

Minutes

DVD No. 247

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 20, 2010. Mayor Peggy Dunn presided.

Councilmembers present: Julie Cain, Andrew Osman, James Azeltine, Debra Filla, Jim Rawlings, Gary Bussing and Lou Rasmussen

Mayor/Councilmembers absent: Carrie Rezac

Staff present: City Administrator Scott Lambers	Patty Bennett, City Attorney
Chief John Meier, Police Department	Joe Johnson, Public Works Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Richard Coleman, Comm. Dev. Director	Chris Claxton, P&R Director
Mark Andrasik, Info Systems Director	Deb Harper, City Clerk
Dawn Long, Interim Finance Director	

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following modifications to the agenda:

- Addition of Item No. 6 – Special Business
- Language changes for Item Nos. 11C, D, E and F – Planning Commission

A motion to approve the amended agenda was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

3. CITIZEN COMMENTS

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

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

** Authorize staff to enter into negotiations with Park Place Partners, LLC, to prepare a Development Agreement between the City and Park Place Partners, LLC, for the one level of parking in the parking structure adjacent to the existing Aloft Hotel; replacing that certain Development Agreement, dated October 17, 2005, between the City of Leawood and Park Place Partners, LLC, for property located at 117th and Nall Avenue, pertaining to the Park Place Improvement Project [CIP # 83196]

A motion to authorize staff to enter into negotiations with Park Place Partners, LLC, to prepare a new Development Agreement was made by Councilmember Rasmussen; seconded by Councilmember Bussing.

City Administrator Scott Lambers commented that he and Mayor Dunn had met with the developers to finalize the proposal. The attorneys will work on the new Development Agreement to include a combination of Transient Guest Tax [TGT] and Transportation Development District [TDD] sales tax monies to be paid on a Pay-As-You-Go [PAYG] basis until the \$2 Million commitment has been reached. This is anticipated to be 2014-2015.

The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

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. 2010-47 and 2010-48
- B. Accept minutes of the December 6, 2010 Governing Body meeting
- C. Accept minutes of the December 6, 2010 Governing Body Work Session
- D. Accept minutes of the October 6, 2010 Bicycle Friendly Committee
- E. Accept minutes of the November 11, 2010 Sustainability Advisory Board meeting
- F. Accept bid in the amount of \$126,272.00 from Precision Construction and Contracting, LLC, pertaining to play area, garden shelter and fire pit at Gezer Park, located at 13300 Mission Road
- G. Approve 4th and Final Pay Request in the amount of \$30,138.67 to Miles Excavating, Inc., pertaining to the 2010 Parking Lot Improvement Project [Project # 76012]
- H. Approve Change Order No. 3 in the amount of \$235,732.86 to Linaweaver Construction Company, pertaining to the 2010 Residential Street Reconstruction Project, [Project # 80210]
- I. Approve 6th and Final Pay Request in the amount of \$304,773.55 to Linaweaver Construction Company, pertaining to the 2010 Residential Street Reconstruction Project, [Project # 80210]
- J. Approve quote in the amount of \$200,352.00 from Traveler's Insurance Company for 2011 property/casualty insurance with brokerage services from Monte Giddings of CBIZ

- K. **Resolution No. 3519** approving and authorizing the Mayor to execute Amendment No. 1 to that certain Engineering Service Agreement dated December 7, 2009, in the amount of \$36,500.00 between the City and Continental Consulting Engineers, pertaining to the Amphitheater Project, Phase I, located at Ironwoods Park, 14701 Mission Road [Project # 80118]
- L. **Resolution No. 3520** approving and authorizing the Mayor to execute documents pertaining the City of Leawood's account at Commerce Bank and the City's credit card accounts, and authorizing certain related matters and actions
- M. **Resolution No. 3521** amending the 2011 Fee Schedule as it pertains to re-instatement of expired permit [Building Codes]
- N. **Resolution No. 3522** approving and authorizing the Mayor to execute a Settlement Agreement between the City and MD Associates No. 4, Inc., for property located at the northeast corner of 117th Street and Roe Avenue, Leawood, Johnson County, Kansas, for a public park and park facilities
- O. **Resolution No. 3523** authorizing the City to purchase real property commonly known as Town Center Business Park Lots 4, 5 and 6, located at the northeast corner of 117th Street and Roe Avenue, Leawood, Johnson County, Kansas, for a public park and park facilities, in accordance with K.S.A. § 26-501 ET SEQ.
- P. Approval of installation of 13-land banked parking spaces for Tomahawk Pointe Development, located on the northwest corner of College Boulevard and Tomahawk Creek Parkway, pertaining to the Final Site Plan approved by the Governing Body on November 7, 2005, by Resolution No. 2495
- Q. Fire Department Monthly Report [November]
- R. Police Department Monthly Report [November]
- S. Municipal Court Monthly Report [November]

Councilmember Filla requested to pull Item No. 7E, Councilmember Rasmussen pulled Item No. 7F, Councilmember Osman pulled Item Nos. 7J and 7N, and Councilmember Bussing pulled Item No. 7K for discussion.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Bussing; seconded by Councilmember Filla. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

- 7E. Accept minutes of the November 11, 2010 Sustainability Advisory Board meeting

Councilmember Filla amended the minutes to read "a motion to recommend expenditure" rather than "a motion to expense," recognizing they are an advisory board making a motion to the Council with their recommendation.

A motion to approve the amended minutes was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

- 7F. Accept bid in the amount of \$126,272.00 from Precision Construction and Contracting, LLC, pertaining to play area, garden shelter and fire pit at Gezer Park, located at 13300 Mission Road

Mayor Dunn recognized Alice Hawk, Chair of the Leawood Foundation, and complimented her for her private fundraising initiatives and successes to date.

Councilmember Rasmussen thought with this expenditure, Gezer Park would be at least \$1 Million over budget and if they accepted this bid the costs would be covered by contributions of interested Leawood citizens.

Mayor Dunn clarified that this project was not \$1 Million over budget; however, it was a faulty estimate from the beginning. The private contributions are listed on Page No. 3 of the document. There are ongoing efforts to raise contributions. There is special parks money in the 2010 budget for this purpose.

Councilmember Rasmussen stated a significant amount of money was spent on this park and by accepting this bid the taxpayers would need to make up the difference in cost. He thought it would be difficult to fundraise when the money has already been approved by the City. He wanted the money to be in hand before they accept bids.

Mayor Dunn clarified that the majority of the money raised to date was already in hand. The remainder will come from the special parks fund (alcohol tax) that can only go toward capital improvements for parks.

Mr. Lambers confirmed that \$199,000 was collected from alcohol tax and could only be used for capital improvements to City parks projects. The remainder will come from the Phase I cash carry-over and money raised by private sources. Mayor Dunn clarified \$15,000 was from a remaining balance from Phase I and approximately \$50,000 was from private donations.

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

A motion to accept the bid was made by Councilmember Cain; seconded by Councilmember Filla.

Councilmember Bussing confirmed with Parks and Recreation Director Chris Claxton that there were currently no other parks capital improvement projects waiting for funding. She confirmed the Council had approved that \$60,000 (originally for a shelter) be moved from Ironwoods Park for this project and have not asked that this be replaced in a future budget.

The motion carried following a vote of 6-1. Nay: Councilmember Rasmussen. (Councilmember Rezac absent).

- 7J. Approve quote in the amount of \$200,352.00 from Traveler's Insurance Company for 2011 property/casualty insurance with brokerage services from Monte Giddings of CBIZ

Councilmember Osman expressed appreciation to City staff and CBIZ for this insurance premium coming in below last year's estimate.

A motion to approve Item No. 7J was made by Councilmember Osman; seconded by Councilmember Bussing.

Mayor Dunn noted the premium had decreased by 3.5%.

The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

- 7K. **Resolution No. 3519** approving and authorizing the Mayor to execute Amendment No. 1 to that certain Engineering Service Agreement dated December 7, 2009, in the amount of \$36,500.00 between the City and Continental Consulting Engineers, pertaining to the Amphitheater Project, Phase I, located at Ironwoods Park, 14701 Mission Road [Project # 80118]

Councilmember Bussing noted Councilmember Rezac had sent an email with questions regarding this expenditure and confirmed with Mr. Lambers they had already responded to her.

A motion to approve Item No. 7K was made by Councilmember Bussing; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

- 7N. **Resolution No. 3522** approving and authorizing the Mayor to execute a Settlement Agreement between the City and MD Associates No. 4, Inc., for property located at the northeast corner of 117th Street and Roe Avenue, Leawood, Johnson County, Kansas, for a public park and park facilities

Councilmember Osman thought it was important for them to vote on this item separately.

Councilmember Rasmussen was not in favor of this Settlement Agreement and has consistently stated objections to taking this property and its potential contemplated use.

A motion to approve Item No. 7N was made by Councilmember Bussing; seconded by Councilmember Azeltine.

Mr. Lambers stated they would use the City's reserves for the upcoming payment and then subsequently issue temporary notes this fall to replenish those funds. He intended to use unanticipated ending cash balances to pay off the interest and pay down the notes. The Council had authorized him to sell the property at 114th Street and Tomahawk Creek Parkway. If the sale occurs, this money will be used to pay down the note. He didn't anticipate the need to issue long-term debt for payoff.

The motion carried following a vote of 5-2. Nay: Councilmembers Rasmussen and Osman. (Councilmember Rezac absent).

8. MAYOR'S REPORT

- A. Attended the Kansas Legislative Forecast Breakfast with City Administrator Scott Lambers, sponsored by Lathrop & Gage. Presentations were given by Leawood Senator John Vratil and Representative Jeff King from the Kansas House - District 12, as well as Speaker of the House Mike O'Neill. They stressed that the economic indicators for the State signaled another challenging year ahead with the State budget.
- B. The Council of Mayors' Holiday Social was hosted by DeSoto Mayor David Anderson at the Jack Reardon Convention Center in Kansas City, Kansas. Mayor Dunn expressed her appreciation that almost all City Councilmembers were in attendance.
- C. Mayor Dunn thanked City Administrator Scott Lambers and the department heads for hosting the City's Employee Appreciation luncheon. Public Works Director Joe Johnson prepared the luncheon, which was delicious! Also in attendance were Councilmembers Andrew Osman, Jim Rawlings, Lou Rasmussen and James Azeltine. Employee time and service awards were given. Mayor Dunn congratulated Councilman Rasmussen for receiving his "20-year Service" award for the City. The "Employee of the Year" award was given to Police Officer Shawn Farris. This is a very prestigious award and is a nomination from fellow peers.
- D. The Have-A-Heart Program had their gift giving finale, which was organized by Kathy Byard of the Finance Department and Becky Craig of the Fire Department. The gifts were given to TLC for Children and Families and the Evergreen Community Nursing Center. They had a very successful and overwhelming response from the City of Leawood employees. Mayor Dunn thanked them for their generosity.
- E. The Leawood Chamber of Commerce held their annual meeting, along with the Hall of Fame Awards Ceremony. Nearly all Councilmembers and department heads were in attendance. The Leawood Lions Club, Leawood Woman's Club and Glen Posladek of A.B. May were all inducted into the Hall of Fame. Congratulations to all.
- F. Congratulations to Parks and Recreation Director Chris Claxton and the Parks Department for the Leawood Labor Day 5K Run being selected as the SportKC Favorite Course "Small" Event.
- G. Reminder of the next City Council meeting on January 3, 2011. There will not be a work session prior to this meeting.
- H. Happy Holidays and a Happy New Year to all!

9. COUNCILMEMBERS' REPORT – None.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the November 23, 2010 Planning Commission meeting]

- A. **Resolution No. 3524** approving a Revised Final Plan for One Nineteen – Trader Joe's, located at the southwest corner of 119th Street and Tomahawk Creek Parkway. (PC # 107-10)

Jeff McMahon, RED Development, stated they had no exceptions to any staff comments or Planning Commission stipulations.

David Hetzel, Trader Joe's, commented they were excited to call Leawood the home to the first Trader Joe's in the state of Kansas.

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

Mr. Hetzel projected their opening date to be late in the second quarter of 2011.

The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

- B. **Ordinance No. 2474** approving a Revised Preliminary Plat, Revised Final Plat, Revised Preliminary Plan and Final Plan, for Park Place Building J and 5th Plat, located south of 117th Street and east of Nall Ave. (PC Case #112-10) [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Azeltine; seconded by Councilmember Rawlings.

Jeffrey Alpert, Park Place Developers, stated this building would be a combination of office/retail space, known as the Generali Building (f/k/a Building J). Generali is an Italian Reinsurance Company and the office in Leawood will be the home to their U.S. Headquarters occupying approximately 40,000 square feet.

Gary Schuberth, AIA with Opus AE Group, Inc., gave a brief power point presentation of the Generali Building.

The building is located on the east end of 116th Place with a courtyard and sculpture feature. A pedestrian walkway runs through the building similar to the other buildings throughout the development. It is approximately 100 feet deep. The west 60 feet will house retail space; with the remaining east 40 feet having 13 covered parking spaces for the tenant executives. The exterior is constructed of precast concrete with four different types of brick including cast architectural stone detailing and black metal roof awnings. There will be a covered walkway connecting to the existing parking garage. Several sustainability features will be used, including energy efficient air conditioning systems, water efficient plumbing fixtures and a reflective roof to reduce the heat island effect.

Mayor Dunn confirmed with Community Development Director Richard Coleman that the applicant provided two alternative designs (dependent upon its future use) to address adequate setback of the north and east sides of the building.

Mr. Alpert confirmed they understood and accepted the comments from the Public Works Department regarding Stipulation No. 21.

Councilmember Rasmussen recalled the City Council had been concerned that at some point during the development, the crosswalk going from Park Place into Town Center may require signalization for pedestrian safety. Mr. Alpert confirmed they would address this with the Public Works Department.

Councilmember Rasmussen confirmed with Mr. Alpert they were still planning to develop 20% of the Phase I floor area as residential. His constituents had expressed concerns that the residential component would never be constructed. Mr. Alpert stated the Master Plan called for 350 residential units and they were still committed to this; however, they have yet to be constructed due to the market.

Mr. Schuberth confirmed the building would have insulated clear glass with blinds, similar to that of the other buildings.

The motion to pass the ordinance carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rezac absent).

- **C. **Ordinance No. 2475** amending § 16-2-5.3, R-1 of the Leawood Development Ordinance [LDO] (Planned Single Family Low Density Residential District) (15,000 sq.ft. Per Dwelling), of the Leawood Development Ordinance [LDO], to provide for modification of required height and square footage restrictions in certain limited instances [residential height and massing] (PC Case # 56-06) [Roll Call Vote]

Mr. Coleman recalled several meetings regarding this matter over the last few years. In 2009, the height portion of the ordinance was approved by the Planning Commission and forwarded to the Governing Body for recommendation. At that time, it was remanded to the Planning Commission to include a massing component to the ordinance. Staff met with builders and homes associations for discussion. Massing is based upon the size of the lot. The floor area ratio average of 0.23 is multiplied by the lot size to reach the square footage allowed. The Planning Commission was concerned with the side yard setback height restriction, which restricts it to 15 feet at the 15 foot setback line. There is an additional 1 foot height increase allowed for every foot the home is setback, with a maximum height of 30 feet. Staff had proposed a modification to the side yard setback to allow 20 feet. The Planning Commission amended the ordinance and recommended it be 25 feet. Mr. Coleman gave a power point presentation outlining the changes.

Councilmember Rasmussen asked why staff changed their recommendation from 15 to 20 feet. Mr. Coleman thought they could compromise with the builders and Planning Commission by allowing 20 feet. Councilmember Rasmussen asked if the Council agreed with the 20 foot compromise, how someone could get an exception to the ordinance if they had issues with the height.

Mr. Coleman replied they would need to submit an application to the Board of Zoning Appeals [BZA] and they would decide the merits of the case and the impact on neighboring property. He felt this compromise would minimize the number of appeals to the BZA.

Mr. Coleman confirmed they compared the north, central and south portions of the City for their height and massing analysis and used the Johnson County tax data to compare home and lot size. The majority of home styles in Leawood are comprised of a story and a half or ranch homes. He thought there were approximately 12 homes outside the appropriate height level.

Councilmember Filla confirmed with Mr. Coleman their intent was to ensure homes are proportional and don't over shadow neighboring properties and, if enlarged, they can push the setback further from their neighbor.

Mack Colt, 21225 W. 96th Terrace, Lenexa, Kansas, gave a power point presentation addressing the concerns with the proposed Height and Massing Ordinance.

Mr. Colt has been a home builder in Johnson County since 1994, including new and remodeled homes. He was mainly concerned with the height component of the ordinance and understood the City was compelled to address the issue since several residents had expressed concerns of larger homes being built around them. The majority of complaints had originated north of I-435 and he didn't feel the proposed ordinance would address their concerns. He was concerned the Council may reduce the Planning Commission's recommendation that the side wall height be 25 feet. The total height restriction for a home between two 2-story homes was never addressed by the Planning Commission. If the Council passes this ordinance, he asked that they amend the section stating "...the subject dwelling shall not be greater than the taller of the two adjacent dwellings" and add "or 30 feet, whichever is greater." If the Council decides against the proposed ordinance, he urged them to assemble a committee comprised of residents both for and against the ordinance, along with residential design professionals, builders and remodelers.

Vivion Hansen, 2808 W. 91st Terrace, deferred her time to Mr. Colt.

JoAnn Colt, 21225 W. 96th Terrace, Lenexa, Kansas, deferred her time to Mr. Colt.

Brad Hansen, 2808 W. 91st Terrace, deferred his time to Mr. Colt.

Michael Zanders, 2802 W. 93rd Street, stated he was the President of the Leawood Homes Association and was not in favor of the ordinance. The scale of the homes contributes to the integrity of the neighborhood. He asked the Council to remand the ordinance to the Planning Commission and staff to consider a further compromise.

Bruce North, 8025 Lee Boulevard, stated he was on the Leawood Homes Association Board and was in charge of the architectural review when this began in 2005. The key to the success of the ordinance is to allow for the expansion without upsetting the streetscapes of the community. He agreed this should be remanded to the Planning Commission and staff for further consideration.

Adam Algren, 3206 W. 82nd Terrace, was also concerned with the proposed ordinance and its effects. The ordinance would eliminate the variety of home styles in the neighborhood, which contribute to its charm and character. He asked the Council to consider that some of the older homes will eventually develop problems that need repair and/or remodel and could also lack modern amenities and floor plans that would attract new families to Leawood.

Liz Deckert, 4552 W. 141st Terrace, stated they previously lived in a 70 year-old home in north Leawood with a sinking foundation and septic tank and have since moved south. She would like to return to old Leawood for its character; but be able to have a newly constructed home. With the proposed height restrictions, they would be limited and not be able to have gables and other newer amenities. Some of the restrictions will also cause problems to citizens in the southern part of Leawood. She encouraged the Council to look at Leawood as a whole.

Robin Kawamoto, 11725 Manor Road, waived her time.

Meg Gilmore, 9010 High Drive, deferred her time to Bob Walrafen.

Bob Walrafen, 10413 Cherokee Lane, stated he was a member of the Leawood Estates Homes Association and formerly practiced architecture. He was concerned of the ordinance being proposed for all of Leawood. Some of the homes in south Leawood would be extremely restricted if this ordinance had been in place when they were built. Most of them have sidewalls over 25 feet and are taller than 30 feet. He thought they should be able to divide the City and let each area be able to establish its own character.

Mark Peters, 2614 W. 92nd Street, waived his time.

Sue Becker, 8824 Norwood Drive, thought all of their points were critical. Leawood is a large city with north and south being very different. If the homes associations are content governing themselves, this may be the best solution rather than establishing a City-wide proposal no one would be happy with. The proposed ordinance restrictions are oppressive and overly restrictive and would cause people to not want to move into Leawood.

Glen Darrow, 8900 Pawnee Lane, read the Leawood Homes Association guidelines and how they wanted to retain their neighborhood.

Councilmember Filla referred to Mr. Colt's presentation regarding comments that if this ordinance is approved, some of the homes would not be able to be constructed or remodeled due to its restrictions. With minor modifications, these homes could be built. Consider also, the ability to make exceptions as needed through the BZA. The Mayor established a task force that met for nearly a year and included homes associations, builders, Planning Commissioners and staff as members to review this process, which had no governess. To Mr. Colt's comments that the 25 foot gables would not be over-powering; if compared to flat roof, the home would definitely over-power its neighbors. No one is trying to restrict new homes and remodeling; however, they are trying to protect the investment of the existing homeowner.

Mr. Coleman confirmed the 25 foot height limit would allow for a flat roof with the full range of the home site.

Mayor Dunn asked Mr. Coleman for comments regarding the citizens concerns that these restrictions would be too limiting for central and south Leawood. He clarified that the central and south portions have greater floor area ratios. This ordinance only pertains to tear-outs and remodels. Homeowners can remodel within the parameters. Staff didn't want any new subdivisions to be restricted by the ordinance. Most tear-outs are occurring north of I-435. He confirmed that homeowners would be able to re-construct their homes as built if demolition occurred from natural causes. The Leawood Homes Association allows 23 foot sidewalls; therefore, their deed restrictions would supersede the Planning Commission's recommendation of 25 foot.

Councilmember Bussing commented it was important for the City to provide people with a process and structure with sufficient guidelines and leeway for each individual property owner and builder to express their individuality. He was comfortable that the Planning Commission proposal provides this sufficient set of guidelines.

Councilmember Rasmussen commented that the City has laboriously tried to determine what would be good for all of Leawood. He felt staff had done a superb job and was disappointed with the Planning Commission's recommendations and was unwilling to support it.

Recognizing this would need a super majority vote, a motion to override the Planning Commission's recommendation and amend the ordinance to reflect that the maximum height of the exterior wall at the side yard setback be 20 foot was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Mayor Dunn confirmed with City Attorney Patty Bennett that with approval of the 20 foot maximum side wall height, the City would supersede The Leawood Homes Association's 23 foot restriction.

Mr. Colt confirmed he had completed approximately 30 projects in old Leawood. With the exception of several remodels and room additions, all of the new homes have been over the 20 feet side wall height. Of these, all but two could not have been moved in from the side yard setback. The Leawood Homes Association's 23 foot restriction was put in place approximately two years ago. He had only completed two tear-outs since that time, which were at the 23 feet requirement. This has been effective to allow the right height and style to compliment the neighborhood; however, it is very difficult to meet this restriction. He didn't understand why the City was being more restrictive than the Leawood Homes Association. In his opinion, the 23 foot restriction would be acceptable; however, even 25 feet would be extremely restrictive in some neighborhoods.

Councilmember Rasmussen commented that the City needed something enforceable and reiterated the appeal process through the BZA for exceptions. If, in the future it is evident by the BZA that it is untenable, they can modify the ordinance.

Councilmember Osman made a friendly amendment to the motion to allow that the maximum height of the exterior wall at the side yard setback be 23 feet. Councilmembers Rasmussen and Osman agreed to the friendly amendment.

Mr. Coleman clarified that the difference between the City and the Leawood Homes Association is that the angle of repose from the setback line is a 3 to 1 ratio. For every 3 feet of setback, the height can increase 1 foot. The City's setback line is a 1 to 1 ratio.

Mayor Dunn re-emphasized that this ordinance could be reviewed in the future, if needed.

Councilmember Cain confirmed with Mr. Coleman that the Leawood Homes Association's restrictions were more restrictive than the City's, even if they increase the side yard setback to 23 feet.

Mayor Dunn complimented the people who have reinvested in Leawood, particularly the northern portion, noting a huge difference in property value and quality of life.

Councilmember Osman withdrew his friendly amendment.

Mayor Dunn clarified the original motion stands at 20 feet and noted the City would now be more restrictive than the Leawood Homes Association.

The motion to pass the ordinance failed following a roll call vote of 4-3. [Override requires super majority for approval]. Yea: Councilmembers Rasmussen, Azeltine, Filla and Osman. Nay: Councilmembers Rawlings, Cain and Bussing. (Councilmember Rezac absent).

A motion to pass the ordinance as presented by the Planning Commission for the maximum height of the exterior wall at the side yard setback to be 25 feet was made by Councilmember Bussing. The motion failed for lack of a second.

A motion to pass the ordinance for the maximum height of the exterior wall at the side yard setback to be 23 feet matching that of the Leawood Homes Association knowing they are more restrictive than that of the City was made by Councilmember Cain; seconded by Councilmember Bussing.

Councilmember Filla wanted to make a friendly amendment to include the sloping. Ms. Cain didn't feel this was necessary since the Leawood Homes Association's restrictions would supersede the City's.

The motion to pass the ordinance carried following a unanimous roll call vote of 7-0. Nay: None. (Councilmember Rezac absent).

- **D. **Ordinance No. 2476** amending §16-2-5.4, of the Leawood Development Ordinance [LDO] RP-1 (Planned Single Family Residential District) (12,000 sq.ft. Per Dwelling), of the Leawood Development Ordinance [LDO], to provide for modification of required height and square footage restrictions in certain limited instances [residential height and massing] (PC Case # 57-06) [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0. Nay: None. (Councilmember Rezac absent).

- **E. Ordinance No. 2477** amending § 16-2-5.3, of the Leawood Development Ordinance [LDO] R-1 (Planned Single Family Low Density Residential District) (15,000 sq.ft. Per Dwelling), of the Leawood Development Ordinance [LDO], for an exception process for front yard setback restrictions in certain limited instances. (PC Case # 72-09) [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Filla. The motion carried following a unanimous vote of 7-0. Nay: None. (Councilmember Rezac absent).

- **F. Ordinance No. 2478** amending §16-2-5.4, of the Leawood Development Ordinance [LDO] RP-1 (Planned Single Family Residential District) (12,000 sq.ft. Per Dwelling), of the Leawood Development Ordinance [LDO], to provide for an exception process for front yard setback restrictions in certain limited instances (PC Case # 73-09) [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rawlings; seconded by Councilmember Cain. The motion carried following a unanimous vote of 7-0. Nay: None. (Councilmember Rezac absent).

12. OLD BUSINESS – None.

13. OTHER BUSINESS

Accept recommendation by Troon Golf from Club Car, LLC., in the amount of \$247,670.45 for the purchase of new golf car fleet for Ironhorse Golf Course; and authorize staff to negotiate a lease agreement

A motion to approve the recommendation by Troon Golf was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

14. NEW BUSINESS

- A. **Resolution No. 3525** approving and authorizing the Mayor to execute a Professional Architectural Services Agreement for an amount not to exceed \$1,075,000.00, between the City and Hofer and Wysocki Architects at future Justice Center, to be located at 117th & Tomahawk Creek Parkway [Project # 76008]

Councilmember Rasmussen confirmed with Mr. Lambers that the current budget for the Justice Center Project was \$14-\$18 Million. The building alone is estimated at \$12-\$13 Million.

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0. (Councilmember Rezac absent).

ADJOURN

There being no further business, the meeting was adjourned at 10:17 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk