

Minutes

DVD No. 337

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, December 1, 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	Mark Andrasik, Info. Services Director
	Mark Klein, Planning Official	Richard Coleman, Planning Director
	Chief John Meier, Police Dept.	Chief Dave Williams, Fire Dept.
	Joe Johnson, Public Works Director	Nic Sanders, Human Resources Director
	Chris Claxton, Parks & Rec. Director	Cindy Jacobus, Assistant City Clerk
	Deb Harper, City Clerk	

**Others Present:** None

1. **PLEDGE OF ALLEGIANCE**
2. **APPROVAL OF AGENDA**

Mayor Dunn added revised material for Agenda Item Nos. 11.B. and 11.F.

**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** - None
5. **PRESENTATIONS/RECOGNITIONS** - None

## 6. SPECIAL BUSINESS

**Resolution No. 4369**, approving the termination of License Agreement and Structure Attachment Agreement between the City and Google Fiber Kansas

Ms. Bennett stated the City entered into three different agreements with Google, and Google canceled the Network Cooperation Services Agreement which called for certain provisions of broadband. The other two agreements with Google were the License Agreement and the Structure Attachment agreement which relate to broadband. Approval of this resolution terminates the Network Services Agreement.

Mayor Dunn expressed appreciation for the statement on the City's webpage regarding Google Fiber which had been prepared by Ms. Bennett, Mr. Lambers and outside legal counsel.

Councilmember Azeltine pointed out that Google terminated the agreement and the City is just formalizing its end of the agreement.

Councilmember Rezac stated Google would be welcome in Leawood if they were to provide services based on the agreement that was originally reached.

Mayor Dunn stated both of these items are included in the statement on the City's webpage.

**A motion to approve Resolution No. 4369 was made by Councilmember Rasmussen; seconded by Councilmember Filla. 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 No. 2014-45
- B. Accept minutes of November 17, 2014 Governing Body meeting
- C. Accept minutes of October 16, 2014 Leawood Foundation meeting
- D. Accept minutes of September 25, 2014 Leawood Foundation meeting
- E. Approve renewal of Cereal Malt Beverage [CMB] license to Walgreen's, located at 5230 W. 151<sup>st</sup> Street
- F. Approve quote in the amount of \$331,928.00 from Traveler's Insurance Company for 2014 property/casualty insurance with brokerage services from CBIZ
- G. **Resolution No. 4370**, adopting the 2015 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution Nos. 4152 and 4157, in accordance with § 1-701 of the Code of the City of Leawood, 2000
- H. **Resolution No. 4371**, allowing the Kansas Bureau of Investigation [KBI] to conduct criminal record checks for Cereal Malt Beverage License applicants for the City of Leawood, Kansas
- I. **Resolution No. 4372**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$47,000.00 between the City and HECO, Inc., d/b/a Houston Excavating & Demolition, pertaining to the demolition of the former Police Station located at 9617 Lee Boulevard

- J. **Resolution No. 4373**, approving the 2015 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 \$10,500.00
- K. **Resolution No. 4374**, approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2015 alcohol tax fund for an amount not to exceed \$250,000 [*Continued from the September 15, 2014 Governing Body meeting*]
- L. **Resolution No. 4375**, approving a Revised Final Sign Plan for Camelot Court – Revised Sign Criteria, located north of 119<sup>th</sup> Street and east of Roe Avenue. (PC Case 37-14) [*from the November 11, 2014 Planning Commission meeting*]
- M. **Resolution No. 4376**, approving a Revised Final Plat for Village of Seville – Second Plat, located north of 133<sup>rd</sup> Street and west of State Line Road. (PC Case 126-14) [*from the November 11, 2014 Planning Commission meeting*]
- N. **Resolution No. 4377**, approving a Revised Final Plan for Mission Farms – Phase III (Mission 106), located south of 105<sup>th</sup> Street and east of Mission Road. (PC Case 148-14) [*from the November 11, 2014 Planning Commission meeting*]
- O. Approve selling of [1] Material Spreader, VIN/8014878 to City of Shawnee, Kansas in the amount of \$1,000.00 [previously declared surplus]

Councilmember Sipple requested Consent Agenda Item No. 7.A. be pulled.

Councilmember Cain requested Consent Agenda Item Nos. 7.I. and 7.N. be pulled.

Mayor Dunn requested Consent Agenda Item No. 7.K. be pulled.

Councilmember Rezac requested Consent Agenda Item No. 7.N. be pulled.

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

- A. Accept Appropriation Ordinance No. 2014-45

Councilmember Sipple abstained from voting, as his wife is an independent contractor who provides services to the Parks & Recreation Department. Her fee for services rendered was one of the checks on the Appropriation Ordinance.

**A motion to approve Consent Agent Item No. 7.A. was made by Councilmember Filla; seconded by Councilmember Rasmussen. The motion was approved with a vote of 7-0; Councilmember Sipple abstained.**

- I. **Resolution No. 4372**, approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$47,000.00 between the City and HECO, Inc., d/b/a Houston Excavating & Demolition, pertaining to the demolition of the former Police Station located at 9617 Lee Boulevard

Councilmember Cain asked about removal of concrete piers below the Police Station and requested this be included in the current contract while needed equipment for removal would be on site.

Mr. Johnson replied removal of the piers that are 24 inches in diameter and 3 to 4 ft. deep was planned to be part of site redevelopment. Demolition is scheduled to begin in the next few weeks. Asbestos abatement and Fire Department training will be done at the site. He stated he would return with a cost estimate.

Councilmember Filla pointed out that grass will not grow easily over the concrete piers and stated she agreed with Councilmember Cain about removal at the time of demolition.

Councilmember Azeltine asked if a significant change order would be expected because of the difference between the high and low bid. Mr. Johnson replied that although the City had not used any of the bidders previously, a change order would not be expected as this vendor had worked with the Kansas City Police Department to clear sites.

Councilmember Osman stated he had recently received two telephone inquiries in regard to the demolition and he requested notification of area residents regarding the occurrence. Mr. Johnson agreed to provide notice to those located around the site.

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

- K. **Resolution No. 4374**, approving the recommended distribution of alcohol taxes by Johnson County Drug and Alcoholism Council [DAC] for allocations of the 2015 alcohol tax fund for an amount not to exceed \$250,000 [*Continued from the September 15, 2014 Governing Body meeting*]

Ms. Marya Schott, Community Initiatives Director for United Community Services of Johnson County, appeared for questions as Ms. Catherine Lawless, representative to the City of Leawood to the Drug and Alcoholism Council [DAC], could not attend.

Mayor Dunn expressed gratitude for the work of the DAC and great confidence in prudent use of funds by United Community Services of Johnson County.

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

- N. **Resolution No. 4377**, approving a Revised Final Plan for Mission Farms – Phase III (Mission 106), located south of 105<sup>th</sup> Street and east of Mission Road. (PC Case 148-14) [*from the November 11, 2014 Planning Commission meeting*]

Councilmember Rezac recused herself from voting, as her employer is building this project.

Councilmember Cain inquired about the size of the fenced dog area and its rules. Mr. Coleman replied the area is for relief of small dogs and was not large, and the developer would regulate as this is not a formal dog park.

Mr. Judd Claussen, Phelps Engineering, stated the area is on the south side of the parking garage and is for apartment complex residents. The area is self-policing, but their staff would maintain as well. It is estimated to open sometime in 2015.

Councilmember Cain stated the Mid-America Regional Council [MARC] had recorded an average daily attendance of 550 people at Leawood's "Leawoof" dog park.

**A motion to approve Consent Agenda Item No. 7.N. was made by Councilmember Cain; seconded by Councilmember Filla. The motion was approved with a vote of 7-0; Councilmember Rezac recused.**

## **8. MAYOR'S REPORT**

- A. Attended the Junior League of Kansas City, Missouri 2014-2015 Civic Leadership Program hosted by Leawood Police Chief John Meier and Captain Dale Finger at the Leawood Justice Center. The program included a panel of female elected officials and was facilitated by Kansas City, Missouri Councilmember Jan Marcason. Thanks to Chief Meier for his hospitality.
- B. Attended the Leawood Chamber of Commerce Board meeting where Blue Valley School District Superintendent Tom Trigg and Shawnee Mission School District Superintendent Jim Hinson made a presentation regarding the upcoming mail ballot issues. FAQ sheet was included in the agenda packet and provides details about the ballot issue to boost the current Local Option Budget [LOB] for schools from 31% to 33% permanently. This 2% equates to approximately \$2.9 Million for Blue Valley and low-to-mid \$3 Million for Shawnee Mission, and would be used for salaries and staff. The Shawnee Mission School District ballot will also include a second question regarding a \$223 Million bond issue for Shawnee Mission schools. Their last bond issue was in 2004. If approved, taxes will not increase and the funds would be used for reconstruction. Ballots will arrive in the mail on January 8<sup>th</sup> and the last day to register to vote is December 28<sup>th</sup>.
- C. Attended the Greater Kansas City Chamber of Commerce Board meeting, where I serve as a non-voting public official. The Chamber's recently approved 2015 Kansas Public Policy Agenda has been provided to Leawood Councilmembers in their mail.
- D. Sincere congratulations are in order for Leawood resident and University of Missouri-Kansas City Chancellor Leo Morton, who was honored as the Kansas Citian of the Year by the Greater Kansas City Chamber of Commerce at their annual dinner. The award is given annually to a person whose civic contributions and achievements have reflected the insight, creativity and consciousness necessary to build and maintain a high-quality urban community.

## **9. COUNCILMEMBERS' REPORT**

## **10. STAFF REPORT**

## **COMMITTEE RECOMMENDATIONS**

### **11. PLANNING COMMISSION**

***[from the November 11, 2014 Planning Commission meeting]***

- A. **Resolution No. 4378**, overriding the Planning Commission's recommendation of denial and approving request for a Revised Sign Plan for Pinnacle Corporate Centre – Revised Sign Criteria, located north of 115<sup>th</sup> Street and west of Tomahawk Creek Parkway (PC Case 86-14)

Mr. David Dehaemers, Leawood resident and CEO of Tallgrass Energy, 14747 Mission Road, asked for approval of Agenda Item No. 11.A. He stated the former tenant in this Pinnacle building had a lit sign for five years. Tallgrass Energy is both a publicly and privately-held company and employs a total of 600 employees, of which 20 are located in Leawood. They moved into their corporate headquarters in this building in May, and have been working with staff since April.

Staff recommended denial as Pinnacle Corporate Center sign criteria states that illuminated halo-lit signs visible from residential areas are not permitted. Mr. Dehaemers stated a number of the Pinnacle building lit signs are visible and that he believed the intent was to prohibit lit signs facing The Woods, a single-family residential district.

He pointed out the AMC headquarter building lights that shine across the street from Park Place apartments and stated the current requested sign does not violate any City Ordinance. Mayor Dunn stated that Park Place had their own sign criteria.

Mr. Dehaemers stated the applicant, Block Real Estate Services, had worked with the City to have their halo-lit sign illuminated from September 24<sup>th</sup> to October 1<sup>st</sup> to determine the impact. The applicant's lighting consultant determined there were no appreciable light lumens from the sign compared to other sources of illumination in the area, including street lights; several photographs were presented. He stated the Tallgrass halo-lit sign would only be on from dusk to 11:00 P.M. and also stated the applicant was willing to install pine trees to block the apartment view.

At the request of the Planning Commission, the applicant contacted the Tomahawk Homeowners Association [HOA] who did not offer support of the application. Ms. Bonnie Piccirilli, Block Real Estate Services, appeared and supported Mr. Dehaemers' position. She stated she had spoken with the apartment HOA tonight and they now have no objection.

Councilmember Rezac asked if the current staff position is now neutral; Mr. Coleman confirmed.

Councilmember Osman stated he specializes in real estate and pointed out that if a developer registers sign criteria, the City must evaluate applications against these criteria. Deviations from these criteria must come before the City Council. He stated his support of the application, which is replacing a sign with a sign, and his support of the sign illumination level.

Councilmember Cain supported the sign, with the understanding that progress dictates adaptation.

Councilmember Rasmussen questioned how long the sign had been up for the previous tenant, which was in violation of the applicant's sign criteria. Mr. Coleman replied the prior tenant, Wage Works, had their sign up for approximately five years and that he was uncertain if Block Real Estate Services had been aware.

Councilmember Azeltine asked why the Wage Works sign had been approved and if any complaints had been received about the sign. Mr. Coleman replied the sign application said "non-illuminated" and also "non-illuminated, halo-lit"; the wording of their criteria is unclear. The City had not received any complaints.

Councilmember Rasmussen asked if the developer is asking to allow lighted signs facing The Woods. Mr. Coleman replied that halo-lit signs could face residential and the application is to allow the halo-lit sign.

Mayor Dunn stated the allowance could be specific so that lighted signs would not face The Woods. Councilmember Rasmussen stated drafting criteria at a City Council meeting is not fruitful.

Mayor Dunn asked to allow staff a moment to develop the appropriate language. Ms. Bennett stated that sign criteria would need to be changed to allow the exception. She stated that to allow halo-lit signs on 115<sup>th</sup> and not facing The Woods, the proposed language change would need to be narrowed.

Councilmember Azeltine asked about the result of an override to the Planning Commission's decision. Ms. Bennett stated if approved, halo-lit signs facing residential within the development would then be allowed. Mayor Dunn reminded the Council that a super-majority of six affirmative votes would be needed to approve.

Councilmember Azeltine asked how many houses are within the sight line of the light. Mr. Dehaemers stated The Woods are to the north and the condominiums are to the south. He did not believe it was Block's intention to have signs facing The Woods.

Councilmember Azeltine expressed support for allowing the sign because the City encourages Mixed-Use zoning. He stated Leawood is a proud home to many distinctive companies and the City needs to support businesses' efforts, in order to continue to attract new businesses.

Mayor Dunn stated the Pinnacle Center is a lovely area and she applauded Block's efforts to work with residents. She stated their sign criteria had been developed with sensitivity to The Woods.

Councilmember Rezac expressed that she saw this as a perceived negative impact rather than an actual impact, and would support the sign.

Councilmember Filla stated her support of the sign. She asked staff to address the larger issue of light pollution, including porch lights and street lights, over the next six months to year. Mr. Coleman replied that staff had begun to address such issues with cutoff light fixtures in parking lots and illumination levels being restricted at the property line.

Councilmember Cain asked about Mr. Dehaemers' statement to add pine trees to screen light. Mr. Coleman stated the addition of evergreens would be an agreement between Block Real Estate Services and the condominium HOA.

Mr. Coleman offered suggested language to read: "Wall signs, if illuminated, shall be designed of halo-lit channel letters with a white light source only. Said signs shall not be visible from any residential area, except halo-illuminated signs are allowed only on 115<sup>th</sup> Street and shall only be illuminated from dusk until 11:00 P.M".

**A motion to approve Agenda Item No. 11.A. [override the Planning Commission's recommendation for denial] with Mr. Coleman's suggested language change was made by Councilmember Azeltine; seconded by Councilmember Rezac. The motion was approved with a 7-1 vote; Nay vote from Councilmember Rasmussen for reasons the developer does not enforce their own sign criteria and in his opinion the Block buildings have not been a desirable addition to the residential area.**

- B. **Resolution No. 4379**, overriding the Planning Commission's recommendation to deny Applicant's request and approving a Final Plat and Final Plan – UMB Bank and Work/Live Units, located north of 117<sup>th</sup> Street and east of Nall Avenue (PC Case 76-14)

Mayor Dunn recused herself due to her husband's role as a Board member of the UMB Bank Holding Company; Councilmember Filla served as Presiding Officer. Mayor Dunn stated Presiding Officer Filla could vote and be part of a six super-majority.

Mr. Jeff Alpert, Park Place Investors, LLC, gave a presentation about two proposed buildings at Park Place: an apartment building of 145 units; a UMB Bank facility with office space above; and a Live/Work building consisting of 10 retail workspaces on ground floor, nine apartment units connected by stairs, a third floor of nine apartment units and a deck garage above. The UMB building and the Live/Work building have to be considered as one because of the garage satisfying some of the parking for UMB.

Councilmember Filla expressed appreciation for the work done on pedestrian walkways, the parking situation and the rain gardens in the Live/Work units, as well as their process of re-evaluation as changes occur in mixed-use.

Councilmember Rasmussen asked about the fading of the paint and the process for replacing it, and the 12 ft. width of the bank drive-through. Mr. Coleman replied that an alternate solution to the paint issue would be presented by the applicant, and the drive-through issue had been resolved as width narrows to 10 ft. at the ATMs.

Mr. Kevin Harden, Gastinger Walker Harden Architects, 817 Wyandotte, Kansas City, Missouri, spoke about the UMB building and presented renderings of the building exterior consisting of glass and blue/tan panels. The bank is 5,000 sq. ft. and the upper floor will be used by UMB and contain tenant space, with the building being a total of 26,000 sq. ft. The bank drive-through is tucked under the building. The UMB building has 35 adjacent parking spaces and the remaining parking is at the Live/Work garage.

Councilmember Rasmussen asked about evidence of public art as discussed with UMB when the preliminary plan was approved. Mr. Harden replied there is space for art located in a landscape berm, but the piece has not been selected at this time.

Councilmember Rawlings pointed out all of the issues had been worked out with the exception of the artwork painted on the building. He stated UMB is a tenant of the developer, Park Place, and Park Place had not disappointed in their development to-date.

Councilmember Azeltine asked if the application is in compliance with the Leawood Development Ordinance and if the Final Plan is in compliance with the Preliminary Plan. Mr. Coleman replied that both are in compliance and added the UMB art piece is private and not meant to meet the City's art Impact Fee requirement.

Councilmember Azeltine stated a building becoming a piece of art is a new situation for Leawood. He stated style is subjective and expressed support of the application.

Mr. Alpert continued with his overview of the project. He stated that architectural metal often gets interpreted as aluminum siding, but is actually an architectural feature on some of the finest buildings in the country. The plan includes a traditional definition building with floral patterns on portions of the brick. He stated the contrast on the brick was revisited and would be altered to be a more subtle design. Mr. Alpert displayed a new proposed brick to the Council.

Councilmember Osman asked if Park Place would need to go back before the Planning Commission and City Council if they decide in the future to change from one paint treatment to another, or if such a change would be approved administratively. Mr. Coleman stated because the graphic painting is a substantial part of the design, removal of the paint would need to go through the Planning Commission and City Council, but that it could be stipulated that future changes could be approved administratively.

Councilmember Rasmussen asked if the Planning Commission's issues were because of maintenance of the painting, and if the new proposed brick is acceptable to Mr. Alpert. Mr. Alpert stated only one Planning Commissioner expressed dissatisfaction with the original floral pattern as a design issue and not a maintenance issue. Mr. Alpert stated the new proposed brick is a more subtle expression of the design concept.

Councilmember Sipple asked if any buildings in Kansas City utilize the brick with the subtle variations. Mr. Alpert was uncertain if there is an example in the area, but showed photographs of the Nall Towers at Park Place that have a vinyl pattern applied to their glass, which is a somewhat similar concept.

Councilmember Rezac expressed appreciation for the subtle floral pattern and stated it was more elegant than the bolder pattern presented previously. She felt graphics are becoming a larger part of architectural design.

Councilmember Rezac inquired, and Mr. Coleman confirmed, the subtle paint design on the Live/Work building could be approved this evening and a stipulation made that if the developer desires to remove it for whatever reason, it could do so without returning to the Planning Commission or Governing Body.

Councilmember Rezac asked about a suggestion from TranSystems regarding pedestrian walkways along 115<sup>th</sup> Street and if these would be completed. Mr. Alpert stated this had been suggested and making the connection is something that could be done, but this is not included in the current proposal. Across the street on the south side of 117<sup>th</sup> Street is a parking lot with no sidewalks, which is an issue. Mr. Alpert questioned a pedestrian connection until there is a landing place south of Town Center, but stated they could bring sidewalks out to the curb.

Councilmember Filla asked if this stipulation needed to be added. Mr. Coleman stated the Public Works study was of 117<sup>th</sup> Street from Nall to the east drive of Park Place, due to the large volume of pedestrian traffic around Town Center Theatre, California Pizza Kitchen and Gordon Biersch.

Councilmember Cain asked if the issue of driveway distance to the street light was resolved. Mr. Coleman replied he believed this had been resolved and stated the intent of Public Works to include pedestrian improvements along with the application. He stated the intersection of Town Center Drive does not warrant Public Works improvements at this time.

Councilmember Rasmussen asked about the pedestrian crossing to the AMC area and of specific concern Ash Street. Mr. Coleman replied that Public Works was not looking to signalize the area, but looked to the developer to make pedestrian improvements as shown in the plan. He stated the plan includes installation of a new crosswalk, curb ramp and median cut to the east and other additional crosswalks, but does not include a light.

Councilmember Rasmussen asked if approval of the current plan would supersede the signal that was originally planned for the crossing and how pedestrians would cross if there was no light. Mr. Johnson stated that what was proposed is appropriate and safe for the area. To install pedestrian signals would require traffic signals as well. The plan also includes improved landscaping to encourage pedestrians to use the designated crosswalks.

**A motion to approve Agenda Item No. 11.B. [override Planning Commission's recommendation for denial], with a stipulation regarding the pedestrian improvements as shown on Figure A-3, a stipulation regarding the newly proposed floral pattern brick on the Live/Work building and a stipulation regarding the alternative, should the applicant desire to change the exterior of the Live/Work building to remove the floral design without returning for further approvals, was made by Councilmember Osman; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0. [The stipulation discussed above is in reference to the removal of the paint pattern on the Live/Work building only; any other changes will require recommendation by the Planning Commission and approval by the Governing Body under a new Revised Final Development Plan.]**

Mayor Dunn re-entered the Chambers.

- C. **Ordinance No. 2701**, approving a Revised Preliminary Plan and Final Plan for Village of Seville – Discount Tire, located north of 133<sup>rd</sup> Street and west of State Line Road (PC Case 112-14) [Roll Call Vote]

Mr. Scott Fournier, Discount Tire Service Center, 20225 North Scottsdale, Scottsdale, Arizona asked for approval of a Revised Preliminary Plan and Final Plan for Discount Tire. He gave a brief overview of Discount Tire, which was founded in 1960 and has 900 locations. Their growth has been through good service. No mechanical work is performed; no hazardous materials are handled. Customer vehicles would not be left on the parking lot overnight. Hours of operation are 8:00 A.M. to 6:00 P.M. weekdays and 8:00 A.M. to 5:00 P.M. on Saturday; closed on Sunday. They expect \$5 Million in annual sales at this location, and to create 15 to 20 jobs.

Mr. Fournier stated they had met all stipulations, including the bike racks and additional tree.

Councilmember Rawlings asked about the brand of tires being sold. Mr. Fournier replied name brands including Michelin and Pirelli, as well as others, would be sold.

Councilmember Sipple asked about the closest location of Discount Tire, and if there would be additional locations in the Kansas City area since their regional office is located in Kansas City. Mr. Fournier stated a location is under construction in Olathe and should open in late January, 2015. He stated the regional office serves a 200-mile radius, covering Omaha, Iowa, Missouri and Kansas, and he hoped they would add additional locations.

Councilmember Sipple inquired if any of the Midwest locations would potentially add mechanical services in the future. Mr. Fournier replied their business is only tires and wheels, and it would remain that way.

Councilmember Rezac asked if the stucco would be the tan color shown in the elevations. Mr. Fournier confirmed the stucco would be only tan and the building would have real versus cultured stone features as well.

**A motion to approve Agenda Item No. 11.C. was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion was approved with a unanimous roll call vote of 8-0.**

- D. **Ordinance No. 2702**, approving a Preliminary Plan and Final Plan for Town Center Plaza – Restoration Hardware, located north of W. 119<sup>th</sup> Street and west of Roe Avenue (PC Case 131-14) [Roll Call Vote]

Mr. Brian Suiter, Glimcher Properties, appeared as the property owner and stood for questions relating to the property owner.

Mayor Dunn asked about language changes regarding the landowner and if the stipulations are current. Mr. Klein replied the stipulations were changed to add “landowner and subsidiaries” where it previously only referred to the applicant.

Councilmember Rasmussen inquired about the sidewalk along 118<sup>th</sup> Terrace. Mr. Coleman replied Dean & DeLuca is waiting to avoid the holiday season and would begin renovations in the spring, the 118<sup>th</sup> Terrace sidewalk connects to that sidewalk, and discussions are ongoing regarding the overall sidewalk plan.

Councilmember Rasmussen asked about the pedestrian area on the Cedar Street collector. Mr. Suiter stated the pedestrian plaza is contingent upon a large restaurant anchor tenant coming into the previous Restoration Hardware location. Mr. Coleman stated before construction begins on the project, the hope is to have the majority of the tenants in place so the space is full and lively.

Mr. Suiter introduced other members of the project team including Mr. John Snyder of Dentons Law Firm, Mr. Brad Sonner of Olsson Associates, and Ms. Robin Randall and Mr. Rob Edington of Restoration Hardware. He announced the recent selection of JE Dunn Construction Company as general contractor.

Mayor Dunn recused herself due to her relationship with JE Dunn and Presiding Officer Filla took over.

Mr. Edington, 15 Cook Road, Corte Madera, California, appeared and made a presentation. He gave an overview of the proposed Restoration Hardware building. The three-story building, with a grand staircase and elevator, would offer living room items on the first floor, bedroom and bathroom items on the second floor and the third floor would be for baby and child.

Councilmember Cain expressed issues with the height of the building and asked about its square footage. Mr. Coleman replied the building meets the height restrictions of the zoning district and the applicant had reduced the height of the building to meet the ordinance. It is one floor taller than the Arhaus store and 15,000 to 17,000 square ft. larger. The building has a slightly larger footprint.

Councilmember Cain stated the site is high to begin with, and the building brings a great deal of mass to the area, making future development challenging.

Councilmember Rasmussen asked if a sidewalk runs from 118<sup>th</sup> Terrace to 119<sup>th</sup> Street on the east end of the lot. Mr. Edington stated there was not, because of a significant grade change. Ms. Randall added on the west side of the parking lot, there is no sidewalk running north-south.

Councilmember Filla stated creating the pedestrian access during Restoration Hardware construction makes sense. Mr. Suiter stated there would not be pedestrian access from 119<sup>th</sup> to the shopping center because of the grade change. In the future, the holistic pedestrian access plan for the center will most likely include a sidewalk near Houlihan's and they will be back before the Council in this regard.

Councilmember Azeltine asked for an explanation of Stipulation No. 24. Mr. Coleman replied the stipulation is based on the increase in square footage from the original plan approval for the center, which exceeded 5% of the square footage, and then requires the property owner to bring the site up to current standards including the pedestrian plaza. The property owner was granted several years to become compliant.

Councilmember Azeltine asked how the height of the proposed building compares to Crate & Barrel. Mr. Coleman estimated Crate & Barrel height to be 35 to 40 ft.

**A motion to approve Agenda Item 11.D. was made by Councilmember Azeltine; seconded by Councilmember Rezac. The motion was approved with a roll call vote of 7-1; Nay vote from Councilmember Cain for reasons previously stated.**

Mayor Dunn re-entered the Chambers.

- E. **Ordinance No. 2703**, amending Section 16-4-1.2, of the Leawood Development Ordinance [LDO], entitled 'Location and Height of Accessory Uses, Buildings and Structures' and repealing existing Section 16-4-1.2 (PC Case # 152-14) [Roll Call Vote]

Mr. Klein stated the amendment is intended to allow playground equipment on school property to be a maximum of 25 ft. instead of 15 ft.

Councilmember Cain asked if any playground equipment had exceeded this limit and if a request for the increased height had been made. Mr. Klein stated a request from the Church of the Nativity prompted the amendment as their equipment is 22 ft. Equipment at some other schools may exceed 15 ft. as well.

**A motion to approve Agenda Item No. 11.E. was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.**

- F. **Ordinance No. 2704**, amending Section 16-4-5.3, of the Leawood Development Ordinance [LDO], entitled 'Design Standards' and repealing existing Section 16-4-5.3 (PC Case # 153-14) [Roll Call Vote]

Mr. Klein stated the amendment refers to the 60/40 rule in which 60% of the property adjacent to a public right-of-way [ROW] to a depth of 90' from the ROW is required to be a building or landscaping. This is difficult to attain for properties with more than two frontages and on small properties. The amendment requires properties under five acres and having three frontages to meet the requirement on only two of the frontages.

Councilmember Rezac asked about a higher classification of street as determined by the City of Leawood. Mr. Klein stated a higher classification of street would be an arterial or collector street.

Councilmember Rezac asked if the 60/40 rule would still apply if there was not an arterial street on one of the two sides. Mr. Klein replied the property would be exempt if it was less than five acres and did not have an adjacent arterial.

Councilmember Azeltine spoke about a site that has unique parking challenges, and as staff was uncertain if the site would be addressed with the proposed amendment, he asked to continue the case until it could be determined. Mr. Coleman replied that an applicant is waiting to see if the amendment is approved before proceeding with a project.

Mayor Dunn wanted to understand how the amendment could be detrimental to the property referred to by Councilmember Azeltine. Mr. Coleman stated the amendment would not apply to the property because its frontage is on two arterial roads.

Councilmember Azeltine asked about a remedy for the particular property he questions and if the remedy would require another amendment to the same LDO section. Mr. Coleman stated the issue could be addressed in the property's Final Plan. He stated the current amendment is moving in a less-restrictive direction and to reduce to one frontage to resolve the issue for the just the property in question, would then apply throughout the City.

Mr. Lambers suggested continuing the amendment to the next City Council meeting so the City Attorney could confirm whether or not other sections of the LDO would need to be amended. He stated other sections of the LDO could not be amended without another Public Hearing, and by continuing, the overall revision process would be streamlined.

Councilmember Rezac pointed out that if the same section of the LDO would need to be amended in the future, it could be done even if the proposed amendment is approved. She stated her preference to not continue the amendment.

Councilmember Azeltine stated he did not want to hinder the ability to address the other issue in the future. Mr. Coleman stated the solution to the other issue would not negatively impact or change the proposed amendment.

**A motion to approve Agenda Item No. 11.F. was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion was approved with a unanimous roll call vote of 8-0.**

**12. OLD BUSINESS - None**

**13. OTHER BUSINESS**

Chamber of Commerce proposal for performing economic development services in 2015 for the City. The contract would need to be revised with the budget attached to the revised contract.

Mr. Lambers stated if the proposed budget is agreed upon, an appropriation of \$9,000 could be made to the Chamber at the beginning of 2015 and a second appropriation of \$9,000 made halfway through 2015. The total \$18,000 cost would be handled through a City budget amendment and the current contract with the Chamber revised in January, 2015. He stated he wanted the Council to consider monthly or quarterly reporting status from the Leawood Chamber of Commerce to the City Council in confidential reports. Currently, only an annual report is required.

Councilmember Rezac asked about Economic Development Council [EDC] monies and how they are handled in the overall budget.

Mayor Dunn stated that Mr. Jeffries had indicated a meeting that he was unable to perform economic development work along with his other duties. This proposes for him to be the economic development person on a half-time basis and the Chamber Board would hire an operations person for the Chamber.

Mr. Kevin Jeffries, 2919 W. 124<sup>th</sup> Terrace, Leawood, Kansas, President and CEO of the Leawood Chamber of Commerce, stated the original budget supported mainly community development efforts and a small amount of traditional economic development activities. The new budget would allow the Chamber to spend the entire allocation from the City on economic development, similar to other communities, with cost of a few items such as rent and utilities being split between the functions.

Mayor Dunn asked about recruitment timing for the operations person for the Chamber. Mr. Jeffries indicated he had prepared a job description and there was no interest by internal staff in the operations position. He and his staff had not discussed the recruitment process.

Councilmember Rasmussen asked how often the video about Leawood that the City Council funded is used. Mr. Jeffries stated the video created seven years ago is still on their website, but it is dated and would not be used on the new Chamber website.

Councilmember Cain asked about funding for Taste of Leawood and the State of the City events. Mayor Dunn indicated the State of the City would not be facilitated by the Chamber any longer and the Taste of Leawood would be funded through alternative sources.

Councilmember Sipple asked if the Chamber would be able to provide quarterly reports to the Governing Body. Mr. Jeffries stated because of the confidential nature of much of the business development activities, he would only be able to provide project names. He could provide monthly reports regarding set-up of infrastructure for programs. Economic development effort would be focused on retention activities with a small amount of recruiting.

Councilmember Rezac asked Mr. Lambers why his recommendation was not to fund to the Level 3 request. Mr. Lambers stated he believed that given the increase provided to the Chamber in 2015 as part of the City's budget, the additional \$18,000 should be sufficient for Mr. Jeffries to perform economic development duties in 2015. After this, a decision could be made on the success of the economic development program.

Councilmember Rezac asked Mr. Jeffries about the detriment of funding that was not to Level 3. Mr. Jeffries stated the additional funding would allow enhanced business recruiting. Mayor Dunn stated Chamber members could help fund economic development efforts. Mr. Jeffries stated that increased Chamber dues and cost of higher-level sponsorships could help fund economic development.

**A motion to approve funding, Level 2 funding, and require quarterly reporting was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 8-0.**

**14. NEW BUSINESS**

Ordinance levying a one-eighth of one percent [.125%] City Retailers' Sales Tax in addition to the one percent [1.0%] tax currently levied, within the City of Leawood, Kansas, for the purpose of funding an Accelerated Residential and Thoroughfare Street Improvement Program, and for necessary Stormwater Improvements in certain instances; such as additional tax to take effect on July 1, 2015 and ending on June 30, 2021 [Roll Call Vote]

Councilmember Rawlings asked approximately how much revenue the programs will generate. Mayor Dunn stated close to \$5 Million between the two funds over the next six years.

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

The meeting was adjourned at 10:50 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk