

**Minutes**

DVD No. 202

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, November 3, 2008. Mayor Peggy Dunn presided.

**Councilmembers present:** Gregory Peppes, Jim Rawlings, Julie Cain, James Azeltine, Mike Gill, Gary Bussing, and Lou Rasmussen.

**Mayor/Councilmembers absent:** Debra Filla.

**Staff present:**

Scott Lambers, City Administrator  
Captain Dale Finger, Police Department  
Chief Ben Florance, Fire Department  
Richard Coleman, Comm. Dev. Director  
Mark Andrasik, Info. Systems Director  
Patty Bennett, City Attorney

Mark Klein, Asst. to the Planning Dir.  
Jeff Joseph, Senior Planner  
Chris Claxton, P&R Director  
Deb Mansfield, City Clerk  
Pam Gregory, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the following modifications to the Amended Agenda:

- \* Item Nos. 11 I, J, and K were continued to the November 17, 2008, Governing Body meeting.
- \* Addition of Item No. 4 – Proclamation.
- \* Addition of Item Nos. 9A and 9B – Councilmembers Report would be given by Councilmembers Rawlings and Bussing.

A motion to approve the Amended Agenda was made by Councilmember Peppes; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. (Councilmember Filla 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 'LIVE UNITED' DAY, November 12, 2008**

Mayor Dunn expressed her appreciation to the City of Leawood employees for running an outstanding campaign for the United Way this year and noted their pledges had increased by 40%.

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

**6. SPECIAL BUSINESS – None.**

**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. 1114A and 1114B
- B. Accept Minutes of the October 6, 2008 Governing Body meeting
- C. Accept Minutes of the September 25, 2008 Green Initiative Citizens Task Force meeting
- D. Accept Minutes of the August 28, 2008 Ironhorse Advisory Board meeting
- E. Approve Cereal Malt Beverage License [CMB] Renewal for Hy-Vee located at 12200 State Line Road
- F. Approve Retail Liquor License Renewal for Stoll Liquor Store located at 3731 W. 133<sup>rd</sup> Street
- G. Approve issuance of Temporary Alcohol Permit to Mission Farms for Make a Wish Foundation event to be held on Saturday, November 15, 2008, in accordance with Code § 3-216
- H. Approve 4<sup>th</sup> and Final Payment in the amount of \$10,000.00 to Musselman & Hall Contractors pertaining to the 2008 Slurry Seal/Micro-surfacing Program
- I. Approve Change Order No. 2 in the amount of \$7,588.60 to Musselman & Hall Contractors pertaining to the 2008 Slurry Seal/Micro-surfacing Program
- J. **Resolution No. 3119** approving and authorizing the Mayor to execute a Service Agreement in the amount of \$24,550.00, between the City and Godard & Sons Roofing, Company, Inc., pertaining to the roofing of Fire Station No. 1, located at 9609 Lee Boulevard
- K. **Resolution No. 3120** accepting Public Infrastructure Improvements through private development Glen Abbey of Leawood; located at 143<sup>rd</sup> & Juniper, in accordance with the GASB-34 Guidelines of reporting inventory of Assets.[Street Construction, Storm Sewer, Street Lights]

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

## **8 MAYOR'S REPORT**

- A. Attended the UMKC Bloch School 23<sup>rd</sup> Annual "Entrepreneur of the Year" Awards banquet, which honored Leawood resident and Garmin CEO, Dr. Min Kao. Mr. Kao received the "International Entrepreneur of the Year" Award. Red Development was also recognized and honored as the "Regional Entrepreneur of the Year." Mayor Dunn expressed her sincere congratulations to both of them.
- B. Mayor Dunn expressed appreciation to Councilmember Mike Gill for organizing presentations that were given to Prairie Star Middle School 7<sup>th</sup> Grade civics classes where she, along with Councilmembers Gill and Cain participated.
- C. Attended the 3<sup>rd</sup> District Congressional race forum with Councilmember Azeltine. Senator Nick Jordan and Congressman Dennis Moore participated in the event sponsored by local area Chambers of Commerce.
- D. Attended the 2008 Heart of America Council, Boy Scouts of America, Distinguished Citizen Award banquet. Leawood Resident Robert Long was presented the "Distinguished Citizen" Award. Mayor Dunn noted sincere congratulations to Mr. Long for this honor.
- E. Attended a ribbon cutting ceremony for the Black Creek Coffeehouse at Ironhorse Center, located at 151<sup>st</sup> and Nall. The ceremony was sponsored by the Leawood Chamber of Commerce. Mayor Dunn wished them much success.
- F. Attended the Johnson County Community College strategic planning/mission and vision forums, hosted by President Dr. Terry Calaway. Also in attendance were some Johnson County residents, area leaders, and Councilmember Gill's wife, Ellen Gill, Foundation Board member. These sessions will help the college to better serve Johnson County into the future. There will be a final document presented in the spring of 2009.
- G. Attended a discussion of the draft for the Joint 2009 County/City Legislative Platform at the Johnson County Administration Offices, along with City Administrator Scott Lambers.
- H. Reminder that Friday, November 7, 2008, is the final 60<sup>th</sup> Anniversary gala event at 6:30 P.M., held at the Ironwoods Lodge. Mayor Dunn noted reservations and payments could be given to City Clerk Deb Mansfield.
- I. Reminder that Saturday, November 8, 2008, the 60<sup>th</sup> Anniversary parade will begin at 10:00 A.M. at City Park.
- J. Reminder of Election Day, tomorrow, November 4, 2008. Mayor Dunn encouraged everyone to get out and vote.

## **9. COUNCILMEMBERS REPORT**

- A. Consideration of Bike Friendly Community Designation from the Park and Recreation Advisory Board meeting.

Councilmember Rawlings requested that they hold a work session for further discussion in helping the City of Leawood become a more bicycle friendly community. Parks and Recreation Director Chris Claxton organized a sub-committee, Chaired by Brian Anderson, Parks and Recreation Department.

Councilmember Rawlings made a motion to schedule a work session for further discussion and deliberation on this issue to a date uncertain; seconded by Councilmember Azeltine.

Mayor Dunn noted this would not be scheduled until after the first of the year.

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

B. Report from Councilmember Bussing

Councilmember Bussing referred to a letter and two articles received from George K. Baum and Company regarding public finance. He noted the articles were very well written and concise in terms of explaining some of the issues cities are facing with the declining housing market and property tax income. Mr. Bussing read a quote from their letter: "These times help make the case for a strong fund balanced policy. As most of the City Council has heard them say many times, fund balance is the single most important insurance policy a public jurisdiction has against significant or abrupt disruptions in revenue." Mr. Bussing thanked Finance Director Kathy Rogers and City Administrator Scott Lambers for their courage and insistence in working with Council on the budget process to maintain those fund balances. He felt the letter summarized and stated the continued need for the City to maintain strong fund balances.

10. STAFF REPORT – None.

**COMMITTEE RECOMMENDATIONS**

11. PLANNING COMMISSION

[From the September 9, 2008 Planning Commission meeting]

- A. **Ordinance No. 2363** amending § 16-2-9.2 of the Leawood Development Ordinance [LDO], entitled 'Non-Residential Uses' to allow for a deviation to the minimum 10-Acre 10 Acre Requirement for Commercial Development and to provide for lighting standards and repealing existing section - **CONTINUED FROM THE OCTOBER 6, 2008 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS** [Roll Call Vote]

*Staff Comment: This ordinance changes one section in two ways. The first provides for a deviation to the 10-acre rule and the second pertains to lighting standards. The lighting standards were remanded to Planning Commission to provide for clarification.*

Mayor Dunn confirmed with Mark Klein, Assistant to the Planning Director, that the lighting standards that were remanded to the Planning Commission had been clarified.

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

- B. **Ordinance No. 2364** 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 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS*** [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

- C. **Ordinance No. 2365** 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 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS*** [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

- D. **Ordinance No. 2366** 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 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS*** [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

- E. **Ordinance No. 2367** 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 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS*** [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

- F. **Ordinance No. 2368** 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 & OCTOBER 20, 2008 GOVERNING BODY MEETINGS*** [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

**[From the October 14, 2008 Planning Commission meeting]**

- G. **Ordinance No. 2369** approving a Preliminary Site Plan and Final Site Plan for Bi-State Centennial Park - Lot 12, located north of 141<sup>st</sup> Terrace and west of Cambridge (PC Case # 66-08) [Roll Call Vote]

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

Mayor Dunn referred to Stipulation Nos. 5 and 6 and asked the Planning staff to clarify. Senior Planner Jeff Joseph stated the ordinance requires that berms be provided along parking areas. The Planning Commission changed Stipulation No. 5 due to grading problems. He stated the applicant was willing to do a 2 to 1 slope at this location.

Mayor Dunn confirmed with Mr. Joseph that there wasn't a lack of berming; however, only a change in the slope along the parking area. The Mayor asked if there would still be a solid visual screen when this is changed.

Judd Claussen, Phelps Engineering, stated there were some challenges when trying to grade the site. There was approximately a 12 foot difference in elevation from the north to the south end of the site. The parking area in reference to the berming, is located off of 141<sup>st</sup> Terrace. Mr. Claussen stated they didn't want the slope to be too steep in order for the property owner to maintain. The property could be screened with the proper landscaping.

Mr. Joseph stated the landscaping and the berming would not be visible.

Mayor Dunn confirmed with Mr. Joseph that the wording in Stipulation No. 5 should read "east" instead of "west." Mr. Claussen stated they intended to meet the City ordinance regarding lighting.

Mayor Dunn referred to page 6 under "Staff Comments" and confirmed with Mr. Joseph that this should also read "east" instead of "west."

Mayor Dunn referred to page 4 under "Elevations" and noted the last paragraph referring to the stucco wall. She noted there was a lot of stucco used and asked for assurance of future expansion.

Mr. Claussen noted the future expansion area was located on the west edge of the building. In working with the customer on this, it was important for him to be able to expand on this site.

Tim Haas, President of Power Specialties, stated they sell process control equipment for chemical plants, power plants, and engineering firms. He noted over the last six years Power Specialties had doubled in size. They initially purchased a lot on the Missouri side of this business park; however, when they laid out the building it wasn't conducive for future growth. They moved onto the Kansas side in order to meet current and future needs. He indicated the expansion would not occur immediately; however, they wanted the ability to do so.

Mr. Claussen indicated the site plan on the west side was higher in elevation and noted they had planted some trees to help with screening the retaining wall. Mr. Klein noted the retaining wall was 6 – 7 feet tall with landscaping.

Mr. Haas noted he would be the neighbor to the east and was concerned that he would have a visual of the large retaining wall as well. He noted the landscape plan that was submitted had no plantings or screening between the property line and the retaining wall.

Mr. Joseph stated a stipulation was approved to have required landscaping.

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

- H. **Ordinance No. 2370** amending § 16-4-5.7 of the Leawood Development Ordinance [LDO], pertaining to Off-Street Parking Requirements in Office, Commercial, and Industrial Districts [Lighting Standards Regarding Visibility of Light Sources and Uniformity] - (PC Case # 80-08) [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

**[From the September 23, 2008 Planning Commission meeting]**

- \*I. Resolution approving the Planning Commission's recommendation to deny a Rezoning, Preliminary Site Plan, and Preliminary Plat for Town Center Business Park - Walgreens, located on the northeast corner of 117<sup>th</sup> Street and Roe Avenue – ***Continued From The October 20, 2008 Governing Body Meeting – CONTINUED TO THE NOVEMBER 17, 2008 GOVERNING BODY MEETING.***

- \*J. Resolution approving the Planning Commission's recommendation to deny a Special Use Permit for Town Center Business Park - Walgreens, located on the northeast corner of 117<sup>th</sup> Street and Roe Avenue ***Continued From The October 20, 2008 Governing Body Meeting - CONTINUED TO THE NOVEMBER 17, 2008 GOVERNING BODY MEETING***
  
- \*K. 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 ***Continued From The October 20, 2008 Governing Body Meeting -- CONTINUED TO THE NOVEMBER 17, 2008 GOVERNING BODY MEETING***

12. **OLD BUSINESS – None.**

13. **OTHER BUSINESS – None.**

14 **NEW BUSINESS**

- A. **Ordinance No. 2371** granting to American Fiber Systems [AFS], a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2089 [Roll Call Vote]

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

- B. **Resolution No. 3121** approving and authorizing the Mayor to enter into a Public Land Use Agreement between the City and American Fiber Systems [AFS], pertaining to the installation and maintenance of communications facilities within existing conduit

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, Peppes, Bussing, Rawlings, Cain, and Azeltine. Nay: None. (Councilmember Filla absent).

City Administrator Scott Lambers announced that Senior Planner Jeff Joseph was resigning from the City of Leawood and had made a decision to advance his career to become the Planning Director for Leavenworth County. Mayor Dunn and the Council expressed their sincere congratulations and noted he would be sorely missed.

There being no further business, Mayor Dunn adjourned the meeting at 8:05 P.M.

**ADJOURN**

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Debra Mansfield, CMC, City Clerk

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Pam Gregory  
Recording Deputy City Clerk