

Minutes

DVD No. 335

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, 2014. Mayor Peggy Dunn presided.

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

Councilmembers Absent: None

Staff Present:	Scott Lambers, City Administrator	Richard Coleman, Comm. Dev. Director
	Mark Andrasik, Info Services Director	Nic Sanders, Human Resources Director
	Patty Bennett, City Attorney	Dawn Long, Finance Director
	Chief John Meier, Police Dept.	Chief Dave Williams, Fire Dept.
	Joe Johnson, Public Works Director	Chris Claxton, Parks & Rec. Director
	Deb Harper, City Clerk	Cindy Jacobus, Asst. City Clerk

Others Present: None

1. **PLEDGE OF ALLEGIANCE** - Led by Life Scouts from Troop 10

2. **APPROVAL OF AGENDA**

Mr. Lambers added consideration of a Memorandum of Understanding with AT&T to Agenda Item 6. Special Business, and also a recess to Executive Session to consult with attorney regarding matters subject to attorney-client privilege following Agenda Item 14.C.

A motion to approve the amended agenda was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

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, 2014

Mayor Dunn proclaimed November 11, 2014, “Turn on Porch Lights for Veterans Day”, as a tradition to honor veterans. She added the landscape art piece titled “Porch Lights” at Somerset and Lee Boulevard is considered a literal and conceptual coming home to North Leawood.

Mr. Dan Throckmorton and Ms. Alice Hawk, Leawood Historic Commission members, presented a banner to honor veterans. Mr. Throckmorton spoke of the symbolic gesture of turning on porch lights, a tradition started in 1948, the same year the City was founded. He encouraged residents of Leawood to let their porch lights shine brightly to show veterans gratitude for their service.

Councilmember Filla thanked Information Services Director Mark Andrasik for posting a link on the City’s website homepage for the occasion and Councilmember Cain expressed appreciation for outreach to other municipalities to encourage participation.

National American Indian Heritage Month

Mayor Dunn proclaimed November, 2014 as National American Indian Heritage Month in the City of Leawood and urged all citizens to observe the month with appropriate programs, ceremonies and activities.

5. PRESENTATIONS/RECOGNITIONS GFOA CAFR Award

Mayor Dunn presented a Certificate of Achievement to Ms. Dawn Long, Finance Director, for Excellence in Financial Reporting, awarded by the Government Finance Officers Association of the United States and Canada. This certificate was awarded the City of Leawood for its comprehensive annual financial report for fiscal year ending December, 2013. It is the highest form of recognition and represents a significant accomplishment by a government and its management, and also demonstrates a constructive “spirit of full disclosure”.

Ms. Long recognized staff contributions, including those of City Administrator Scott Lambers. Mayor Dunn commented that the City has attained this achievement for many years.

6. SPECIAL BUSINESS

Resolution No. 4348, approving and authorizing the Mayor to execute a Memorandum of Understanding [MOU] between the City and Southwestern Bell Telephone Company, d/b/a AT & T Kansas and its successors [AT&T]

Mr. Mike Scott, AT&T State President, thanked the City Council for consideration of the MOU, in his opinion a very important first step. He stated although implementation timing would need to be determined, goal would be second quarter of 2015.

Mayor Dunn asked about the size of the boxes and the number of homes serviced by each box. Mr. Scott replied the boxes would most likely be less than 55 inches in height and, therefore, would not require a Special Use Permit [SUP]. The number of homes serviced by a box would depend upon design of the existing distribution area network.

Mr. Ryan Matthews, AT&T Construction & Engineering Director for Kansas/Missouri, stated the number of homes could be as many as 800 per box or as few as 200 per box. The one-gigabit service AT&T calls “GigaPowerSM” would work alongside their existing U-verse[®] network, with fiber to be installed from boxes to homes.

Councilmember Osman expressed excitement for new technology coming to Leawood, adding well-rounded choices through competition. He also pointed out Ward One is north of I-435 and surrounded by Kansas City, Missouri; and Prairie Village and Overland Park, Kansas. He hoped that services would be brought to the area at the same time as the rest of Leawood. Mr. Scott acknowledged Councilmember Osman’s statement.

A motion to approve Resolution No. 4348 was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

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. 2014-40 and 2014-41
- B. Accept minutes of October 20, 2014 Governing Body meeting
- C. Accept minutes of October 20, 2014 Governing Body Work Session
- D. Accept minutes of September 9, 2014 Historic Commission meeting
- E. Accept minutes of July 24, 2014 Ironhorse Advisory Board meeting
- F. Approve Change Order No. 1 in the amount of \$3,159.49 to Combes Construction, LLC, pertaining to the Ironwoods Park Rest Station Facility [restrooms] located at 14701 Mission Road [Project # 80118]
- G. Approve 5th and Final Payment in the amount of \$31,235.50, to Combes Construction, LLC, pertaining to the Ironwoods Park Rest Station Facility [restrooms] located at 14701 Mission Road [Project # 80118]
- H. Approve Change Order No. 1 in the amount of \$162,796.30 to O’Donnell & Sons Construction Co., pertaining to the 2014 Curb Replacement Program [Project # 80251] [Project Nos. 72050-Residential Mill & Overlay; 77113-2013 Accelerated Storm Repairs; 70016-Residential Mill & Overlay; 70514-Sidewalk Repairs; and 77009]
- I. **Resolution No. 4349**, approving and authorizing the Mayor to execute a Service Agreement in the amount of \$60,965.00, between the City and Haren Laughlin Construction, pertaining to the installation of the Paley art piece, Variance, to be located at 115th and Tomahawk Creek Parkway
- J. **Resolution No. 4350**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$38,900.00, between the City and Rock’N Excavating, for repairs to South Lake located at Tomahawk Creek Parkway and Town Center Drive
- K. **Resolution No. 4351**, approving and authorizing the Mayor to execute a Collection Service Agreement between the City and Valley Collection Service, LLC, pertaining to the collection of money for the City of Leawood Municipal Court
- L. **Resolution No. 4352**, approving and authorizing the Mayor to execute a Cooperative Agreement in the amount of \$18,000 between the City and Mid-America Regional Council [MARC] for Funding Operations of Operation Green Light Traffic Control System

- M. **Resolution No. 4353**, approving Appraisers' Award of \$11,650.00 [\$5,875.00 for easements; \$5,775.00 Appraisers' Fee] pertaining to acquisition of certain property for the 143rd Street Improvement Project between Nall Avenue to east of Mission Road [Project # 80162]
- N. **Resolution No. 4354**, approving a Final Sign Plan for Lord of Life Lutheran Church – Sign Criteria, located south of W. 135th Street and west of Chadwick Street (PC Case 132-14)
- O. **Resolution No. 4355**, approving a Revised Final Sign Plan for Park Place – Revised Sign Criteria, located north of 117th Street and east of Nall Avenue (PC Case 144-14)
- P. **Resolution No. 4356**, approving a Revised Final Landscape Plan for Village of Seville – Capitol Federal Savings Bank, located north of 133rd Street and west of State Line Road (PC Case 145-14)

Councilmembers Rezac and Osman requested Consent Agenda Item No. 7.H. be pulled.

Councilmember Rezac requested Consent Agenda No. 7.K. be pulled.

Councilmember Cain requested Consent Agenda Item No. 7.L. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

- H. Approve Change Order No. 1 in the amount of \$162,796.30 to O'Donnell & Sons Construction Co., pertaining to the 2014 Curb Replacement Program [Project # 80251] [Project Nos. 72050-Residential Mill & Overlay; 77113-2013 Accelerated Storm Repairs; 70016-Residential Mill & Overlay; 70514-Sidewalk Repairs; and 77009]

Councilmember Rezac asked Mr. Johnson to clarify if the storm sewer project was a separate project prior to the curb replacement project. Mr. Johnson replied it was a separate project and was so small it was difficult to bid as a standalone project. Bids were obtained from O'Donnell & Sons and Miles Excavating.

A motion to approve Item No. 7.H. was made by Councilmember Rezac; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.

- K. Resolution approving and authorizing the Mayor to execute a Collection Service Agreement between the City and Valley Collection Service, LLC, pertaining to the collection of money for the City of Leawood Municipal Court

Councilmember Rezac asked Leawood Judge Renee Gurney about the 25% charge and if this fee would be billed or attached as an invoice to a fine. Judge Gurney replied the fee would be a separate charge that state statute authorizes to be collected [up to 30%] when a municipality sends a fine to collection. The 25% fee would be added on top of the fine. The City will determine the past due fines to be processed by the agency and if the agency is successful in collection, the City will receive the fine amount and the agency will receive the 25% fee. Fine recipients will be advised of the collection fee at the time of fine.

Councilmember Cain asked if the agency is only paid the 25% if the fee is collected. Judge Gurney affirmed the 25% is paid only if collected.

Councilmember Sipple asked about the success Overland Park had after engaging Valley as a collector. Judge Gurney stated Overland Park had been pleased with the service from Valley. Other collection services were interviewed, but Valley presented a very professional and competent service. She anticipated their collection rate will increase over time, as initially a large number of cases with likely stale information would be sent to the agency. Use of a collection agency could be a cost saving measure, reducing the number of police department resources involved with warrants issued for failure to appear/non-payment.

Mayor Dunn stated that 350 cases would be addressed for approximately \$57,000 owed to the City.

A motion to approve Item No. 7.K. was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

- L. **Resolution No. 4352**, approving and authorizing the Mayor to execute a Cooperative Agreement in the amount of \$18,000 between the City and Mid-America Regional Council [MARC] for Funding Operations of Operation Green Light Traffic Control System

Councilmember Cain asked Mr. Johnson how long the agreement had been in place, if the City was pleased with the system, and if funding would continue past 2016.

Mr. Johnson replied this would be an update to an agreement that had been in place for 9 or 10 years. The system has worked well to efficiently move traffic through signal-timing. Cameras with video that provide live feed/pictures would be installed soon. He stated that Mid-America Regional Council [MARC] and other committees anticipate continued federal aid, so funding should continue past 2016.

A motion to approve Item No. 7.L. was made by Councilmember Cain, seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Attended the Greater Kansas City Chamber of Commerce's "Public Policy Up Close Speaker Series", sponsored by Polsinelli and featuring D.C. campaign strategist John Ashford, founder of The Hawthorn Group, L.C. His insightful predictions focused on senatorial and gubernatorial races nationwide.
- B. Participated in the Leawood Chamber of Commerce's ribbon cutting for Waddell & Reed's new Leawood office in the Timberland Building on 114th Street. They have moved from their former Overland Park office and employ 50 people.
- C. Thanks to Councilmember Debra Filla for standing in for me at the Leawood Chamber of Commerce's ribbon-cutting for Gordon Dental in University Park. Councilmember Lou Rasmussen was also in attendance.
We wish both of these new corporate citizens much success.
- D. Attended several activities over this past weekend celebrating Union Station Kansas City's Centennial. Union Station's restoration through the 1996 passage of the one and only bi-state tax serves as a shining example of extraordinary accomplishment through regional cooperation. Congratulations to all involved with this milestone.

- E. Sincere appreciation to one and all for generous participation in Leawood’s United Way Employee Campaign. Our campaign pledges totaled \$17,407. Many thanks to Human Resources Director Nic Sanders for his leadership with this effort.
- F. Although competing with World Series baseball, the Leawood Stage Company drew 450 people with their performance of “A Little Night Music”. Congratulations to all on rave reviews.
- G. Tomorrow, November 4th, is election day. Please exercise your privilege and responsibility, and go to the polls.

Reminder that the next meeting of the Governing Body scheduled for November 17th does not include a Work Session. The Holiday Lighting of City Hall will take place at 6:00 P.M. that evening and various group performances and a social sponsored by the Corner Bakery are planned. All are invited to attend the festivities, followed by a Council Meeting to begin at 7:30 P.M.

9. COUNCILMEMBERS’ REPORT

- Councilmember Filla**
 - A. Kansas City non-attainment for Ozone
 - B. The Nature of Greater Kansas City – Urban Forest Management

Councilmember Filla spoke about the Clean Air Action Plan, which includes new strategies for pedestrian and bicycle travel, and native and sustainable landscaping. She spoke of ozone alerts and the need to lower the level to reach attainment. Councilmember Filla also spoke about a MARC regional forestry initiative to inventory trees, and the goal to increase metro area forestry by 10% by 2025.

Councilmember Sipple questioned if any of the documentation included diversity of tree species. Councilmember Filla stated the meeting documentation did not. However, a previous presentation by Brian Anderson, Leawood’s Superintendent of Parks, had included the need for diversity.

A motion to refer to staff for possible incorporation in support of a metro area green initiative was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.

10. STAFF REPORT

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the July 22, 2014 Planning Commission meeting]

- A. Ordinance approving a Special Use Permit for Town Center Plaza – Macy’s – Sprint Antennae and Associated Equipment, located east of Nall Avenue and north of W. 119th Street (PC 98-14) **[Roll Call Vote] -Continued From the September 2, 2014, October 6, 2014 and October 20, 2014 Governing Body meetings – THIS APPLICATION HAS BEEN WITHDRAWN**

12. OLD BUSINESS - None

13. OTHER BUSINESS - None

14. NEW BUSINESS

- A. **Ordinance No. 2696**, granting to tw Telecom of Kansas City LLC, a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, and prescribing the terms of said contract franchise [Roll Call Vote]

Ms. Bennett thanked Ms. Franki Parsons, former City Assistant Attorney, for her work on New Business Items 14.A. through 14.C., and stated the proposal is a standard franchise contract.

A motion to pass Ordinance No. 2696 was made by Councilmember Rasmussen; seconded by Councilmember Cain. The motion was approved with a unanimous roll call vote of 8-0.

- B. **Ordinance No. 2697**, granting to Surewest Kansas, Inc., a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, and prescribing the terms of said contract franchise and repealing Ordinance No. 2470 [Roll Call Vote]

Councilmember Filla asked how active the company was in the community. Ms. Bennett replied the franchise had been in the City quite some time.

A motion to pass Ordinance No. 2697 was made by Councilmember Rasmussen; seconded by Councilmember Osman. The motion was approved with a unanimous roll call vote of 8-0.

- C. **Resolution No. 4357**, approving and authorizing the Mayor to execute a Public Lands Use Agreement between the City and SureWest Kansas, Inc. pertaining to the installation and maintenance of communications facilities located within existing conduit

A motion to approve Resolution No. 4357 was made by Councilmember Azeltine; seconded by Councilmember Rasmussen. The motion was approved with a unanimous vote of 8-0.

- D. Recess into Executive Session to consult with attorney regarding matters subject to the attorney-client privilege

A motion to recess to Executive Session for 30 minutes was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 8-0.

The City Council reconvened into regular session at 9:27 P.M.

A motion to allow outside legal counsel to review statements made by Google and to determine whether the statements violate the confidentiality clause in the Google agreement was made by Councilmember Filla; seconded by Councilmember Azeltine.

A friendly amendment was accepted to include within a 30-day time frame was accepted by Councilmembers Filla and Azeltine. The motion was approved with a unanimous vote of 8-0.

Mr. Lambers spoke of a discussion to retain a public relations firm. Mayor Dunn stated the outcome of the evaluation would determine that need.

Councilmember Rasmussen stated a summary list of correspondence had been released to a television station and this could be put in chronological form on the City's website.

Councilmember Osman stated his intent was not only to chronologically list items, but to also have more substance to which a third party could eloquently write. Mayor Dunn asked if public facts would be written by an external third party for the City's website. Councilmember Osman stated his preference would be to hire a third party to review any correspondence that is released to the public. Councilmember Azeltine stated that a motion to do so would be premature and that staff could handle statement of facts.

Councilmember Rezac stated the goal is to ensure clarity of disseminated information and she asked Mr. Lambers if work done by an external party would be beneficial with an impending deadline. Mr. Lambers replied that he could compile the information, but it would not be to the level of a professional firm.

Councilmember Azeltine suggested that information could be gathered and a draft presented to Council for input and revision.

Councilmember Filla stated that a request for external editing is a legitimate one, and asked Mr. Lambers if staff would have budget for editing improvements. Mr. Lambers stated that the City Council authorized him to do this for the reasons stated in Executive Session.

Councilmember Rasmussen inquired about the intended audience and Mr. Lambers replied the audience would be the citizens of Leawood.

Mayor Dunn stated Leawood citizens have questions and due to the confidentiality clause, the City's response has been to direct inquiries to Mr. Lambers, and the answer has primarily been, "no comment". The plan is to draft what the City Clerk provided to a television station.

Mr. Lambers asked for approval to have the authority, if deemed appropriate, to retain a professional.

A motion to authorize the City Administrator to hire a third party to assist with written communications regarding issues related to Google that would not be in violation of the confidentiality clause was made by Councilmember Filla; seconded by Councilmember Rezac.

The motion was approved with a vote of 7-1. Nay vote from Councilmember Azeltine for reasons previously stated, as it could be viewed as an overreaction.

The meeting was adjourned at 9:45 P.M.

Deb Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk