

Minutes

DVD No. 156

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 18, 2006. Mayor Peggy Dunn presided.

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

Councilmembers absent: None.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police Department
Captain Troy Rettig, Police Department
Kathy Rogers, Finance Director
Chris Claxton, P&R Director
Mark Klein, Senior Planner
Deb Harper, City Clerk
Jack Reece, IS Specialist

Patty Bennett, City Attorney
Captain Dale Finger, Police Department
Deputy Fire Chief, Randy Hill
Joe Johnson, Public Works Director
Jeff Cantrell, Neighborhood Serv. Admin.
Jeff Joseph, Senior Planner
Deputy City Clerk, Christy Wise

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn called attention to revised material for Item Nos. 12D, 12E, and 12L upon the dais. She noted that Item No. 7G has been tabled. Additions to the agenda will include: Item No. 9A, a report from Councilmember Gill; Item No. 9B, a report from Councilmember Rasmussen; Item No. 15A, a report on the Work Session held prior to the Governing Body meeting; and Item No. 15B, scheduling of an Executive Session immediately following the regular meeting to discuss matters related to the attorney-client privilege.

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Gill. Due to the lengthy agenda, Mayor Dunn advised that extreme focus will be required in order to complete the items in a timely manner. The agenda was approved following a unanimous vote of 8-0.

3. CITIZEN COMMENTS

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

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS Recognition of Columbian Bank and Trust Company for Sponsorship of Cultural Arts and Events

Leawood Arts Council Chair Mary Tearney introduced Mark McCaffree, Legal Counsel and Vice President of Columbian Bank and Trust Company. She stated the bank has supported the Dictionary Project, which at one point provided 3,600 dictionaries for all third graders in the Shawnee Mission and Blue Valley school districts. Ms. Tearney also thanked her husband for his assistance with the project. Much of the program has now been taken over by PTAs with only 1,000 books needed this year, however Mr. McCaffree has assured funding from the bank for any portion of the project. The bank will also sponsor a future TIPS Hotline that will be set in place to protect public art in Leawood.

Mayor Dunn expressed appreciation to Ms. Tearney for spearheading the Dictionary Project and to Mr. Tearney for his involvement. She also thanked Mr. McCaffree and his father, Carl McCafree, who is also on the Leawood Arts Council, for their support.

6. SPECIAL BUSINESS – None.

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. 1064C, and 1065A
- B. Accept Minutes of the November 20, 2006 Governing Body meeting
- C. Accept Minutes of the December 4, 2006 Governing Body meeting
- D. Accept Minutes of the October 26, 2006 IRONHORSE Advisory Board meeting - ***Continued from the December 4, 2006 Governing Body meeting – CONTINUED TO THE FEBRUARY 5, 2007 GOVERNING BODY MEETING***
- E. Renewal of Cereal Malt Beverage [CMB] License for Cosentino's Price Chopper, located at 3700 W. 95th Street
- F. Approve quote in the amount of \$309,815, from St. Paul Fire & Marine Company, pertaining to the renewal of the 2007 Property and Casualty insurance

- G. Final Pay Request in the amount of \$69,715.29 to APAC-Kansas, Inc., pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 80110] – *Continued from the December 4, 2006 Governing Body meeting* – **THIS ITEM HAS BEEN TABLED**
- H. Resolution No. 2711 approving and authorizing the Mayor to execute Amendment No. 1 to that certain Master Lease Agreement dated, September 5, 2006, between the City and Ricoh Customer Finance Corporation for a 5-year lease for various copy machines
- I. Resolution No. 2712 approving and authorizing the Mayor to execute Amendment No. 1 to that certain Master Maintenance Agreement dated, September 5, 2006, between the City and Foto Office Systems for a 5-year maintenance agreement for various copy machines
- J. Resolution No. 2713 approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$20,000.00, between the City of Leawood, Kansas and Public Finance Consultants to provide financial consulting support
- K. Resolution No. 2714 approving and authorizing the Mayor to execute a Video Service Provider Agreement between the City and Southwestern Bell Telephone, L.P. d/b/a AT&T Kansas, to provide video service in the City of Leawood, Kansas
- L. Fire Department Monthly Report
- M. Municipal Court Monthly Report
- N. Police Department Monthly Report

Councilmember Rasmussen requested to pull Item No. 7J and Councilmember Azeltine requested to pull Item No. 7B for discussion. Mayor Dunn noted that technical corrections have been made to Item No. 7B. It was confirmed that Item No. 7G has been tabled.

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

7B. Accept Minutes of the November 20, 2006 Governing Body meeting

Councilmember Azeltine noted on page 16, the minutes state that Councilmember Rawlings is in favor of the smoking ordinance, but not at the expense of the business owners in Leawood. Referring to the following statement, "Councilmember Azeltine, Filla, and Rasmussen echoed Councilmember Rawlings' concern," he requested the minutes reflect elaborative comments made by himself regarding the need for a public hearing if aspects of the ordinance were to be changed.

A motion to approve Item No. 7B was made by Councilmember Azeltine; seconded by Councilmember Filla. Mayor Dunn confirmed with City Administrator Scott Lambers that other technical corrections were given to the Office of the City Clerk. The minutes were accepted following a unanimous vote of 8-0.

- 7J. Resolution No. 2713 approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$20,000.00 between the City of Leawood, Kansas and Public Finance Consultants to provide financial consulting support

Councilmember Rasmussen stated following discussion with Finance Director Kathy Rogers, he has no comments regarding the necessity of the consulting service. However, having full confidence in the Professional Staff, he conveyed this particular service should no longer be needed given the number of years it has been utilized.

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

Mr. Lambers stated a portion of the consulting contract is used for assistance with budget preparation in terms of forecasting and modeling. As the contract is 'not to exceed,' there are moneys budgeted for special projects. For example, due to Governing Body concerns related to fee recovery and expenses in the Parks & Recreation Department, Public Finance Consultants are currently in the process of analyzing our operations in comparison to other cities for the upcoming 2008 Budget. The entire contract amount may or may not be spent throughout the course of the year.

The motion carried following a unanimous vote of 8-0.

8. MAYOR'S REPORT

- A. Attended a Retirement Reception for Sid Mitchell, now former Chief of Police, in the Oak Room of the Community Center in City Hall. In addition to many other attendees, present at the event were the Sheriffs of Johnson and Miami Counties, regional Chiefs of Police, the Missouri and Kansas Highway Patrols, the Secret Service, and the Federal Bureau of Investigations. Mayor Dunn thanked John Meier, the current Chief of Police, for planning the event.
- B. Attended the Jewish Community Relations Bureau/American Jewish Committee Awards Banquet, which honored Gary Forsee with the 2006 Human Relations Award. City Administrator Scott Lambers also attended the event.
- C. Attended the Council of Mayors December Social with almost 100% Governing Body attendance.
- D. Attended the Leawood Chamber of Commerce's Annual Meeting and Luncheon along with Councilmember Azeltine and many members of the Professional Staff. Mayor Dunn congratulated former-Chief Sid Mitchell and Bill Elwood of Town & Country Bank for being inducted into the Leawood Chamber of Commerce Hall of Fame.
- E. Attended the 49th Annual Difference Maker Awards Day Luncheon, sponsored by the Urban League of Greater Kansas City. Kansas City, Missouri Mayor Kay Barnes received the Stellar Public Service Award and John Bluford received the Trailblazer Award.
- F. Attended a ribbon cutting for the Sunrise Assisted Living Center along with Councilmembers Rasmussen and Azeltine.

- G. Attended the City of Leawood's Employee Appreciation Luncheon, which also took place in the Oak Room. Jamie Reese, Court Clerk II, was named Employee of the Year for going well beyond the call of duty by working for both the Court and Police Department for a period of several months.
- H. Reminder that the next Governing Body meeting will be held on Tuesday, January 2, 2007, due to the New Year's Day holiday falling on Monday.
- I. Mayor Dunn wished everyone a Merry Christmas, Happy Hanukah, Happy Holiday, and Happy New Year.

9. COUNCILMEMBERS' REPORT

***A. Report from Councilmember Mike Gill**

Councilmember Gill reported members of Leawood Fire Department and area paramedics assisted in the Red Bag Program, a community volunteer effort that supplies gifts to needy children. This year the metro-wide program provided for 1,620 children in addition to meeting the needs of 50 families in both Kansas and Missouri. The program takes place in three locations with Deputy Fire Chief Randy Hill leading in Leawood's first year of participation at Fire Station No. 3.

Councilmember Gill then introduced special guest Daniel Jacobsen, who started the program 23 years ago as a way to demonstrate the spirit of the season to his children. He also stated Leawood resident Cindy Thesien is responsible for heading the program in this area.

Mr. Jacobsen summarized the history of the program, which grew after he requested the help of others through a one-page letter when the project grew beyond his own financial capabilities. He also presented a slideshow demonstrating the amazing charitable results and numerous volunteers involved. He thanked the City of Leawood for becoming involved and allowing the use of Fire Station No. 3 as a distribution location.

Mayor Dunn thanked Mr. Jacobson for the presentation, Ms. Thesien for her efforts, and Councilmember Gill for his leadership role in the exceptional project.

Deputy Fire Chief Randy Hill stated the firefighters and MedAct paramedics were pleased to be involved in the program and look forward to doing so again next year.

***B. Report from Councilmember Lou Rasmussen**

Councilmember Rasmussen complimented Staff on the 2006 Landscaping Inspection Report. He stated the report illustrates the need for the particular employment of auditing and enforcing stipulations. He expressed desire to see a similar report regarding the stormwater system, which has been promised since 1997. Concentration should be given to approving future stipulations in a way that Staff can enforce.

Secondly, Councilmember Rasmussen reported there are some commercial parking lots in the City that contain inadequate pavement and are unable to carry the full weight of vehicles. There are specifications in the Leawood Development Ordinance [LDO] regarding construction standards of parking lots.

A motion to direct the Public Works Committee to review pavement requirements associated with parking lots in commercial developments was made by Councilmember Rasmussen; seconded by Councilmember Filla. The motion was approved following a unanimous vote of 8-0.

Councilmember Filla also commented on the exceptional landscaping report and requested the next report summarize the number of trees and shrubs that are planted throughout the process.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PARKS AND RECREATION ADVISORY BOARD

[from the November 14, 2006 Parks and Recreation Advisory Board meeting]

- A. Resolution No. 2715 approving Parks and Recreation Department Policy for use of the City's Trail System by organized groups

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

Councilmember Rasmussen bestowed thanks upon Staff for moving forward with instituting a policy. Specifically referring to the bullet points rather than lettering in the submitted resolution, he asked that Staff verify format compliance with the Kansas League of Municipality.

Referring to the October 17th Parks & Recreation Advisory Board minute excerpts included as packet information, Councilmember Azeltine confirmed with Parks & Recreation Director Chris Claxton that a subsequent meeting took place on November 17th, of which minute excerpts were not included. During the second meeting of discussion on the topic, the presented recommendations were approved by the committee. She also verified that bicycling is allowed on the trails of Indian Creek and Tomahawk Creek, however organized biking events will not be allowed in these locations due to multiple entry points and blind spots. A group biking event can be safely held at Ironwoods Park, however, as long as it is not in race format.

Mayor Dunn stated appreciation to Staff and the Parks & Recreation Advisory Board for the joint effort in composing the resolution.

The resolution was approved following a unanimous vote of 8-0.

12. PLANNING COMMISSION

[from the November 27, 2006 Planning Commission Meeting]

- A. Resolution No. 2716 approving a Final Site Plan for Mission Corner, located on the southeast corner of 135th Street and Mission Road

Concerning Item Nos. 12A and 12B, Mr. Lambers stated the latter is an application for infrastructure improvements and was previously continued at the request of the applicant in order to simultaneously present the balance of the project to the Governing Body.

Staff is recommending approval of both items. The provisions of Item No. 12A will supersede those of Item No. 12B.

Mr. Lambers advised Councilmember Rasmussen that fees set by Council are established at the time of preliminary plan application. As the Mission Corner application occurred prior to the August 29th, 2006 effective date of the ordinance increasing the art impact fee to 15-cents per square foot, the project is subject to the previous art impact fee of 10-cents per square foot. The fee increase will be applicable to the revised preliminary site plan of Parkway Plaza, which will be presented to the Planning Commission tomorrow evening.

Councilmember Rasmussen confirmed with Mr. Lambers that language regarding landscaping on page 11 is sufficient in terms of auditing purposes.

Representing the applicant, Larry Winn, 6201 College Boulevard, noted that a work session held 14-months ago led to the project being presented tonight. He stated the Planning Commission enthusiastically supported the final site plan.

Henry Klover of Klover Architects, 10955 Lowell, Overland Park, Kansas, explained minor deviations and demonstrated the construction phasing of the project. Subtle revisions to the residential unit footprints have created 10,000 square feet of open space in the plaza areas.

Mr. Winn stated concurrence with all 46 stipulations as written and offered to stand for questions.

A motion to approve the Final Site Plan for Mission Corner, located on the southeast corner of 135th Street and Mission Road, was made by Councilmember Rasmussen; seconded by Councilmember Bussing.

Mr. Klover recounted the phasing order of the pad sites for Councilmember Bussing.

The resolution was approved following a vote of 7-1 (Nay: Councilmember Azeltine stated this project sets dangerous precedent for density along the 135th Street Corridor. He stated the project is beautiful, however is in the wrong place due to the close proximity of the tall buildings to residential areas).

[from the October 10, 2006 Planning Commission Meeting]

- B. Resolution No. 2717 approving a Final Site Plan and Final Plat for Mission Corner, located on the southeast corner of 135th Street and Mission Road –
Continued from the November 6, 2006 Governing Body Meeting

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

Mr. Lambers reiterated the relationship between Item Nos. 12A and 12B for Councilmember Gill. The applicant originally wanted Item No. 12B to move ahead in order to proceed with infrastructure improvements, however the Planning Commission had some discomfort with this course of action. Following the Planning Commission meeting, the applicant requested a continuance at the Governing Body level in order to present the entire final site plan as a whole. Except for the final plat, the provisions stated in Item No. 12A will supersede those of 12B.

Councilmember Azeltine asked why the infrastructure was separated from the rest of the development. Mr. Lambers stated this would have provided the applicant the opportunity to begin obtaining a land disturbance permit to grade the site, which requires final plan approval. It was understood that any changes in grading upon final plan approval of the entire site would be at the risk of the developer. Mr. Lambers verified that this procedure is within the LDO and was also done for the Villaggio project due to the developer's desire to identify the infrastructure for Special Benefit District [SBD] financing.

Mr. Lambers informed Councilmember Azeltine that there will not be Transportation Development District [TDD] bonds issued for the infrastructure portion of Mission Corner at this point, however the developer could request financing in the future. There is an effort underway to put in a TDD district for the undergrounding of power lines and third lane expansion along 135th Street. At this point, the developer is considering an SBD for the construction of 137th Street.

The separation of the infrastructure from the rest of the project served no benefit to the SBD process and was only to obtain the land disturbance permit.

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

[from the November 27, 2006 Planning Commission Meeting]

- C. Resolution No. 2718 approving a Revised Final Site Plan and Revised Final Plat for Ironhorse Centre, located on the southeast corner of 151st Street and Nall Avenue

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

Applicant Fred Merrill stated agreement to all stipulations and offered to answer questions.

Mr. Merrill informed Councilmember Gill that building No. 8 will be used as a coffee shop and retail store while building No. 7 is intended for office use. There is a pedestrian walkway connecting the two buildings.

Discussion took place regarding the need to have a drive-thru on the coffee shop. Mr. Merrill stated the feature is very necessary to service customers in the area as well as increase sales. Councilmember Gill asked for assurance that this location would not become a fast-food restaurant should the coffee shop go out of business. Mr. Merrill stated it is important that the area contain no fast-food establishments. A lease has currently been negotiated with Latté Land.

Mr. Lambers stated all drive-thru facilities require a special use permit [SUP], however he does not believe the language restricts use of the building. Mr. Merrill stated agreement with an additional stipulation to ensure that the building will be used only as a coffee shop.

A formal amendment to the motion was made by Councilmember Gill to include a stipulation restricting the use of the drive-thru on building No. 8 to the intended purpose of a coffee shop. The motion was seconded by Councilmember Rasmussen.

Regarding the trash enclosure of building No. 8, Councilmember Bussing confirmed with Mr. Lambers that Stipulation No. 14 will allow architectural attachment versus direct attachment to the building.

Mr. Lambers advised Councilmember Azeltine that the current language in the SUP allows for use as a drive-thru restaurant. If another business were to be put in place of Latté Land, they would not have to apply for another SUP. The amendment, if approved, will supersede the current language and restrict the usage of the building.

The formal amendment to the motion was approved following a unanimous vote of 8-0.

The resolution approving the Revised Final Site Plan and Revised Final Plat for Ironhorse Centre, located on the southeast corner of 151st Street and Nall Avenue was approved following a unanimous vote of 8-0.

- D. Ordinance No. 2198 approving a Preliminary Site Plan for Bi-State Centennial Park; Lots 18 and 19, located south of 141st Terrace and east of Overbrook Road, within the Bi-State Business Park [Roll Call Vote]

Mayor Dunn called attention to the revised material containing two additional stipulations.

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

Applicant Dr. Brad Vince introduced David Suttle of Suttle Mindlin Architects, who provided a presentation of the site plan.

Noting that Stipulation No. 15 requires the submission of material boards at the time of final site plan application, Mayor Dunn also pointed out that a Staff Comment recommends a combination of stucco and masonry materials. She asked if the proposed elevations would be augmented with masonry. Mr. Suttle stated the issue has not been resolved at this time, however they are in the process of working on an acceptable concept.

Councilmember Bussing requested explanation for the requested deviation to landscape only the north side of the building. Mr. Suttle noted there is a body of water on the south side of the building with extensive landscaping to the north side shown on the site plan drawing. Senior Planner Jeff Joseph stated the landscaping plans will be reviewed upon final site plan application.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Peppes, Filla, Gullede, Azeltine, Rasmussen, Gill, Bussing, and Rawlings. Nay: None.

- E. Ordinance No. 2199 approving a Preliminary Site Plan for Bi-State Centennial Park; Lot 23, located south of 141st Terrace and east of Overbrook Road, within the Bi-State Business Park [Roll Call Vote]

Mayor Dunn noted that revised material containing two additional stipulations has also been provided for this item.

A motion to deny the ordinance was made by Councilmember Rasmussen. The motion died for lack of a second.

Mayor Dunn clarified the action taken by Councilmember Rasmussen for applicant, Dr. Brad Vince, 14553 Sherwood Street. Dr. Vince distributed a color elevation and provided a presentation of the proposed project. The building is intended to be for office/warehouse purposes.

Noting the Staff Report makes two references to the LDO requirement of no more than 40% of any site boundary length that fronts on to a public street may be developed as parking areas, Councilmember Bussing verified with Mr. Joseph that the statement appearing under Staff Comments is correct. Staff is supportive of the deviation request. Mr. Lambers stated the 40% rule was put into effect for the 135th Street Corridor Guidelines. It is Staff's belief that the rule should not be applicable to a business park.

Mr. Lambers confirmed for Councilmember Bussing that the difference of opinion regarding pre-cast "T" shaped concrete wall sections has been resolved. The proposed material is similar to that being placed at the Demdaco building.

Stating objection to the significant deviation request for exposed parking, Councilmember Rasmussen asked for clarification as to why Staff is granting the request. Mr. Lambers stated Staff determined the requirement unnecessary for a business park environment. It was felt unfair to compare the retail centerpieces along 135th Street to the contents of an office/warehouse facility.

Councilmember Rasmussen also objected to the detached trash enclosure and asked the Planning Commission's rationale for approving the separation of structures. Mr. Lambers stated the Planning Commission permitted the detached structure given the terrain of the land and the layout of the project. They were not concerned with the trash enclosure being detached. Mr. Lambers reminded that trash enclosures are now being reviewed on a case-by-case basis with recent approval for detached enclosures given to the Mission Farms development.

To Councilmember Rasmussen's concern that the separate structure will become a dump-heap, as has happened in Ward II, Mr. Lambers stated the applicant understands that construction and maintenance standards will be enforced by the City.

For the sake of argument and supposing the rest of the Governing Body does not want to break an important precedent, Councilmember Rasmussen asked if attaching the trash enclosure to the structure would be a detriment to the project. Mr. Lambers stated an attached structure would not benefit what the developer is trying to achieve. In terms of precedent, a project in the Mission Farms development was approved for a detached enclosure and Ironhorse Centre was just approved with an architecturally attached structure. The Codes Enforcement Division will ensure that the features are maintained in their original condition.

Dr. Vince pointed out the location of the trash enclosure in the northwest corner of the site plan for Councilmember Filla.

Councilmember Gill asked if there was any reason not to architecturally attach the trash enclosures. Dr. Vince stated this option was explored but did not work out due to the warehouse component of the building and the layout of the site. Councilmember Gill stated although the area is an industrial park, there is still an obligation to aesthetics given the visibility. Dr. Vince stated the contribution of this building is much more elegant compared to what is currently in the park. Stating agreement with Councilmember Rasmussen's comments regarding the importance of the trash facilities, Councilmember Gill asked Dr. Vince to reconsider his point of view.

Mayor Dunn called attention to the draft minutes of the Planning Commission meeting, which state that Commissioner Reynolds "is in favor of a detached trash enclosure on this particular site due to the fact it is up against a hillside and will be more out of site from the street and also frees up the back of the building for employee access." Commissioner Williams agreed with Commissioner Reynolds, which led to the approval of the detached structure. Mayor Dunn stated the absence of a 3-dimensional model is disadvantageous in that the topography is not demonstrated. The structures are being reviewed on a case-by-case basis in order to determine if it is best to construct them attached, architecturally attached, or detached.

Councilmember Gill stated he would vote to approve the project with a stipulation that the applicant will work with Staff to create an acceptable architecturally attached structure. He cannot support the proposed project as presented.

Councilmember Azeltine confirmed with Dr. Vince that there is not a residential neighborhood directly adjacent to the property. After holding a seat on the Planning Commission for two years, Councilmember Azeltine expressed confidence that the committee would not have approved the project if there was potential that the detached structure would become an eyesore. He also stated the applicant has made more than a good faith effort to develop an appealing project in a business park format. Councilmember Azeltine stated favor with having the Planning Commission work on the issue rather than holding the preliminary plan hostage.

Councilmember Rasmussen invited fellow Councilmembers to view the detached trash enclosures of properties along 105th Street and State Line Road, which have not met with good results. To Dr. Vince's guarantee that he would not let the property deteriorate, he noted that property in this area has transferred ownership many times over the years. As a Councilmember, it is his responsibility to maintain cleanliness and safety.

Councilmember Azeltine noted that the referenced areas along 105th Street and State Line Road abut residential districts; however, the proposed project does not and it is unfair to make such a comparison. Delaying the project over this small issue would be an injustice to the applicant when a solution can be reached during the process.

A motion to approve the preliminary site plan was made by Councilmember Gullede; seconded by Councilmember Azeltine.

Councilmember Gill stated there are brand-new \$600,000 villas for sale west of Kenneth Road of which the decks overlook the business park. As visualization of the hillside is not provided, he urged fellow Councilmembers who are not familiar with the residential views to reconsider the statement that the trash enclosure will be invisible from view.

He asked the applicant to consider a stipulation of working with Staff to revise the detached trash facility with a report of the results upon final plan presentation. Mayor Dunn noted any alteration to the Planning Commission recommendations will require a supermajority vote. Dr. Vince offered to screen the area with evergreen trees.

A motion to call for the question was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

Mr. Lambers noted the additional stipulations presented in the revised material regarding signage will also override the Planning Commissions recommendations. The applicant requested the addition of the stipulation.

Dr. Vince stated agreement to meet with Staff and discuss the possibility of revising the trash enclosure.

Referring to the Staff Comment, "staff is supportive of one wall sign per tenant located above the entrances," Mayor Dunn confirmed with Mr. Lambers that clarity is needed for the applicant by listing as a stipulation.

Confirming that signage is not addressed until final plan application with Mr. Lambers, Councilmember Azeltine asked why the stipulation is being added at this point as it will increase the threshold for passage of the preliminary plan. Mr. Lambers stated the applicant desires assurance of the stipulation in terms of marketing purposes. Dr. Vince verified that the stipulation was added upon his request.

Councilmember Azeltine stated the applicant has shown an extremely earnest effort to comply with rules and stipulations as well as a willingness to work on issues that have been raised.

Councilmember Gullede agreed to include the additional stipulations (Nos. 17 and 18) regarding signage into his motion. Following confirmation of understanding with the applicant that this will increase the voting threshold, Councilmember Azeltine stated the additional stipulations meet with his second.

Councilmembers Gullede and Azeltine also agreed to include the modification of Stipulation No. 4 of having the developer work with Staff on the possibility of revising the trash enclosures into the motion.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Azeltine, Peppes, Filla, Gullede, Bussing, Rasmussen, Gill, and Rawlings. Nay: None.

- F. Resolution No. 2719 approving a Final Site Plan for One Nineteen, located on the southeast corner of 119th Street and Roe Avenue

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

Applicant Phil Crisara with Nelson Architects stated the retail project is being presented in the original one-story design. He pointed out minor modifications including the addition of 6,000 square feet to the main building and restructuring of the parking lot.

Ken Boone with Ochsner Hare & Hare supplied details of the segmented limestone wall for Mayor Dunn.

Mr. Crisara described the phasing for Councilmember Bussing.

The resolution was approved following a unanimous vote of 7-0 (Councilmember Azeltine not seated for the vote).

- G. Ordinance No. 2200 approving a Special Use Permit [SUP] for an AT&T VRAD cabinet, located at 14299 Kenneth Road [Roll Call Vote]

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

Chris Carroll with AT&T, 8900 Indian Creek Parkway, Overland Park, stated the company is in the midst of a major upgrade to the telecommunications network infrastructure that will provide super high-speed broadband, up to four times faster than what is provided today. It will also provide a higher quality voice and data service. Mr. Carroll thanked Staff for their help and guidance through the process of upgrading the equipment. He stated the seven applications on tonight's agenda are the first of fifty to be presented over a two year period. Additionally, the upgrade will provide an alternative to Time Warner Cable through a new product called U-verse.

The VRAD cabinet will allow Leawood residents to receive the upgraded service. The 50 existing cabinets in the field will be retrofitted with new electronics before the VRAD is placed alongside. The two cabinets will be encircled with landscaping.

Mr. Carroll informed Councilmember Peppes that existing cabinets are either in right-of-ways or public utility easements. Interact meetings have been held regarding the issue as well as additional meetings with affected residents, specifically the Carr's and DeMent's, and their recommendations have been incorporated into the plans. The residents are in agreement with the current designs. There will be standard landscaping on each site. Mr. Carroll confirmed that the SUPs are permanent, however a new permit must be requested if the cabinets increase in size.

Mr. Carroll presented slides illustrating the cabinets.

Expressing concern regarding the permanent SUP, Councilmember Peppes asked who will issue a citation in a situation where the landscaping does not meet requirements. Mr. Lambers stated Staff will initially contact the company and if there is no response, a citation will be issued. If the problem persists, Staff would recommend consideration for revocation of the SUP. Mr. Carroll noted the ordinance requires AT&T to provide and maintain the landscaping in perpetuity. The company contracts with a landscaping company who will service each site for the life of the SUP.

Councilmember Bussing and Mr. Carroll discussed the front and side yard placements of the cabinets. Mr. Carroll stated backyard placement would only be possible in new developments for technical reasons.

Mr. Carroll confirmed for Mayor Dunn that landscaping will cover both the existing and new VRAD cabinets.

Councilmember Rasmussen reported after visiting each site, he discovered a unit has been installed at the location of Item No. 12K. He confirmed with Mr. Lambers that AT&T will be penalized for violating the permitting process. Councilmember Rasmussen stated each application should be approved due to the diligence AT&T has demonstrated in working with the citizens and providing landscaping schemes. He also suggested revising the permitting fines to ensure compliance. He also informed the proposed cabinet placements in north Leawood are required as, in some cases, the utility poles are joint poles with KCPL.

Mr. Carroll informed Councilmember Filla that the red markings on the box identify the address and location of the cabinet. The reflective material is a standard company product that is used to guide technicians to the box in case there is a power outage. The logos will not be visible following installation of landscaping.

The ordinance passed with the following unanimous roll call vote of 8-0: Yea: Councilmembers Gullede, Rawlings, Peppes, Rasmussen, Bussing, Filla, Gill, and Azeltine. Nay: None.

- H. Ordinance No. 2201 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 8100 Manor Road [Roll Call Vote]

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

- I. Ordinance No. 2202 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 9300 Lee Blvd [Roll Call Vote]

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

- J. Ordinance No. 2203 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 9617 Lee Blvd [Roll Call Vote]

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

- K. Ordinance No. 2204 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 9405 Mission Road [Roll Call Vote]

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

- L. Ordinance No. 2205 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 10101 Howe [Roll Call Vote]

Mayor Dunn called attention to the revised material for this item containing additional stipulations.

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

- M. Ordinance No. 2206 to approve a Special Use Permit for an AT&T VRAD cabinet, located at 2900 W. 95th Street [Roll Call Vote]

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

13. OLD BUSINESS – None.

14. NEW BUSINESS

- A. Schedule a Governing Body Work Session in January, 2007, to discuss Goal Setting

A motion to schedule a Governing Body Work Session on January 22, 2007, at 6:30 P.M. was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion was approved following a unanimous vote of 8-0.

15. OTHER BUSINESS

- *A. Request for staff to draft an ordinance amending the Leawood Development Ordinance [LDO] related to non-conforming structures [See December 18, 2006 Governing Body Work Session]

A motion to approve the request was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

- *B. Schedule a Governing Body Executive Session immediately following the Governing Body meeting to discuss matters related to the attorney-client privilege

A motion to schedule the Executive Session for period not to exceed 10 minutes was made by Councilmember Filla; seconded by Councilmember Gullede. The motion was approved following a unanimous vote of 8-0.

The Governing Body recessed into Executive Session at 10:10 P.M.

A motion to extend the Executive Session for a period of 20 minutes was made by Councilmember Gullede; seconded by Councilmember Rawlings.

The Governing Body reconvened into regular session at 10:40 P.M.

A motion to adjourn the regular meeting was made by Councilmember Bussing; seconded by Councilmember Rawlings.

ADJOURN

The Governing Body meeting adjourned at 10:40 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk