

Minutes

DVD No. 336

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 17, 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

<b>Staff Present:</b>	Scott Lambers, City Administrator	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	Karl Weinfurter, IS Specialist II
	Deb Harper, City Clerk	Cindy Jacobus, Asst. City Clerk

**Others Present:** None

- 1. PLEDGE OF ALLEGIANCE** - Led by Boy Scouts from Troop 10
- 2. APPROVAL OF AGENDA**

Mayor Dunn added to Item No. 10. Staff Report, Joe Johnson regarding a Brightwater Home Owner Association [HOA] request.

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

- 3. CITIZEN COMMENTS** - None

- 4. PROCLAMATIONS** **Small Business Saturday, November 29, 2014**

Mayor Dunn read a portion of the proclamation into the record.

- 5. PRESENTATIONS/RECOGNITIONS** **Introduction of Marcy Knight, Assistant City Attorney/Prosecutor**

Patty Bennett presented Ms. Marcy Knight as the new Assistant City Attorney/Prosecutor. She stated Ms. Knight came to Leawood from the City of Lenexa, with 14 years of experience as Assistant City Attorney, Police Legal Advisor and Prosecutor.

Ms. Knight introduced herself and her two children, and stated she grew up in Seneca, Kansas and attended Emporia State and the University of Kansas Law School.

**Presentation by Kansas State Fire Marshal  
Doug Jorgensen of 2014 Tom McGaughey Fire  
Service Award to:  
Captain Joe Sullivan  
Master III Firefighter Eric Peterson  
Master III Firefighter Curtis Newman  
Firefighter II Mark Estopare**

Chief Williams introduced Fire Marshal Jorgensen, who gave a brief history of the Tom McGaughey Award. Fire Marshal Jorgensen stated very few award nominations are received because most firefighters feel heroic efforts are part of the job and special recognition is not necessary. For 2014, two award nominations were received and reviewed. The family involved in the Leawood event on September 17, 2013 wrote a letter in support of Engine 31 Crew, expressing gratitude for service over and above what could be expected, both during and after the event.

Fire Marshal Jorgensen was joined by Chief Williams in the presentation of individual awards. A plaque was also presented, which was shown to the Governing Body by Chief Williams. Mayor Dunn thanked Chief Williams, the honored firefighters, and all of the Fire Department who attended in support. She was pleased to hear this group of firefighters had recently assisted with delivery of a baby at a Leawood home.

## **6. SPECIAL BUSINESS**

- A. **Public Hearing** on the Advisability of Amending a Transportation Development District in the City of Leawood, Kansas, and Financing Certain Transportation Project Improvements Therein for Second Amended and Restated Petition to Amend and Reaffirm a Transportation Development District [TDD] for the Park Place Development located at the southeast corner of Town Center Drive and Nall Avenue, in Leawood, Kansas pursuant to the provisions of K.S.A. § 12-17,140 et seq. and the City's Home Rule Authority to Determine its Local Affairs and Government as Authorized by Article 12, Section 5 of the Kansas Constitution;[Project # 83196]

**As no one was present to speak, a motion to close the Public Hearing was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous vote of 8-0.**

- B. **Public Hearing** on the Advisability of Amending a Transportation Development District in the City of Leawood, Kansas for First Amended and Restated Petition for Creation of a Transportation Development District [TDD] for the Park Place Development Located at the Southeast Corner of Town Center Drive and Nall Avenue, in Leawood, Kansas pursuant to the provisions of K.S.A. 12-17,140 et seq.

**As no one was present to speak, a motion to close the Public hearing was made by Councilmember Rasmussen; seconded by Councilmember Rezac. The motion was approved with a unanimous vote of 8-0.**

- C. **Ordinance No. 2698**, amending and restating Ordinance No. 2511 which authorized the creation of a Transportation Development District [TDD] for the Park Place Project

located east of Nall Avenue between 117<sup>th</sup> Street and Town Center Drive in the City of Leawood, Kansas; authorizing the development of certain Transportation Project Improvements relating thereto; approving the maximum costs of such Transportation Project Improvements; and providing for the method of financing therefore [PARK PLACE DEVELOPMENT [PROJECT 80455 & 80458] [Roll Call Vote]

**A motion to pass Ordinance No. 2698 was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 8-0.**

- D. **Ordinance No. 2699**, amending and restating Ordinance No. 2512 which authorized the creation of a Transportation Development District [TDD] in the City of Leawood, Kansas; authorizing the development of certain Transportation Project Improvements relating thereto; approving the maximum costs of such Transportation Project Improvements; and providing for the method of financing therefore [PARK PLACE DEVELOPMENT] [PROJECT # 80455 & 80458] [TRANSIENT GUEST TAX] [Roll Call Vote]

**A motion to pass Ordinance No. 2699 was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call 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. 2014-42 and 2014-43
- B. Accept minutes of November 3, 2014 Governing Body meeting
- C. Accept minutes of November 3, 2014 Governing Body Work Session
- D. Accept minutes of the October 7, 2014 Parks and Recreation Advisory Board
- E. Accept minutes of the October 1, 2014 Public Works Committee meeting
- F. Accept minutes of the August 26, 2014 Leawood Arts Council meeting
- G. Approve purchase of Police Motorcycle from Gail's Harley Davidson [trade-in] in the amount of \$7,249.00
- H. Approve renewal of Cereal Malt Beverage [CMB] license to Walgreen's, located at 4701 Town Center Drive
- I. Approve renewal of Cereal Malt Beverage [CMB] license to Cosentino Price Chopper's, located at 3700 W. 95<sup>th</sup> Street
- J. **Resolution No. 4358**, calling for a Public Hearing to be heard on Monday, December 15, 2014, at 7:30 P.M., or as soon thereafter as may be heard, regarding amendments to the 2014 Fiscal Budget for the City of Leawood, Kansas
- K. **Resolution No. 4359**, approving and authorizing the Mayor to execute an Amendment and Adoption to the City of Leawood Flexible Benefits Plan
- L. **Resolution No. 4360**, accepting Permanent Storm Sewer Easement from Jeffrey N. Joyce, located at 9005 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- M. **Resolution No. 4361**, accepting Permanent Storm Sewer Easement from Vicki L. Devers Living Trust, located at 8914 Mohawk Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]

- N. **Resolution No. 4362**, accepting Permanent Storm Sewer Easement from Sylvester Brad Hunt II and Constance G. Hunt, located at 8919 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- O. **Resolution No. 4363**, accepting Permanent Storm Sewer Easement from John R. Jacks and Penny J. Jacks, located at 9001 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- P. **Resolution No. 4364**, accepting Permanent Storm Sewer Easement from Robert G. McCormack and Betty N. McCormack, located at 8909 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- Q. **Resolution No. 4365**, accepting Permanent Storm Sewer Easement from Chad C. Beaver and Dani L. Beaver, located at 8900 Mohawk Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- R. **Resolution No. 4366**, accepting Permanent Storm Sewer Easement from Hemraj Muthyala and Neena Muthyala, located at 8901 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- S. **Resolution No. 4367**, accepting Permanent Storm Sewer Easement from Andrea R. Morgan, located at 9015 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- T. **Resolution No. 4368**, accepting Permanent Storm Sewer Easement from William Swicegood, located at 9009 Mission Road, pertaining to the 89<sup>th</sup> Street and Mission Road Storm Sewer Project [Project # 80550]
- U. Fire Department Monthly Report
- V. Police Department Monthly Report
- W. Municipal Court Monthly Report

Councilmember Filla requested Consent Agenda Item Nos. 7.D. and 7.J. be pulled.

Councilmember Rasmussen requested Consent Agenda Item No. 7.U. be pulled.

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

- D. Accept minutes of the October 7, 2014 Parks and Recreation Advisory Board

Councilmember Filla stated the word “worked” needed to be added to the last sentence of the introduction of new staff member Jacinta Tolinos on Page 1.

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

- J. **Resolution No. 4358**, calling for a Public Hearing to be heard on Monday, December 15, 2014, at 7:30 P.M., or as soon thereafter as may be heard, regarding amendments to the 2014 Fiscal Budget for the City of Leawood, Kansas

Councilmember Filla asked about the increase in the Transient Guest Tax Fund from \$363,800 to \$502,600 stated in third bullet item on Page 1, and if this would change the payout timeframe.

Mr. Lambers replied revenues were coming in at a greater rate and those revenues were being distributed to Park Place Development. The payout would be accelerated and obligations could be met by the end of 2015.

Mayor Dunn stated the Aloft Hotel had received the Revenue Per Available Room [RevPAR] award for several years and was doing extremely well.

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

- U. Fire Department Monthly Report

Councilmember Rasmussen stated a productivity report is provided every month and thanked Chief Williams and the Fire Department for the campaign to install smoke detectors and carbon monoxide detectors. He provided details of a recent family experience involving a faulty furnace and alert by a working carbon monoxide detector. The installation campaign helped family and has helped many others.

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

## 8. MAYOR'S REPORT

- A. Thanks to Tony Nichols, Parks & Recreation Special Event Coordinator, and Chris Claxton, Parks & Recreation Director, for orchestrating a very festive City Hall holiday lighting ceremony. Also, thanks to Scott Lambers, City Administrator, for his suggestion to move the event indoors due to adverse weather. Program participants included the Nativity Children's Parish Choir, soloist Ms. Mackenzie Hobbs accompanied by Ms. Susan Parsons and the Leawood Singers under the direction of Ms. Chloe Deuvall. Thanks also to all Councilmembers in attendance, as well as others from our professional staff.
- B. Participated in the Leawood Chamber of Commerce ribbon-cutting for Mackech Jewels in Park Place. Congressman Kevin Yoder was also in attendance. Owner Georgina Herrera has been operating for a number of years, but the location in Park Place is her first retail store. We wish them much success.
- C. Prairie Village Mayor Ron Schaffer hosted the Johnson & Wyandotte Counties Council of Mayors and the Johnson & Wyandotte Counties Legislative Delegation to discuss issues believed to be a priority for the upcoming legislative session. Topics included the looming state revenue shortfall and determination not to cut school funding, possibility of moving spring municipal elections to the fall, and impact of the new open carry laws on municipalities.

- D. Reminder that December 3<sup>rd</sup> will be the Annual Johnson and Wyandotte Counties Council of Mayors Holiday Social held at the Overland Park Convention Center. Councilmembers planning to attend should advise City Clerk Deb Harper.
- E. Joined Police Chief John Meier briefly at the graduation ceremony for Leawood's Citizens' Police Academy. This program is coordinated by Officer Erik Butler and had 20 participants in the 10-week course. Thanks to Chief Meier for providing the program.
- F. Congratulations to Leawood resident, Ironhorse Advisory Board Member and University of Missouri-Kansas City Chancellor Leo Morton for his induction into the Junior Achievement of Middle America's Greater Kansas City Business Hall of Fame. Junior Achievement of Middle America is a non-profit that educates kindergarten through 12<sup>th</sup> grade students about entrepreneurship, financial literacy and work readiness.
- G. Congratulations to all who were elected on November 4<sup>th</sup>. It was very encouraging to see Leawood's question regarding the continuation of our 1/8<sup>th</sup> cent (0.125) sales tax for streets and stormwater approved by 60% of the electorate. Also notable was that 58% of Leawood's registered voters participated in the vote. Detailed statistics and maps were provided to the Council by City Clerk Deb Harper and Information Services Director Mark Andrasik.
- H. Happy Thanksgiving to all. City Hall will be closed Thursday and Friday, November 27<sup>th</sup> and 28<sup>th</sup>.

**9. COUNCILMEMBERS' REPORT - None**

**10. STAFF REPORT**

Joe Johnson – Brightwater HOA request for installation of sidewalks from 83<sup>rd</sup> to 85<sup>th</sup> Terrace on State Line Road.

Mr. Johnson stated he had been contacted and asked to consider placing sidewalks along State Line Road. There is not sufficient right-of-way to place sidewalks on the west side. The curb would need to be shifted over to the east, which would narrow up the lanes for southbound traffic. The estimated cost would be \$350,000 without new curbs from 83<sup>rd</sup> to 85<sup>th</sup> Terrace, where a signal would allow pedestrians to cross State Line Road. As curb improvements are made along State Line Road, adjustments can be made in the curb to provide enough room to allow for sidewalks in the future. Shifting the curb would cause additional expense for storm sewer and overlaying State Line Road.

Mayor Dunn asked if the \$350,000 estimate included utilities and retaining walls. Mr. Johnson confirmed it did, with the exception of power poles relocation a couple of feet within City right-of-way at Kansas City Power & Light's expense.

Councilmember Filla stated the segment from 85<sup>th</sup> Terrace to 89<sup>th</sup> Street was within the Leawood HOA, and asked if the same curb replacement would continue southbound to 89<sup>th</sup>. She questioned if it would be logical to extend to 89<sup>th</sup> Street because of the bridge and connection pathway in the Self-Propelled Leawood bicycle/pedestrian plan. Mr. Johnson stated that section had not yet been considered for a sidewalk. There is culvert under the drive access and the spot is tight with overhead utilities, but he would review to see if this could be accommodated.

Councilmember Filla stated the easement from 2020 State Line was maintained so it could attach to a 75 ft. right-of-way on the north side of the asphalt parking lot, and come into a sidewalk and/or trail. Mr. Johnson replied the area would be evaluated.

Councilmember Filla asked if sidewalk constitutes the majority of the \$350,000 estimate. Mr. Johnson replied sidewalk is the most expensive part of cost, and the sidewalk would be along the back of the curb, as there would be no room to offset from the curb. Curb-shifting involves additional costs regarding storm sewer and more street to overlay.

Councilmember Cain inquired if the Self-Propelled Leawood plan could be considered when evaluating priority schedule and if prior requests for sidewalks had been received. Mr. Johnson replied that cost and feasibility were the only elements considered at this stage, and this was the first request in the last 6 to 7 years.

Councilmember Sipple asked if the neighborhood at 85<sup>th</sup> Terrace and State Line has a sidewalk between Lee Boulevard and State Line Road on 85<sup>th</sup> Terrace that would feed into the sidewalk going north and south; Mr. Johnson confirmed. Councilmember Filla stated residents on 85<sup>th</sup> Terrace are delighted with their sidewalk and that walkability of the area helps increase the value of their homes.

Councilmember Rasmussen asked if the issue has been presented to the Public Works Committee. Mr. Johnson replied it had not and the informative report was in response to a request from citizens.

Mayor Dunn pointed out that curbs for the area are planned to be done in 2015. Mr. Lambers stated the project would be incorporated into the bid to allow for the sidewalks to be installed at some future point.

Councilmember Rasmussen asked if the sidewalk proposal would be separate from the curb proposal. Mr. Johnson stated the engineer would look at the ability to shift the curbs and ensure enough space is available to install sidewalks. Additional costs would be considered and included in a report to the City Council. Design would occur early in the year and construction would begin in summer.

Councilmember Azeltine requested clarification of whether funds allocated for design and construction of curbs would be used for any other purpose. Mr. Johnson replied the consultant would design the project and would consider the ability to offset the curb to provide enough room for a sidewalk. Mr. Lambers stated curb design cost would increase in order to accommodate the change in design not originally anticipated, but the cost of the sidewalk construction would not come from the curb funds. Mr. Johnson added funds are all included within the same \$4.9 Million program.

Councilmember Filla stated the cost is nominal at this time, would be cost prohibitive at a later point and questioned the need for a Special Benefit District. Mr. Lambers confirmed the cost would be nominal and with an absence of sidewalks, it may not encompass the vision of the Self-Propelled Leawood plan and priority of this sidewalk versus others.

Mayor Dunn agreed with Councilmember Cain that the Self-Propelled Leawood plan should be considered. Mr. Johnson stated the sidewalk could be planned considering other priorities, as the Self-Propelled Leawood plan proceeds.

## **COMMITTEE RECOMMENDATIONS**

### **11. PUBLIC WORKS COMMITTEE**

#### **[From the November 5, 2014 Public Works Committee meeting]**

#### **Recommendation of consideration of Pedestrian Crossing at 135<sup>th</sup> Street and Mission Road**

Councilmember Rezac stated a resident emailed a request for a pedestrian crossing at 135<sup>th</sup> Street and Mission Road for ease in crossing and for safety. Public Works Committee discussed the possibility, and also that there are no sidewalks on the south side of 135<sup>th</sup> Street on Mission Road.

Mr. Johnson stated sidewalks currently extend on the west side from 143<sup>rd</sup> Street to 138<sup>th</sup> Street, and stop there because the City does not have the right-of-way to 135<sup>th</sup> Street. In addition, sidewalks end at the school. The City has right-of-way on the east side until 137<sup>th</sup> Street. The question is whether to provide a pedestrian crossing on the west side or to encourage the use of 137<sup>th</sup> Street with existing pedestrian crossings. The committee consensus was to add a pedestrian signal on the west side of Mission Road for safety at a cost of \$15,000. He stated that sidewalks would be installed with street improvements.

Councilmember Cain was surprised to learn not every traffic light is signalized. Mr. Johnson clarified the intersection is signalized, but when 135<sup>th</sup> Street was built there were no sidewalks, so pedestrian signals were not included. As development occurs along the corridor, developers have been required to upgrade the signals to provide for pedestrian crossings.

Councilmember Cain expressed interest in the sidewalk completion because of the schools and was encouraged by the progress. Mr. Johnson stated intersections at 135<sup>th</sup> and Roe, Nall, Pawnee and State Line all have pedestrian crossings.

Mayor Dunn asked if 135<sup>th</sup> Street is part of Operation Green Light and if so, any impact. Mr. Johnson replied a pedestrian crossing adds a longer break than if a vehicle triggers the light. Mr. Lambers added this is an issue with every pedestrian crossing along 135<sup>th</sup> Street, which may not be used often.

Councilmember Rasmussen inquired if the future potential widening of Mission Road south of 135<sup>th</sup> Street would negate the efforts of adding a pedestrian crossing. Mr. Johnson stated he did not think it would. The 6 ft. pedestrian crossing signal pole would stand apart from the traffic signal, and the pole could be reused if no longer needed. Mayor Dunn stated widening of Mission Road is planned in 2020.

Councilmember Sipple stated support of pedestrian and bicycle traffic, but expressed concern about a signal at the corner because it makes it appear the City is in favor of pedestrian traffic south of 135<sup>th</sup> Street on Mission Road. As there are no sidewalks, he felt it could be more appropriate to encourage the pedestrians or bicyclists to Pawnee or Roe when traveling north. Mr. Johnson stated while that option had been discussed, pedestrians and bicycle traffic have the potential to use the signalized light. Therefore, a pedestrian signal would provide safe crossing.

Councilmember Rezac stated the recommendation verbiage allows the Public Works Department to investigate appropriate signage for the direction of pedestrian traffic and to warn the sidewalk ends. Mr. Johnson stated that Public Works will investigate available signage through Manual on Uniform Traffic Control Devices [MUTCD].

Councilmember Azeltine asked about a crossing from the southeast corner of 135<sup>th</sup> and Mission to the southwest corner, which would encourage jaywalking across Mission to get to the crossing signal. Mr. Johnson stated there are no pedestrian crossings on the south side. The proposed crossing would be on the west side and would go across 135<sup>th</sup> Street. East-west traffic has a longer time; normal light is 20 seconds and pedestrian is 40 seconds, which should be adequate time for a pedestrian to cross. There is not adequate time to cross 135<sup>th</sup> Street without a pedestrian signal.

**A motion to approve Item No. 11. was made by Councilmember Rezac; seconded by Councilmember Filla. The motion was approved with a vote of 7-1. Nay vote from Councilmember Rasmussen because he felt installation of the pedestrian signal as discussed would create a non-existent sense of safety and encourage poor pedestrian behavior.**

12. **OLD BUSINESS** - None

13. **OTHER BUSINESS** - None

14. **NEW BUSINESS**

**Ordinance No. 2700**, appropriating the amounts set up in each fund in the budget for Fiscal Year 2015, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts [Roll Call Vote]

Mr. Lambers clarified this ordinance allows staff to generate timely vendor payments.

**A motion to approve Item No. 14. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.**

The meeting was adjourned at 8:45 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk