Klein stated the application before Council does two things to the current home occupation Leawood Development Ordinance [LDO]. Mr. Klein stressed that this was only in reference to home occupation vehicles that are owned by the people who live there. The amended ordinance would allow two signs on the vehicle, each being a maximum of four square foot.

Councilmember Bussing confirmed with Mr. Klein that they were not anticipating any grandfathering provisions. Mr. Klein stated they were actually being a little more liberal than what it was before and allowing a larger vehicle.

Councilmember Bussing indicated there were several of his neighbors that didn't do work from their home; however, they were dispatched from home. Their vehicles have equipment on them that prohibits them from fitting into the garage; therefore, Council allowed for screening in order to maintain the vehicles in the driveway.

Mayor Dunn clarified that this was only for the RV ordinance.

Mr. Klein indicated this would allow one vehicle to be parked in the driveway. If they have a second vehicle and it didn't meet these standards or it was larger than one ton, it would have to be garaged.

Councilmember Bussing referred to a neighbor that had signs on both sides of their truck asked what the resolution would be for people who have vehicles that won't fit into their garages.

Mr. Klein stated that the current ordinance didn't allow those vehicles to be there since it doesn't allow any signage at all. The amended ordinance would allow some signage on the vehicles.

Councilmember Bussing felt this would impact a lot of people and thought this should be given more consideration.

City Administrator Scott Lambers stated this applied only to those people that have home occupations. If someone drives a truck home from their job, it wouldn't apply. They would be parking there illegally.

He noted the ordinance would be expanding by allowing two signs on both sides of their vehicles for advertising what they do when they have a home occupation license from the City.

Councilmember Bussing asked if the City had chose not to cite the illegal vehicles and asked if it was only on a complaint basis.

Mayor Dunn stated the reason this was in front of Council was due to complaints.

Mr. Lambers indicated this complaint was due to home occupations where there were multiple vehicles. There is no grandfathering, so if someone has three vehicles at home, two of them would need to be removed, or be in the garage.

Councilmember Bussing confirmed with Mr. Lambers that if someone called and didn't like their neighbors' vehicle in the driveway, the City could issue a citation.

Councilmember Bussing thought they had identified this issue as part of the screening process when they were referring to RV's. Mr. Lambers indicated this came up as a separate issue over a home occupation in northern Leawood that has multiple vehicles with expansive signage.

Mayor Dunn asked if there was a time period for them to come into compliance. People had indicated at the Planning Commission meeting they would need to have their signs redone on their trucks. Mr. Klein indicated they hadn't been actively going after them at this point.

Councilmember Azeltine asked if they could be screened similar to the RV's. Mr. Klein stated the intent was to allow one truck, as long as it was one ton or less, to be parked in the garage and not be screened. Mr. Azeltine felt they should be consistent and if they were going to allow an RV to be screened then they should allow the same for other vehicles. Mr. Klein stated part of the reason was that the RV's are much larger, so that was why they required the screening.

Councilmember Azeltine stated even if the ordinance was passed, there would still be current residents of Leawood that have vehicles with large signage on them that would be in violation. He requested staff and Council to consider the idea of screening.

Councilmember Azeltine confirmed with Mr. Klein that the RV's are screened by landscaping. Mr. Klein stated the footprint of the tires had to be on concrete; however, they have to screen it from the street.

Mayor Dunn clarified that the RV screening was not just a grandfathering situation and that those stipulations were for any RV. Mr. Klein indicated he would look into this.

Mayor Dunn confirmed there was a three-year period that they had to have it screened; however, she didn't think it was only for existing RV's. Mr. Klein indicated it would be for all RV's and thought they had a three-year grace period to come into compliance.

Councilmember Filla made a motion to approve the change in the ordinance for home occupation vehicles and vehicle signage and to also ask staff to review the particular instance Councilmember Bussing was referring to in order to have suggestions for that individual situation.

Mr. Klein clarified that the ordinance would only effect home occupations and would not affect it as far as someone traveling to another residence.

Mayor Dunn stated the motion was clear and they could have further discussion regarding Councilmember Bussing's points.

Councilmember Filla stated the motion was to approve this amended ordinance of the home occupation vehicles and vehicle signage as outlined with those two changes; seconded by Councilmember Azeltine.

Councilmember Gill asked how they could differentiate between commercial license and commercial signage compared to residential. Mr. Klein stated the key indicator would be for a home occupation.

Councilmember Gill stated Mr. Bussing's neighbor wasn't considered a home occupation either. He has a truck with a sign that violates; however, doesn't run the business in his home. Mr. Klein stated this ordinance would not have any effect on them whatsoever because it's within the home section of the LDO. If Council wanted to address those situations, it would take another amendment to the LDO.

Mr. Lambers stated the specific point was with home occupation. The Planning Commission had this discussion as well, and decided to stay focused on the one issue. If Council wanted to pursue the other types of vehicles, then they should consider a replica of the RV ordinance where it's clear they can't be parked in the garage and if they are going to be allowed, then there would need to be a screen requirement.

Councilmember Gill confirmed with Mr. Lambers that two things had to happen: They have to have the unauthorized signage and they would need to be running a business from that house. Unless they were running a business from their home, this ordinance wouldn't apply to them.

Councilmember Gill confirmed with Mr. Lambers that unless they were running a business from their home, this ordinance wouldn't apply to them.

Mayor Dunn was concerned that there were many people currently not in compliance and they were ignoring it unless there was a complaint. Mr. Lambers stated it was extremely limited.

The motion to pass the amended ordinance carried following a roll call vote of 6-1. Yea: Councilmembers Filla, Azeltine, Rawlings, Gill, Bussing, and Cain. Nay: Councilmember Rasmussen. (Councilmember Peppes absent). Councilmember Rasmussen felt this was diminishing of the whole concept of residential zoning.

Councilmember Filla made a motion for staff to review this and return to Council within six months with a recommendation on how to address concerns that have been brought up regarding other trucks; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

Councilmember Rasmussen noted he didn't want the enforcement problem to be on the homes associations. Ms. Bennett stated generally the City's ordinances have no impact on private covenants.

13. OLD BUSINESS – None.

14. OTHER BUSINESS – None.

15. NEW BUSINESS

- A. **Ordinance No. 2354C** repealing § 15-301 of the Code of the City of Leawood, 2000, entitled “Incorporating Hydraulic Performance of Setback Curb Inlets” [Roll Call Vote]

Staff Comment: This is now incorporated into the new section of 5600 being adopted tonight

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

Mayor Dunn asked for clarification on the hydraulic performance of setback curb inlets.

Mr. Johnson stated a study was done to look at curb inlets and their efficiency and this was used to determine how many inlets were needed on the street based on the drainage area.

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

- B. **Ordinance No. 2355C** amending § 15-302 and adding new sections 15-302A and 15-302B of the Code of the City of Leawood, 2000, pertaining to Storm Drainage Systems and incorporating by reference Division V- Section 5600 Design Criteria for Storm Drainage Systems and Facilities, February 15, 2006 Edition as amended 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 § 15-302 and other sections in conflict herewith [Roll Call Vote]

Staff Comment: Adopting the updated Section 5600 the City uses for stormwater design

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

- C. **Ordinance No. 2356C** amending § 15-303 of the Code of the City of Leawood, 2000, pertaining to Erosion, Sediment and Stormwater Management Practices and incorporating by reference Division V- Design Criteria-Division 5100 Erosion and Sediment Control, August 13, 2003, Edition as amended 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 § 15-303 and other sections in conflict herewith [Roll Call Vote]

Staff Comment: Adopting a new APWA Design Specification on Sediment and Erosion Control to replace the out dated specification.

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

- D. **Ordinance No. 2357C** adding a new § 15-303A of the Code of the City of Leawood, 2000, pertaining to Erosion, Sediment and Stormwater Management Practices and incorporating by reference ‘Division II – Construction and Material Specifications – Section 2150 Erosion and Sediment Control’, May 21, 2008, Edition as amended such incorporation being authorized by K.S.A. §12-3009 through 12-3012, and K.S.A. § 12-3301 and 12-3302 [Roll Call Vote]

Staff Comment: Adopting a new APWA Specification on the installation and use of material for sediment and erosion control. Replaces the out dated specification

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

- E. **Ordinance No. 2358C** amending § 15-304 and adding new § 15-304a of the Code of the City of Leawood, 2000, pertaining to Storm Drainage Systems and incorporating by reference Division II-Construction and Material Specifications, Sewers, Section 2600 Storm Sewers”, April 17, 1996 Edition, as amended through December 31, 2007, 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 § 15-304 and other sections in conflict herewith [Roll Call Vote]

Staff Comment: Allows the use of small diameter plastic pipe (High Density Polyethylene Pipe) on private developments 15, 18, & 24-inches. Also allows pipes sizes up to 60-inches to be used for detention

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

Councilmember Gill asked if the ordinance would increase or decrease water runoff. Mr. Johnson stated this was just to allow the use of different pipe material. Currently, the only thing allowed is concrete. He noted they have allowed corrugated metal pipe in two instances for detention. This would allow plastic pipe, which has a longer life than corrugated.

Councilmember Gill asked if it was the material they were focusing on and not the size of the pipe. Mr. Johnson stated the size was dictated by how big the site was and what was being done.

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

- F. **Ordinance No. 2359C** amending § 15-519 of the Code of the City of Leawood, 2000, entitled “Design Criteria and Performance Standards” and repealing existing § 15-519 and other sections in conflict herewith [Roll Call Vote]

Staff Comment: Adopts the new version of the Manual of Best Management Practices for Stormwater Quality used in the new Post Construction Stormwater Ordinance

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

- G. **Ordinance No. 2360C** amending § 15-528 of the Code of the City of Leawood, 2000, entitled “Exemptions” and repealing existing § 15-528 and other sections in conflict herewith [Roll Call Vote]

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

Councilmember Rasmussen asked if the ordinance was less restrictive. Mr. Johnson stated it goes from 300 – 400 feet, although the EPA allows up to one acre. Mr. Johnson stated this was being done in order to stay consistent with other ordinances that have been approved recently.

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

Staff Comment: Modifies the square footage for an erosion control permit from 300 to 400 square feet to match new requirements for grading plans on redevelopments

- H. **Ordinance No. 2361C** amending § 15-714 of the Code of the City of Leawood, 2000, pertaining to Post-Construction Stormwater Runoff Design Criteria; incorporating by reference the ‘Manual of Best Management Practices for Stormwater Quality,’ March 2008 Edition, 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 § 15-714 and other sections in conflict herewith [Roll Call Vote]

Staff Comment: Incorporates the plan requirement in 5600 for stormwater construction plans replacing the older version currently used.

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

- I. Schedule a Joint Governing Body and Park and Recreation Advisory Board Work Session on Monday, November 17, 2008, at 6:00 P.M., regarding further discuss of results of Needs Assessment Study for Community Center

A motion to approve the work session was made by Councilmember Gill; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Peppes absent).

- J. Schedule a Governing Body Special Call Meeting on Monday, October 27, 2008, at 7:00 P.M., regarding Final Site Plan located approximately at the southeast corner of 137th Street and Mission Road for multi-family housing [Applicant: Oddo Development] [Siena Subdivision]

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

ADJOURN

There being no further business, Mayor Dunn adjourned the meeting at 10:15 P.M.

Debra Mansfield, CMC, City Clerk

Pam Gregory
Recording Deputy City Clerk