

Minutes

DVD No. 177

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, December 2, 2007. Mayor Peggy Dunn presided.

Councilmembers present: Gregory Peppes, Scott Gullledge, Gary Bussing, Jim Rawlings, Mike Gill, Lou Rasmussen, James Azeltine, and Debra Filla.

Mayor/Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Kathy Rogers, Finance Director
Brian Anderson, Superintendent of Parks
Mark Klein, Asst. to the Planning Director
Deb Harper, City Clerk
Karl Weinfurter, IS Specialist

Patty Bennett, City Attorney
Joe Johnson, Public Works Director
Kim Curran, Superintendent of Recreation
Jeff Joseph, Senior Planner
Christy Wise, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Gill. The motion carried following a unanimous vote of 6-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

- A. **PUBLIC HEARING** Consider amendments to the 2007 Fiscal Budget for the City of Leawood

Mayor Dunn opened the public hearing for comments. As there were no individuals present who wished to speak on the matter, a motion to close the public hearing was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0.

Councilmembers Rasmussen and Filla arrived at 7:35 P.M.

- B. Resolution No. 2921 adopting amendments to the 2007 Fiscal Budget for the City of Leawood, Kansas

Finance Director Kathy Rogers affirmed that five funds will be increased. New additions have already been brought to the attention of the Governing Body and incorporated within the changes. The amendments will bring the City into compliance with the Kansas Budget Law.

A motion to pass the resolution was made by Councilmember Bussing; seconded by Councilmember Rawlings. The resolution was approved following a unanimous vote of 8-0.

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 1090B and 1091A
B. Accept minutes of the November 19, 2007 Governing Body meeting
C. Accept minutes of the November 2, 2007 Stormwater Management Committee meeting
D. Approve the 2009 Budget and Capital Improvement Project [C.I.P.] Calendar
E. Approve purchase in the amount of \$9,435.75 from John Deere Company, for the purchase of an infield machine
F. Approve Change Order No. 3 [deduct] in the reduced amount of \$159,195.96, to O'Donnell & Sons Construction pertaining to the Villaggio Improvement Project [CIP # 197]
G. Approve Change Order No. 6 [deduct] in the reduced amount of \$9,839.00, to O'Donnell & Sons Construction pertaining to the Villaggio Improvement Project [CIP # 198]
H. Approve Change Order No. 2 in the amount of \$68,727.00, to Barge-Turley pertaining to the Storm Sewer Project at 8745 High Drive and Storm Sewer Maintenance Curb Inlet Repair Project
I. Resolution No. 2912 amending the City of Leawood's Investment Policy, and repealing Resolution No. 2755

- J. Resolution No. 2913 establishing the 2008 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution Nos. 2694, 2899, and 2905, in accordance with the Open Records Act, K.S.A. § 45-215, et seq.
- K. Resolution No. 2914 accepting a Permanent Utility Easement from Parkway Plaza, LLC, to the City for property located on the east side of 133rd Street and Briar and the fountain in the west detention basin
- L. Resolution No. 2915 approving and authorizing the Mayor to execute an Engineering Service Agreement in the amount of \$38,330.00 between the City and Uhl Engineering pertaining to the 2008 Residential Mill & Overlay Design for various locations along I-435
- M. Resolution No. 2916 accepting a Permanent Easement and authorizing the Mayor to execute a Maintenance Agreement between the City and Parkway Plaza, LLC, pertaining to property located at 133rd and Roe Avenue
- N. Resolution No. 2917 to approve a Final Site Plan for a tenant finish for Solutions Bank, located on the southeast corner of 105th Street and Mission Road, within the Mission Farms development *[from the November 13, 2007 Planning Commission meeting]*
- O. Resolution to approve a Revised Final Site Plan for Village of Seville Revised Sign Criteria, located on the northwest corner of 133rd Street and State Line Road *[from the November 13, 2007 Planning Commission meeting]* – **Continued to the December 17, 2007 Governing Body meeting**
- P. Resolution No. 2918 to approve a Final Site Plan for a tenant finish for SOHO 119, located on the southeast corner of 119th Street and Roe Avenue, within the One Nineteen development *[from the November 13, 2007 Planning Commission meeting]*
- Q. Resolution No. 2919 to approve a Final Plat for Gardens of Villaggio, located south of 135th Street and west of Fontana, within the Villaggio development *[from the November 13, 2007 Planning Commission meeting]*
- R. Declaration of surplus property
- S. Municipal Court October Monthly Report
- T. Approve Mayoral Appointment of Steve Katz to the Amphitheater Expansion Steering Committee

Mayor Dunn pulled Item Nos. 7D, 7F, and 7G for discussion. City Administrator Scott Lambers requested that Item No. 7O be continued to the December 17th Governing Body meeting.

On motion of Councilmember Gulledge, seconded by Councilmember Bussing, the remainder of the Consent Agenda was approved following a unanimous vote of 8-0.

- 7D. Approve the 2009 Budget and Capital Improvement Project [C.I.P.] Calendar

Mayor Dunn requested that Councilmembers log all of the dates into their personal calendars, making special note of the Governing Body Goals & Objectives Work Session scheduled for January 22, 2008, at 5:30 P.M.

A motion to approve Item No. 7D was made by Councilmember Gill; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- 7F. Approve Change Order No. 3 [deduct] in the reduced amount of \$159,195.96, to O'Donnell & Sons Construction pertaining to the Villaggio Improvement Project [CIP # 197]
- 7G. Approve Change Order No. 6 [deduct] in the reduced amount of \$9,839.00, to O'Donnell & Sons Construction pertaining to the Villaggio Improvement Project [CIP # 198]

Mayor Dunn pointed out that both of the change orders are deductions to the originally estimated costs.

A motion to approve Item Nos. 7F and 7G was made by Councilmember Rasmussen; seconded by Councilmember Gulledge. The change orders were approved following a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Reported that the 10th Annual Holiday Lighting Ceremony was a fabulous success. Mayor Dunn extended appreciation to Special Project & Events Supervisor Lindsay Youle, Parks & Recreation Director Chris Claxton, and the entire Parks & Recreation Department for organizing and executing the ceremony. Councilmembers Peppes, Bussing, Rasmussen, Rawlings, and Azeltine were also present for the evening's festivities. Entertainment was provided by the Leawood Singers, the Leawood Elementary School Choir, and the St. Michael the Archangel School Choir. A fireworks display was also presented as a special kick-off to the City of Leawood's 60th Anniversary Celebration. Alice and Mel Hawk, co-Chairs of the yearlong celebration, were also present and addressed the crowd of several hundred people. Commerce Bank was recognized for generously hosting the post reception.
- B. Along with Councilmember Peppes, attended the grand opening preview for California Pizza Kitchen, which is the first restaurant to open within the Park Place development. Present in the enormous crowd were Mayor Mike Boehm of Lenexa, Mayor Mike Copeland of Olathe, and many member of the Overland Park City Council.
- C. Mayor Dunn expressed gratitude to members of the City Staff who donated gifts to SafeHome through the Have-A-Heart campaign. She complimented the Have-A-Heart Committee for their hard work.
- D. Reminder that the Annual Employee Appreciation Luncheon will take place on Monday, December 10th, at 11:30 A.M. in the Oak Room of the Community Center at City Hall.

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

Councilmember Gill left the Council Chambers.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the November 13, 2007 Planning Commission meeting]

- A. Ordinance No. 2283 approving a Special Use Permit [SUP] for an VRAD cabinet for AT&T Lightspeed, located at 4001 W. 148th Street [Roll Call Vote]

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

Chris Carroll with AT&T, 8900 Indian Creek Parkway, Overland Park, stated that the VRAD cabinet for this particular application was relocated from the original design per Staff recommendations.

Mayor Dunn noted that Stipulation No. 2 requires a majority of the proposed plantings surrounding the cabinet to be a minimum of 6-ft. in height. She has observed this to be true at other cabinet sites, yet not all of the foliage is equal in diameter as some are very thin. She requested that future plantings be more voluminous. Mr. Carroll stated that he was unaware of the inconsistency and will review the matter. He also noted that some of the plantings will become bigger as they mature.

Mr. Carroll confirmed with Councilmember Rasmussen that there are no concerns associated with the applicant's responsibility to relocate the cabinet, if necessary, upon the widening of 143rd Street.

The ordinance passed with the following unanimous roll call vote of 7-0: Yea: Councilmembers Azeltine, Rasmussen, Peppes, Filla, Bussing, Rawlings, and Gulledge. Nay: None. (Councilmember Gill not seated for the vote).

Councilmember Gill returned to the Council Chambers.

- B. Resolution No. 2920 to approve a Final Site Plan for a tenant finish for Sullivan Restaurant, located on the southeast corner of 119th Street and Roe Avenue, within the One Nineteen development

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Peppes.

Mayor Dunn noted that Stipulation Nos. 22 and 23 are redundant. She suggested removing one of them and changing the wording in what would become Stipulation No. 32 to "they agree to stipulations one through thirty-two." She also noted a typographical error on page three under the heading of "Request" in which the date of December 18, 2007, should read 2006.

Applicant Brent Allison with Del Frisco's Restaurant Group, 224 E. Douglas, Suite 700, Wichita, Kansas, provided background information of the newly formed company. They have recently separated from the parent company of Lonestar Steakhouse & Saloon and have announced that they will soon hold public stock offerings in order to fuel growth plans for the next few years. The upscale restaurant will contain 234 seats with the patio capable of holding an additional 100 seats. He then presented renderings of the proposed building.

Mr. Allison confirmed for Mayor Dunn that the area of inset brick below the canopy is in response to the Planning Commission's request for an alternative to the originally proposed spandrel glass. The brick will be laid in a traditional running bond course with depth and dimension.

To Councilmember Gill's inquiry, Mr. Allison stated that RED Development is encouraging a June opening for the restaurant. He also affirmed comfort with the adequacy of the parking spaces. The restaurant will offer valet parking, the details of which will be arranged with the developer.

The Final Site Plan was approved following a unanimous vote of 8-0.

12. OLD BUSINESS – None.

13. OTHER BUSINESS – None.

14. NEW BUSINESS

- A. Ordinance No. 2284 appropriating the amounts set up in each fund in the budget for fiscal year 2008, 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]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Gulledge. The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Rawlings, Filla, Gill, Peppes, Gulledge, Bussing, Azeltine, and Rasmussen. Nay: None.

- B. Ordinance amending Chapter 15 of the Code of the City of Leawood, 2000, by adding a new Article 7, entitled 'Post Construction Stormwater Runoff Control' [Roll Call Vote]

Mr. Lambers informed that he received a last-minute e-mail from the Home Builders Association requesting the opportunity to provide input on this item. Cities throughout Johnson County are approving this ordinance in order to be consistent by the New Year. The e-mail indicated that the individual has had communications with other cities, however this has not been confirmed. Mr. Lambers requested continuing the item until the December 17th Governing Body meeting in order to assess other cities' responses to the input and ensure consistency when adopted.

Mr. Johnson commented that perhaps the biggest concern to the HBA is the Mid-America Regional Council [MARC] manual that is referenced in the ordinance. He is not aware that Overland Park or any of the other cities have made changes in this regard.

Councilmember Rasmussen said that he is uncomfortable with postponing the item in this unusual last-minute manner. The HBA should have exercised due diligence by making an earlier request.

Councilmember Bussing stated there is no harm in accommodating the request of the HBA for a period of two weeks. He then made a motion to continue Item No. 14B to the December 17th Governing Body meeting. The motion was seconded by Councilmember Azeltine.

The continuance was approved following a vote of 7-1 (Nay: Councilmember Rasmussen).

ADJOURN

Mayor Dunn adjourned the meeting at 8:00 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk