

Minutes

DVD No. 358

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, November 2, 2015. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Julie Cain, Carrie Rezac, Lou Rasmussen, Debra Filla, James Azeltine and Chuck Sipple

Councilmembers Absent: Andrew Osman

Staff Present:	Scott Lambers, City Administrator	Patty Bennett, City Attorney
	Dawn Long, Finance Director	Karl Weinfurter, Info Services Specialist II
	Mark Klein, Planning Official	Chris Claxton, Parks & Recreation Director
	Chief Dave Williams, Fire Department	Nic Sanders, Human Resources Director
	Chief Troy Rettig, Police Department	Joe Johnson, Public Works Director
	Theresa Lodde, Senior Accountant	Richard Coleman, Community Services Dir.
	Debra Harper, City Clerk	Marcy Knight, Prosecutor/Asst. City Attorney
	Cindy Jacobus, Assistant City Clerk	

Others Present: None

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

2. **APPROVAL OF AGENDA**

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

3. **CITIZEN COMMENTS**

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**

**Turn on Porch Lights for Veterans Day,
November 11, 2015**

Mayor Dunn read the proclamation into the record and presented to Ms. Harper, Staff Liaison to the Leawood Historic Commission. Mayor Dunn thanked Ms. Harper for her work on the commission. Councilmember Rawlings mentioned another initiative sponsored by a national retailer to honor veterans by using green lights.

National American Indian Heritage Month

Mayor Dunn read a portion of the proclamation into the record. It was noted no one was present to accept the proclamation.

5. PRESENTATIONS/RECOGNITIONS GFOA CAFR Award

Mayor Dunn asked Finance Director Dawn Long and Senior Accountant Theresa Lodde to stand. She stated Excellence in Financial Reporting, awarded by the Government Finance Officers Association of the United States and Canada, had once again been received by the City of Leawood for its comprehensive annual financial report. The City had achieved this award for 15 consecutive years.

Mayor Dunn congratulated Ms. Long and Ms. Lodde for the Finance Department's excellent work which she observes most every day, which was affirmed by the award and praise from City auditors.

Ms. Long thanked and complimented the Finance staff for their great work.

6. SPECIAL BUSINESS

Resolution No. 4519, approving Kansas City Power & Light [KCP&L] replacement of utility poles along 103rd Street from State Line Road to Lee Boulevard

Mr. Johnson stated the KCPL request would bring in a new circuit to 103rd Street at State Line Road from a Missouri side substation to increase reliability of power for residents in the area. The new circuit would require new poles of increased height along the south side of 103rd Street between State Line Road and Lee Boulevard; current pole height of 40 to 45 ft. would increase to 55 ft. He noted the Leawood Development Ordinance [LDO] requires new facilities, other than replacement of equal or lesser size, be placed underground unless approved by the Governing Body. Staff reviewed potential underground placement, but the right-of-way [ROW] along 103rd Street is limited and KCPL would have to acquire easements from existing homes that have limited setbacks.

Mr. Gary Price, KCPL representative, stated that KCPL utilizes a 5-year review plan and the area was nearly built out. He confirmed a maximum height of 55 ft. and slightly larger diameter pole, and that only two circuits can be placed on a pole. He stated the new circuit was needed because of increased load growth and to facilitate timely switching between circuits if needed.

Councilmember Rasmussen asked for a more detailed description of proposed circuit construction and pole placement. He questioned why KCPL had not chosen to clean up the area and place the lines underground at this time as they have done for other massive line rebuilds. He did not support the claim of limited ROW as ROW could include placement under the street, and stated he did not believe there were any other 55 ft. poles in Leawood. He was concerned about the timing of removal of the existing poles after placement of the new poles and about ordinance enforcement. He stated the proposed resolution as a method of handling was not in the best interest of Leawood citizens and rate-payers.

Councilmember Rawlings stated as a resident of the area he had experienced periodic power outages and residents had met with KCPL about one year ago in this regard. Mr. Price stated the proposed new circuit would partially address this issue; load is another issue.

Mayor Dunn requested information on the potential for buried lines.

Mr. Price displayed a map depicting line locations. KCPL main transmission line is along the front of the properties, while individual services lines in the area come from the backyard. He stated KCPL is an overhead utility and currently uses as large of wire as possible on the Class 3 wooden poles. The lifespan of a pole is approximately 30 years. If the City requires undergrounding, the City must pay the cost difference. Undergrounding of the new circuit in 103rd Street front yard setbacks would require large green above-ground boxes, approximately 3 ft. wide, 6 ft. long and 5 ft. tall, every 400 ft. Burial underground would require watertight submersible boxes. He noted that KCPL lines are underground in the Kansas City Plaza and downtown, but they utilize a different “network” system in those locations. New pole and circuit installation would be complete by the end of the year. KCPL would advise other service providers with equipment on the current poles, but KCPL would have no control over the equipment location of other service providers.

Mr. Lambers stated he had conferred with Mr. Johnson and Ms. Bennett on this request. He gave example where the City had paid the cost difference for undergrounding on private easements on 143rd Street, but there were few other existing facilities and the cost difference was small. The area being discussed has existing facilities and the cost would be considerably greater. Costs for bypass are not available at this time and cost analysis for underground placement would require approximately one year. He noted that requirements for undergrounding in commercial and residential are different. Mr. Johnson stated that placement of the KCPL line underground would leave other existing utilities on poles in the ROW. He stated there was no room in the current yard ROW and burial and maintenance of boxes under the street would be disruptive, so staff felt the proposal was the best option.

Councilmembers Rasmussen suggested undergrounding the three KCPL lines at key street intersections, “cross-street dips”. Mr. Price stated the City would be responsible for the cost and the cost had not been calculated. Cross-street dips would require steel cable guide anchor wires be installed in three yards. Both Mayor Dunn and Mr. Lambers expressed concern in regard to the safety of guide anchor wires. Mr. Lambers stated if these were needed to improve appearance he was agreeable and input from property owners could be sought. Mr. Johnson stated Public Works and Planning could review the option of cross-street dips and costs.

A motion to approve Agenda Item 6. was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 6-1; nay vote from Councilmember Rasmussen for reasons previously stated.

7. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 2015-40 and 2015-41
- B. Accept minutes of the October 19, 2015 Governing Body meeting
- C. Accept minutes of the October 19, 2015 Governing Body Work Session
- D. Accept minutes of the September 17, 2015 Leawood Foundation meeting
- E. Accept minutes of the August 20, 2015 Leawood Foundation meeting
- F. Accept minutes of the June 9, 2015 Historic Commission meeting

- G. Accept minutes of the May 28, 2015 Ironhorse Advisory Board
- H. Approve Change Order No. 2 in the amount of \$46,000 to O'Donnell & Sons Construction, pertaining to the 2015 Arterial Mill & Overlay Program [Project # 72061]
- I. Resolution approving and authorizing the Mayor to execute 2016 Employee Benefit Plan documents
- J. Resolution designating holidays for the year 2016
- K. Resolution approving and authorizing the Mayor to execute a Letter of Engagement between the City and Rubin Brown, LLP, for an amount not to exceed \$39,000, pertaining to 2015 audit services
- L. Resolution calling for a Public Hearing to be heard on Monday, December 7, 2015, at 7:30 P.M., or as soon thereafter as may be heard, regarding amendments to the 2015 Fiscal Budget for the City of Leawood, Kansas
- M. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$27,790.00, between the City and John A. Marshall Co., pertaining to the demolition and installation of new carpet for the Leawood City Hall Lower Level and Main Floor Renovation Project [Project # 76040]
- N. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$33,895.00, between the City and McGuire Electric, providing for the installation of a new generator located at Leawood City Hall [Project # 74054]

Councilmember Filla requested Consent Agenda Item 7.G. be pulled.

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

- G. Accept minutes of the May 28, 2015 Ironhorse Advisory Board

Councilmember Filla inquired about the status of the Ironhorse golf clubhouse expansion bids. Mr. Lambers stated the planning process should be finished by the end of the year and timing of the bids would need to be determined. A spring bid period may result in bidders adding anticipated increased costs.

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

8. MAYOR'S REPORT

- A. Sincere congratulations to our hometown baseball team, the Kansas City Royals, who are the 2015 World Series Champions!
- B. Overland Park Mayor Carl Gerlach hosted at the Culinary Center of Kansas City the Johnson and Wyandotte Counties Council of Mayors along with the Johnson and Wyandotte Counties' legislative delegation for a joint meeting to discuss our priorities for the upcoming legislative session. The primary focus of the discussion was unanimous consent from the mayors regarding our disappointment in the lack of respect for local control from a majority of our legislators during the last session.

Unfortunately, there were neither Leawood representatives nor Leawood senators present to hear our concerns.

- C. The Johnson and Wyandotte Counties Council of Mayors 2015 Holiday Social invitations for the December 2 event were distributed electronically to Councilmembers and are also at your place. Please provide your R.S.V.P. to City Clerk Deb Harper if you have not already done so.
- D. Tremendous appreciation to all participants in the City of Leawood's United Way Campaign this year. There were total commitments of \$16,279. Thanks to Human Resources Director Nic Sanders for assisting in organizing such a great success.
- E. Appreciation goes to Horticulture/Forest Supervisor Dustin Branick for instructing 24 upperclassmen and 5 adult teachers from Blue Valley High School, who had volunteered for five hours of community service at Ironwoods Park. The volunteers were instructed on the proper planting of seedling trees and given a brief lecture on suitable care for newly planted trees. The community service day was held in conjunction with the NeighborWoods program, which is a campaign from the Alliance for Community Trees. Thanks to the volunteers for helping to plant 100 trees at Ironwoods Park and to their teachers for their diligence and service.
- F. Congratulations are in order based on Golf Digest's recently revealed list of top golf instructors by state, as ranked by thousands of teaching professionals throughout the country. The ranking included six teachers from Kansas, four of whom are from the Kansas City area, and one of these four was Skip Maiwald from Ironhorse Golf Club.
- G. The Leawood Stage Company will present a new musical, "British Invasion," at the Ironwoods Lodge, November 5 through 7 beginning at 8:00 P.M., and November 8 beginning at 2:00 P.M. This "rockumentary" style production will be a hit with fans of 60's music and culture. Eric Van Horn, husband of Cultural Arts Coordinator April Bishop, wrote and will direct the production. Tickets are \$5 and available at the Parks & Recreation Registration Desk.

9. COUNCILMEMBERS' REPORT – None

10. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the October 7, 2015 Public Works Committee meeting]

A. Assignment: Review standing water in curb at 2233 Condolea Terrace

Recommendation: Continue with 2010 original plan when this issue was first discussed; and include this location in the City's Residential Reconstruction Program and reconstruct street when it comes up on the priority of streets

Mr. Johnson stated the Public Works Committee had reviewed this issue in 2010. At that time, this was a private development with flat streets, but the streets are now public. If a ponding water problem is resolved in one location, it forces the issue to another location. In 2010 the Public Works Committee recommended to reconstruct the streets, curbs and add additional storm sewers in the entire area at one time. Staff recommended this project be put in the City's Residential Reconstruction Program-Year 2025, as the next three program years are full. Cost estimate is \$450,000.

Mayor Dunn thanked the Public Works Committee for their effort and asked Mr. Johnson if he would be providing feedback to the resident, Mr. Sam Keith. Mr. Johnson advised he would be finalizing a detailed draft letter and sending to Mr. Keith.

A motion to approve the Public Works Committee recommendation, Agenda Item 11.A., was made by Councilmember Rawlings; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 7-0.

B. Assignment: Review State Line Road Curb Replacement and Relocation of State Line Road for Future Sidewalk

Recommendation: Replace curb along State Line Road; forego work and cost to relocate State Line and address sidewalk in future

This was a request received from several residents between 83rd and 85th Terrace. The Public Works Committee discussion focused on the \$700,000 cost to move the road and the need for a comprehensive corridor sidewalk plan. The Committee was against relocating State Line Road when replacing curbs in 2016.

Mr. Lambers stated he was originally in support of road relocation prior to the staggering cost estimate.

Councilmember Filla inquired if the Public Works Committee would be tasked to develop a plan and timeline for the future. Mr. Johnson relayed the Committee felt the sidewalk would be addressed by the City's master pedestrian plan. Mr. Lambers replied the Committee would not be responsible for the street which would require alignment of both sides involving Kansas City, Missouri.

A motion to approve the Public Works Committee recommendation, Agenda Item 11.B., was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 7-0.

12. PLANNING COMMISSION

[From the September 22, 2015 Planning Commission meeting]

Ordinance No. 2760, amending Section 16-4-6.13 of the Leawood Development Ordinance entitled "Permanent Sign Regulations" and repealing existing Section 16-4-6.13 and other sections in conflict herewith (PC Case 111-15) [ROLL CALL VOTE]

Mr. Klein stated the proposed ordinance revision would increase the size permitted for wall signs within planned business parks to 5%, the same as other commercial districts. Currently, façade maximum is 200 sq. ft., but the revision would reduce the maximum to 100 sq. ft. A limitation of 5% would maintain signs in proportion to the size of the building and the reduced maximum would ensure that signage would not become too large.

Councilmember Sipple inquired if any current signage would be non-compliant with the proposed specifications. Mr. Klein replied that to his knowledge there would be none.

A motion to approve Agenda Item 12. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The ordinance was passed with a unanimous roll call vote of 7-0.

13. **OLD BUSINESS** – None

14. **OTHER BUSINESS** – None

15. **NEW BUSINESS**

- A. **Ordinance No. 2756C**, amending Chapter 14, Article 1 of the Code of the City of Leawood, 2000, pertaining to regulating Traffic in the City; incorporating by reference the ‘Standard Traffic Ordinance for Kansas Cities, 2015 Edition,’ with certain amendments, and omissions [ROLL CALL VOTE]

Mayor Dunn questioned the removal of double fines in school zones in the Standard Traffic Ordinance [STO]. Prosecutor/Assistant City Attorney Marcy Knight stated that historically double fines had not been imposed in school zones, only in construction zones. There was a \$25 fee added for violation in a school zone.

Mayor Dunn noted the new offenses for battery against a Judge, attorney, court services officer or school employee in the Uniform Public Offense Code [UPOC]. Ms. Knight stated District Attorneys and Public Defenders, but not City Prosecutors, would be covered with violation now a Class A Misdemeanor.

Councilmember Rezac pointed out that in the UPOC, violations for unlawful buying or selling of scrap metal had been removed and were now civil violations. Ms. Knight stated she did not have the history in regard to this revision.

Councilmember Cain requested clarification of cell phone texting while at stop lights. Ms. Knight replied the STO prohibits texting while driving. You must be pulled off roadway when reading, writing or sending text messages. Doing so while stationary at a stop light would be a violation. However, receipt and review of traffic and weather alerts, and emergency and vehicle navigation messages would be permitted.

Councilmember Filla noted the “as nearly as practicable” in regard to requirement to drive a vehicle within a single lane in the STO. Mr. Knight pointed out that Kansas law states “as nearly as practicable,” which allowed an officer to stop a vehicle and was used for drunk driving, versus a hard-set rule that the vehicle must remain in the single lane. If a vehicle leaves their lane to avoid an animal or a child, an officer could to stop the vehicle. She stated other cities had adjusted their ordinances in this manner.

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

- B. **Ordinance No. 2757C**, amending Chapter 11, Article 1 of the Code of the City of Leawood, 2000, pertaining to regulating Public Offenses in the City; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities, 2015 Edition,’ with certain amendments and omissions [ROLL CALL VOTE]

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

- C. **Ordinance No. 2758C**, amending Code Sections 5-510 and 5-520 of the Code of the City of Leawood, 2000, pertaining to the application fee for Massage Therapy License [ROLL CALL VOTE]

Councilmember Rezac asked when the applicant would be advised of the Federal and Kansas Bureau of Investigation fees. Ms. Knight replied applicants would be instructed when applying for the massage therapy license.

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

- D. **Ordinance No. 2759C**, amending Chapter 5, Article 2 of the Code of the City of Leawood, 2000, pertaining to Solicitors, Canvassers, Peddlers, and Transient Merchants [ROLL CALL VOTE]

Mayor Dunn stated she was pleased with the proposed revision to an earlier solicitation end time of 8:00 P.M. Chief Rettig stated this was based on review of other cities' ordinances and realization that the current 9:00 P.M. cut-off is late, especially in the winter months.

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

ADJOURN

There being no further business, the meeting adjourned at 9:10 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk