

Regular Meeting

THE LEAWOOD CITY COUNCIL

November 5, 2012

Minutes

DVD No. 291

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 5, 2012. Mayor Peggy Dunn presided.

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

Councilmembers absent: Councilmember Osman.

Staff present: Scott Lambers, City Administrator
Chief Dave Williams, Fire Dept.
Chief John Meier, Police Dept.
Mark Andrasik, Info Systems Director
Richard Coleman, Comm. Dev. Director
Lovina Freeman, HR Director

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Dawn Long, Finance Director
Mark Klein, Planning Official
Chris Claxton, P & R Director
Deb Harper, City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn advised Councilmember Rawlings would have a brief update on the Justice Center Construction Project under Councilmember's Report.

A motion to approve the agenda was made by Councilmember Rezac; seconded by Councilmember Cain. Motion approved with a unanimous vote of 7-0. [Councilmember Osman 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.**

Comments will be presented during the discussion of Item No. 6: Book Beatty Park Improvements.

4. PROCLAMATIONS

**Turn on Porch Lights for Veterans Day,
November 11, 2012**

As no one was present to receive the proclamation, Mayor Dunn proclaimed November 11, 2012 as Turn on Porch Lights for Veterans Day of Leawood, Kansas, to encourage citizens to show support of veterans of all ages. This initiative was recommended by Historic Committee Chairman Janine Joslin and the Historic Commission.

**America Recycles Day in Leawood,
November 15, 2012**

As no one was present for the proclamation, Mayor Dunn proclaimed November 15, 2012 as America Recycles Day and recognized the great strides the City of Leawood is making in all sustainable initiatives.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS

Authorization for city staff to initiate the planning process for the Brook Beatty Park Improvements, located at 86th Terrace & Lee Boulevard.

Councilmember Filla extended her appreciation to all citizens for their interest and concerns, and city staff for their support. She roughly estimates there are approximately over 45 homes in the ¾ mile radius area with over 90 children under the age of 6.

Mayor Dunn explained to the citizens there will be no action this evening by this body except a recommendation to go through the planning process.

JoLynn Hobbs, 8309 Lee Boulevard, stated she supports the project and would also support a reduced speed limit in that area as well.

Chris Longly, 8411 Lee Boulevard, stated he also is in favor of the project. This will be a wonderful attribute to the community.

Heidi Martin, 8616 Meadow Lane, is opposed to the project. Her property abuts the park and wants to ensure a survey will be conducted prior to the equipment being placed in the park.

Shannon DeSalvo, 8316 Ensley Lane, expressed her approval of the project.

Jane Korsten, 8602 Meadow Lane, also is in favor of the project.

Staci Birk, 8501 Belinder, stated she is in favor of the project also.

A motion to authorize city staff to initiate the planning process for Brook Beatty Park Improvements, located at 86th Terrace and Lee Boulevard, was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion carried following a vote of 6-1. [Councilmember Osman absent]. Councilmember Bussing stated he is opposed to this and would prefer that a true park area be established in the northern part of Leawood.

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. 2012-41, 2012-42, and 2012-43
- B. Accept minutes of the October 15, 2012 Governing Body meeting
- C. Accept minutes of the October 15, 2012 Governing Body Work Session
- D. Accept minutes of the September 13, 2012 Sustainability Advisory Board meeting
- E. Accept minutes of the August 21, 2012 Leawood Arts Council meeting
- F. Accept minutes of the August 1, 2012 Bicycle Friendly Committee
- G. Accept minutes of the July 26, 2012 Ironhorse Golf Advisory Board meeting
- H. Accept minutes of the June 13, 2012 Public Works Committee meeting
- I. Approval of Massage Therapy License for Spa Therapy Inc., to be located at 10310 State Line Road, in accordance with § 5-510 of the Code of the City of Leawood, Kansas, 2000
- J. Approve purchase in the amount of \$6,844.00 from Gail's Harley Davidson for the purchase of Police Motorcycle Unit
- K. **Resolution No. 3917**, calling for a public hearing to be heard on Monday, December 3, 2012 at 7:30 P.M., or as soon thereafter as may be heard, regarding amendments to the 2012 Fiscal Budget for the City of Leawood, Kansas
- L. **Resolution No. 3918**, approving the 2013 Human Service Fund Recommendation Report from United Community Services of Johnson County [UCS] and the City of Leawood's participation for an amount not to exceed \$10,500
- M. **Resolution No. 3919**, approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Kansas Department of Transportation [KDOT] pertaining to the Special Traffic Enforcement Program [STEP]
- N. **Resolution No. 3920**, approving and authorizing the Mayor to execute a Professional Engineering Service Agreement in the amount of \$40,900, between the City and Larkin Group, pertaining to the design of storm sewers located at 89th & Mission Road [Project # 80550]
- O. **Resolution No. 3921**, approving a Final Sign Plan for Town Center Plaza – Metcalf Bank, located South of Town Center Drive and east of Nall Avenue (PC Case 124-12)
- P. **Resolution No. 3922**, approving a Final Sign Plan for Town Center Plaza – Brooks Brothers (Apparel), located north of 119th Street and east of Nall Avenue (PC Case 125- 12)
- Q. **Resolution No. 3923**, approving a Final Sign Plan for Town Center Crossing (One Nineteen) Development Signs, located south of 119th Street and east of Roe Avenue (PC Case 130-12)
- R. **Resolution No. 3924**, approving a Final Sign Plan for Town Center Plaza Development Signs, located north of 119th Street and east of Nall Avenue (PC Case 131-12)
- S. **Resolution No. 3925**, approving a Final Plat and Final Plan for Glen Abbey of Leawood 3rd Plat, located north of 143rd Street and east of Nall Avenue (PC Case 132- 12)
- T. **Resolution No. 3926**, approving a Final Plan for a Tenant Finish for Park Place – Title Nine (Athletic Apparel), located at the northeast corner of 117th Street and Nall Avenue (PC Case 135-12)
- U. **Resolution No. 3927**, approving a Final Plan for a Tenant Finish for Park Place – Kansas City Fine Cabinetry, located at the northeast corner of 117th Street and Nall Avenue (PC Case 136-12)

A motion was made to approve the Consent Agenda by Councilmember Rawlings, seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. [Councilmember Osman absent].

**5. PRESENTATIONS/RECOGNITIONS Johnson County Budget Highlights-
Presented by County Commissioner Ed
Peterson**

Mr. Peterson stated the County's approved budget amount is \$815 million total expenditures. \$145 million of that is reserves. That is up about \$5 million from last year, but the total increases related to some capital projects and also some additional federal and state grants cause the total local revenue expenditures to decrease. They are down to about 3,864 budgeted positions, from a high of about 4,100 three years ago; however, of those 3,800, there are another 200 plus that are currently vacant and have been vacant. They are actually operating with about 3,500-3,600 employees, which is a reduction of 500 or more than 10% of the workforce three years ago. The employees continue to shoulder additional responsibilities, and they're doing that with very modest, if any, increases in their compensation. They are an asset for our community and doesn't think there is a better workforce in the region.

The Capital Improvements Program is up a little bit to \$97 million. The assessed valuation of the county produces about \$7.5 million for each mill that we levy. Any of these changes to a mill will increase or decrease by about \$7.5 million. The reduction of \$9 million from the operating budget is essentially avoided with approximately a \$1.2 million increase. This is the third year in a row the County has made those kinds of adjustments to the budget. The mill levy has stayed flat for five years. In the last three years, some fairly significant reductions in expenditures have been made.

The property tax mill levy portion of the revenues is now down to about 26%, as opposed to 40% in 2003. There has been a reduced reliance on the mill levy or property tax. There has been some increase in sales tax and fees during that time period. The waste water program has been shifted over to a new billing system. The property tax rate is staying the same. The average property owner pays about \$635 a year for county services. On average, that number has declined by about \$12 a year this year because of a decrease in the assessed valuation, particularly in certain neighborhoods.

The Ad Valorem is 26% now. Sales and other taxes are now at 15%, up from 10% a few years ago. Charges for services have seen some increases. Waste water capital and user charges have seen increase as well. The operating expenditures have changed very little. Public safety continues to be the largest single source of expenditures. It includes the sheriff department, corrections, jails and emergency communication programs. Infrastructure includes the waste water program, which is the largest component. Support services would be mental health, public health and similar programs. About half of that money comes through federal and state; half is paid for with local tax dollars.

Briefly touching on the Capital Improvements Program, storm water and infrastructure are programs cities help with a lot. The County has a match with the storm water and the CARS program in infrastructure. Again, public safety is a significant amount of the capital because of the continued investment in the facilities that are needed to provide those services. Finally, waste water is a fairly significant part of the capital. Part of the reason for that is investment for growth in the southern and western parts of the county, but also, the parts within the I-435 loop are now reaching fifty years of age or more, which requires significant rehabilitation cost.

The County is in the throes of several projects to try to identify the most efficient way of doing that. Research itself is expensive, but once the most efficient methods are identified, they will be looking at several tens of millions of dollars to refurbish the plants, and that is before the County begins to address environmental concerns that are being discussion with the EPA.

Regarding waste water, last year the County was in the process of converting that small increment that goes for capital on the tax bill over to the operating bills that occur bi-monthly. That will take place in January. The tax bills in December will not have the EDU charge on them, which is a relatively small number compared to the rest of the tax bill. Most taxpayers will not notice that, but they will see it when it shows up on their waste water bill in January because it will be a noticeable increase. This is not an increase; it is merely a shift of where the amount is being collected. They should be able to track it back to their tax bill.

The County is currently working with the solid waste program, which has basically been implemented, but has run into issues with the state legislature during the spring last year. The objection was the issue of yard waste. The Deffenbaugh trash hauling component wanted to be able to bid for projects outside of Johnson County, and their competitors were able to offer disposal of yard waste. This is not allowed in Johnson County. The County took exception to trying to change the rules because essentially, the residents would be subsidizing the competition that Deffenbaugh was conducting in other parts of the state. That issue has not been resolved. Most other trash haulers have entered into agreements in which they are requiring separate yard waste and are not taking yard waste to the Deffenbaugh landfill. Most have gone to the unlimited recycling. There are a few contracts that haven't yet rolled over, but the rule is going forward. There are still concerns that haven't been worked out with the state legislature and KDHE, but hope to be able to contain the same rule the County has.

Mayor Dunn expressed her appreciation on the updates.

Councilmember Azeltine asked how much of the \$145 million in reserves is operating reserves versus debt reserves.

Mr. Peterson stated he was unsure of the breakout, but thought it was predominantly operating reserves. The rating agencies are expecting us to maintain at least a 20% reserve. In fact, the County had discussions during the budget this year in which the rating agencies were proposing a 30% operating reserve. A small portion of that is related to the debt coverage ratios, but most of it is operating reserves. Most departments operate at about a 20% reserve level. When the budget is \$5-\$10 million, 20% is not all that much money, and it makes a lot of sense because the unexpected could be relatively expensive compared to budget. With an \$800 million budget, 20% is a serious number: \$145 million. He has some reservations about the bond rating and if it is that necessary to warrant retaining that substantial amount of money.

Mr. Peterson confirmed with Councilmember Azeltine that the 20% is based on \$650 million they are proposing to spend. They are required to have 20% of that number in reserves. Some departments don't have the expected catastrophe to budget for, so they budget them down to 10% reserve.

Mayor Dunn recognized the County's AAA bond credit rating. Mr. Peterson stated this is a reflection of a lot of work both on the expenditure and the revenue side.

8. MAYOR'S REPORT

- A. Attended with City Attorney Patty Bennett and Assistant City Attorney Franki Shearer the Kansas Open Meetings Act forum presented by Johnson County District Attorney's Office Stephen Howe.
- B. Attended two chamber ribbon cuttings. The first was Choice Connection, located at 103rd and State Line. This is a free senior housing advisory service that is a great addition for our community, especially with our aging population. The second was the Water One pumping station reservoir, located on Nall Avenue south of 143rd Street. This facility will service Leawood and South Overland Park. Councilmembers James Azeltine and Carrie Rezac also attended. We want to congratulate Water One on this beautiful new facility. It has been touted as the nicest pumping station in the country.
- C. Attended with Scott Lambers a retirement event hosted by Director of Public Works Joe Johnson for his employee Gene Green, who has served the city for 33 years. Congratulations and appreciation was extended to Gene for his longtime dedication.
- D. Attended the Greater Kansas City Chapter of Hadassah's 25th annual Silver Tea that was held in the beautiful home of Susan and Lewis Nerman. Their guest speaker was Marcy Natan, who is the national president of Hadassah. She was also here for the centennial being celebrated this year.
- E. Extended congratulations to Representative Pat Colloton, who will be receiving the Distinguished Public Service Award from the United Community Services of Johnson County on Friday, December 7th. Also, congratulations to Blue Valley High School, for earning the US Department of Education's 2012 National Blue Ribbon Schools award Friday, November 16th.
- F. Reminded all that the Leawood Stage Company will be performing Nunsense, a musical comedy, this coming Friday and Saturday at 8:00 and Sunday at 2:00 at The Lodge at Ironwoods Park.
- G. Encouraged everyone to exercise their tremendous privilege and vote at tomorrow's election.

9. COUNCILMEMBERS' REPORT

- A. **Councilmember Rasmussen** **Discussion of City's current special animal permit [Code § 2-109]:**
 - 1. Number of animals permitted**
 - 2. Re-inspection of premises**

Councilmember Rasmussen stated this situation developed in Ward Two. A resident applied for a Special Animal Permit for nineteen [19] cats. The application was opposed by the Saddlewood Homes Association and following an investigation by the Animal Control Unit [ACU], the application was denied by staff and subsequently appealed to Municipal Court. The Court granted the permit. The concern is whether or not they are operating a business. He is requesting the Code be revised to limit the number of animals permitted for a Special Animal Permit and the availability for a re-inspection of premises.

Mr. Lambers concurred that the limit of animal should be addressed and suggested the amount of 10; and provide for re-inspection requirement. This situation was brought to the City's attention after the police responded to a false alarm call at their residence. The residents have lived there with 19 cats for more than twenty [20] years. According to the information on the web, they are in the business of selling these cats. Therefore, they are operating a business without an occupation license. There are things the City can take care of with regard to that aspect of it. He requested direction from the Council on amending the ordinance to incorporate the number limit and re-inspection.

Mr. Lambers confirmed with Mayor Dunn the current limitation of animals without a Special Animal Permit is 4 [2 cats and 2 dogs]. The re-inspection should take place prior to the payment of the \$50.00 renewal fee.

Mayor Dunn suggested research be done on the number of allowed animals and staff forward a recommendation to the Council.

Deb Harper, City Clerk, advised the special animal permit is not applicable to any animals under the age of six months. Additionally, several families in the last couple years that have had to have their adult children move back in with them after establishing families with their pets. Having to go back home is a traumatic experience. Having to tell them they can't take their pet could be traumatic as well. The City Clerk's office has worked with them on an administrative level and gives them 30-90 days to hopefully have things clear up and find another home. When a resident submits an application, the ACU sends notification letters to surrounding neighbors and conducts a thorough and detailed investigation. Once that application is approved, it is annually renewed. If the applicant subsequently shows indications they are not a good pet owner, the permit can be revoked.

Mr. Lambers stated a survey will be conducted of area cities and return with information at the December 17th meeting. He also confirmed with Councilmember Rasmussen the current \$100.00 fee is for the individual and not for each animal. The Judge has stated representations were made at the hearing they were not engaged in any commercial activity, and has invited Saddlewood Homes Association to present that information to her.

Ms. Harper stated all of these permits expire at the end of the year on December 31st. Mr. Lambers stated if limitations are set, current permits that exceed that number would be grandfathered in. This would not become effective until 2014.

Mayor Dunn also suggested some need to allow the City Clerk's office some leeway, if necessary, for a period of time such as 90 days or six months, so as not to create an undue hardship.

B. Councilmember Rawlings Update on Justice Center Construction Project

A tremendous amount of progress has occurred in the last five weeks. The white beam is still visible but will be enclosed pretty quickly. All steel erection has been complete for both buildings, and installation of KCP&L Power will occur soon. Drilling of the thermal wells will begin after Thanksgiving. Interior and exterior masonry walls have been started. The walls have all been completed on the elevated deck and parking lot. As of right now, it is 29% complete, which is right on schedule. Titan is on track to have the building enclosed by mid-December.

To date, there has only been \$29,000 worth of change orders submitted, which is just .001% from the originally approved budget. It is a testimony to the contractor, Titan and the architect.

Councilmember Rasmussen left the meeting.

Mr. Lambers stated he met with Mark McDonald with the AMC Support Center and they are on time also, and anticipating to be in by the end of May.

10. STAFF REPORT - None

COMMITTEE RECOMMENDATIONS

11. PUBLIC WORKS COMMITTEE

[from the October 10, 2012 Public Works Committee meeting]

Recommendation to accept Potential Complete Street Routes map

Councilmember Azeltine stated the Complete Streets Policy was approved last May. Since that time, staff has been working to develop a map highlighting streets to be considered as complete streets for bikes and pedestrians. It is the unanimous recommendation of the Public Works Committee to accept the Potential Complete Streets Routes Map and that it be a starting point for discussions with the future consultant, who will review what staff and committees have come up with and make recommendations from there.

A motion to accept the Potential Complete Street Routes Map was made by Councilmember Azeltine; seconded by Councilmember Filla.

Mayor Dunn stated the disclaimer on the map page was a clear distinction this map is not to be considered final.

Councilmember Filla complimented the staff and the committees on their team effort on this project.

Mr. Johnson stated the Public Works Department will be able to use this map to identify streets that are up for maintenance. If a street is on this map, they will look at the potential for how it will accommodate bicycle traffic and other alternate modes of transportation, develop that cost and be able to present it to Council for consideration. As these projects are budgeted in the future, they have the ability to add in the cost of the program where appropriate. Eventually, there will be a complete program to allow cyclists and pedestrians to move throughout the city.

Mr. Johnson confirmed with Councilmember Bussing the action tonight is for the acceptance of the map, and is not endorsing the consultant that may or may not be hired next year. The hiring of a consultant has already been budgeted.

The motion carried following a unanimous vote of 6-0. [Councilmembers Osman and Rasmussen absent].

12. PLANNING COMMISSION

[From the October 9, 2012 Planning Commission meeting]

- A. **Resolution No. 3928**, approving a Final Plan for Park Place – Mestizo (Latin Restaurant) Permanent Rooftop Tent, located at the northeast corner of 117th Street and Nall Avenue (Case 62-12)

Mike Valent, 5130 Hardy Street, Manager of Mestizo appeared and confirmed with Mayor Dunn this final plan was an improvement to the one submitted earlier and is aesthetically pleasing.

Mark Klein confirmed with Councilmember Cain the applicant proposed a more temporary roofing material at the first meeting. At a subsequent meeting, they proposed a more retractable roof with more substantial material. The information in the agenda packet reflects the revision.

Mayor Dunn stated they are going to allow some leverage with the fire marshal regarding the disconnected gas service unless provided by the fire marshal. That was the last change made at the Planning Commission meeting.

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- B. **Ordinance No. 2581**, approving a Revised Preliminary Plan and Revised Final Plan for Town Center Business Park – Sunrise Senior Living Parking Lot Expansion, located south of 115th Street and east of Roe Avenue (Case 119-12)

Mr. Jeff Skidmore, Schlegel and Associates, appeared before the City Council. He confirmed with Councilmember Filla they have used pervious pavers on several occasions, but is cost prohibitive on small projects such as this.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Rezac. Motion approved with a unanimous roll call vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- C. **Ordinance No. 2582**, amending Section Article 9 of the Leawood Development Ordinance [LDO], Definitions, pertaining to the definition of a Master Development Plan/Master Plan (Case 122-12)

A motion to approve the ordinance was made by Councilmember Bussing; seconded by Councilmember Rawlings.

Mark Klein confirmed with Councilmember Rezac many cities actually call the Comprehensive Plan a Master Plan, so the two terms have become interchangeable in many areas. The City currently did not have a definition of a Master Plan. This makes it clear that they mean the same thing as it pertains to the city.

The motion was approved with a unanimous roll call vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- D. **Ordinance No. 2583**, amending Section 16-4-1.3 of the Leawood Development Ordinance [LDO], Accessory Uses, pertaining to rain barrels (Case 140-12)

Mayor Dunn asked if the rain barrel was allowed in the side yard would it still be visible from the street. Mr. Coleman stated because of the restriction on the size and the color of the rain barrels, felt they wouldn't be very obtrusive. They have had a few requests for this, and are trying to address it in the LDO. There are decorative rain barrels that look like terra cotta pots. Most of them are brown or a darker color. Primary colors are excluded. All the discharge rules for downspouts are still applicable so neighbors' yards are not flooded.

Councilmember Filla expressed her appreciation to staff for their comprehensive work on this project.

A motion to pass the ordinance was made by Councilmember Filla; seconded by Councilmember Rezac. The motion was approved with a unanimous roll vote of 6-0. [Councilmembers Osman and Rasmussen absent].

15. NEW BUSINESS

- A. **Ordinance No. 2584**, granting to Southwestern Bell Telephone Company d/b/a AT&T Kansas, 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. 2344 [Roll Call Vote]

Mr. Chris Carroll, AT&T, appeared before the Governing Body.

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- B. **Ordinance No. 2585**, granting to Sprint Communications Company L.P., 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. 2417

A motion to approve the ordinance was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- C. **Resolution No. 3929**, approving and authorizing the Mayor to execute a renewal to that certain Public Lands Use Agreement between the City of Leawood and Sprint Communications Company, L.P., dated October 5, 2009, pertaining to the installation and maintenance of communications facilities within existing conduit

A motion to approve the resolution was made by Councilmember Azeltine; seconded by Councilmember Bussing. The motion approved with a unanimous vote of 6-0. [Councilmembers Osman and Rasmussen absent].

- D. Schedule a Governing Body Work Session at 6:00 P.M. on Monday, January 7, 2013, for continued discussion on Review of Community Improvement Development [CID] Application for Ranchmart

A motion to approve the scheduling of a Governing Body Work Session on January 7, 2013, was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 6-0. [Councilmembers Osman and Rasmussen absent].

There being no further business, the meeting was adjourned at 9:15 P.M.

ADJOURN

Debra Harper, CMC, City Clerk