

Minutes

DVD No. 273

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, February 6, 2012. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: None

Staff present: Scott Lambers, City Administrator
Chief John Meier, Police Department
Chief Ben Florance, Fire Department
Dawn Long, Finance Director
Karl Weinfurter, Info Systems Specialist
Joe Johnson, PW Director
Patty Bennett, City Attorney
Chris Claxton, P&R Director
Lovina Freeman, HR Director
Deb Harper, City Clerk
Pam Gregory, Assistant City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted the following amendments to the agenda:

- Addition of Consent Agenda Item 7W – Draft Construction Agreement for the Justice Center
- Addition of Agenda Item 10 - Staff Report by City Administrator Scott Lambers

A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Azeltine. The motion carried 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.

Shelly Poppelreiter and Fred Stieg, 1255 N. Winchester, Olathe, Kansas, were present to answer any questions regarding Consent Agenda Item No. 7N.

4. PROCLAMATIONS - None

**5. PRESENTATIONS/RECOGNITIONS Certificate of Achievement for Excellence in
Financial Reporting for Fiscal Year 2010**

Mayor Dunn recognized Finance Director Dawn Long, Senior Accountant Theresa Lodde and Accountant II Karry Rood for receiving the Certificate of Achievement for Excellence in Financial Reporting. This has once again been awarded to the City of Leawood by the Government Finance Officers Association of the United States and Canada for their Comprehensive Annual Financial Report. This certificate of achievement is the highest form of recognition in the area of governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management.

6. SPECIAL BUSINESS

- A. **PUBLIC HEARING** Consider 2013-2017 Capital Improvement Program [C.I.P.] for the City of Leawood

Seeing no one present to speak, a motion to close the public hearing was made by Councilmember Azeltine; seconded by Councilmember Rezac. The motion carried 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. 2011-54, 2011-55, 2011-56, 2012-1, 2012-2, 2012-3, and 2012-4
- B. Accept minutes of the January 3, 2012 Governing Body Work Session
- C. Accept minutes of the January 17, 2012 Governing Body meeting
- D. Accept minutes of the January 17, 2012 Governing Body Work Session
- E. Accept minutes of the November 17, 2011 Leawood Foundation meeting
- F. Accept minutes of the November 8, 2011 Historic Commission meeting
- G. Approve renewal of Cereal Malt Beverage [CMB] license to Hen House, located at 11721 Roe Avenue
- H. Approve purchase in the amount of \$37,960.00 to Municipal Emergency Services, Inc., [MES], for the purchase of fire hose
- I. Approve Massage Establishment License for Genesis Center for Advanced Skin Care, located at 5401 College Boulevard, Suite # 202, in accordance with § 5-520(12)(b) of the Code of the City of Leawood, Kansas, 2000
- J. Approve Co-op Bid to purchase vehicles from Shawnee Mission Ford in the amount of \$60,395.00; Roberts Auto Plaza in the amount of \$20,564.00; Olathe Ford in the amount of \$22,973.00; and Diamond International in the amount of \$225,266.00
- K. Approve Final Pay Request in the amount of \$29,900, to Cannon Building Systems, Inc., pertaining to the Public Works Facility Roof Replacement Project

- L. **Resolution No. 3749** approving and authorizing the Mayor to execute a Purchase Agreement in the amount of \$85,000 between the City and Larry Young, pertaining to the purchase of art piece, *Introspection [from the November 21, 2011 Arts Council meeting, and December 19, 2011 Governing Body meeting]* – **CONTINUED FROM THE JANUARY 17, 2012 GOVERNING BODY MEETING**
- M. **Resolution No. 3750** approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$329,300.00 between the City and Vance Brothers pertaining to the 2012 Slurry Seal Program [Project # 70011]
- N. **Resolution No. 3751** approving a Final Sign Plan for Ironhorse Centre – Bare Esthetics Medical Spa, located south of 151st Street and east of Nall Avenue (PC Case # 01-12) [*from the January 24, 2012 Planning Commission meeting*]
- O. **Resolution No. 3752** approving a Final Plan for a tenant finish for Park Place – Mestizo, located north of 117th Street and east of Nall Avenue (PC Case # 02-12) [*from the January 24, 2012 Planning Commission meeting*]
- P. **Resolution No. 3753** approving a Final Plan for a tenant finish for One Nineteen – Feng (Women’s Apparel), located south of 119th Street and east of Roe Avenue (PC Case # 04-12) [*from the January 24, 2012 Planning Commission meeting*]
- Q. **Resolution No. 3754** approving a Final Sign Plan for Parkway Plaza – Revised Sign Criteria, located north of 135th Street and west of Roe Avenue (PC Case # 07-12) [*from the January 24, 2012 Planning Commission meeting*]
- R. **Resolution No. 3755** approving a Final Sign Plan for Parkway Plaza – Reece Nichols, located north of 135th Street and west of Roe Avenue (PC Case #06-12) [*from the January 24, 2012 Planning Commission meeting*]
- S. **Resolution No. 3756** approving a Revised Final Plan for Pine Development – Revised Landscape Plan, located north of 103rd Street and west of State Line Road (PC Case #08-12) [*from the January 24, 2012 Planning Commission meeting*]
- T. Declaration of Surplus Property; Anti-freezer Recycler; 2007 Ford Crown Victoria last 6 VIN/144050; 2007 Ford Crown Victoria last 6 VIN/144046
- U. Declaration of Surplus Property; portable bar
- V. Declaration of Surplus Property; [1] Precor Elliptical trainer; and [1] Precor stationary bike
- *W. Accept ‘Draft’ Form of the Construction Agreement for the Leawood Justice Center located at 117th & Tomahawk Creek Parkway, Project # 76008

Councilmember Osman requested to pull Item Nos. 7I and 7S for discussion.

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

- 7I. Approve Massage Establishment License for Genesis Center for Advanced Skin Care, located at 5401 College Boulevard, Suite # 202, in accordance with § 5-520(12)(b) of the Code of the City of Leawood, Kansas, 2000

A motion to request staff to review provisions in the City's Code; Article 5 - § 5-511 - Massage Therapy Outcalls as it relates to massages and outgoing calls and § 5-523 – Massage Establishment Facilities as it pertains to lighting was made by Councilmember Osman; seconded by Councilmember Azeltine.

Councilmember Osman stated the Code specifies that the room lighting be no less than forty (40) foot candles as measured three (3) feet above the floor. Community Development Director Richard Coleman indicated this is considered a high level of illumination. Mr. Osman was concerned because establishments are using dimmer switches so patrons can have a relaxing experience; however, this violates the illumination factor. Mr. Coleman confirmed staff would review these provisions and return with a report in March.

Councilmember Rawlings requested that staff also include the history of how they had determined this specific ordinance language in their report.

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

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

- 7S. **Resolution No. 3756** approving a Revised Final Plan for Pine Development – Revised Landscape Plan, located north of 103rd Street and west of State Line Road (PC Case #08-12) [*from the January 24, 2012 Planning Commission meeting*]

Mr. Coleman confirmed staff had informed the resident directly behind this commercial location about the landscaping and fence and they seemed acceptable to it. There were two fences with one damaged by a storm. The applicant wanted to replace the damaged section of their fence with landscaping. Staff agreed to allow them to double the amount of evergreens to create a hedge in that space. The evergreens are required to be 6 feet tall at planting and must be maintained by the applicant. The residential 6-foot wooden privacy fence will remain in place.

Councilmember Rasmussen confirmed with Mr. Coleman that the ordinance provides for a 6-foot privacy fence; however, in lieu of that they can provide landscaping. The Planning Commission recommended unanimous approval. Mr. Rasmussen noted when this land was commercially zoned; it was stipulated for a fence. Mr. Coleman confirmed if a subsequent owner of the residential property decides to remove their fence the only buffer would be the evergreens. He didn't feel this would create a precedent for this area.

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

8. MAYOR'S REPORT

- A. There was a great turnout for the Leawood Chamber of Commerce sponsored State of the City Address and luncheon. Mayor Dunn thanked all City Council members, City staff and business sponsors for their attendance. There were many great accomplishments to report upon that took place in 2011 and numerous citizens who achieved extraordinary awards and honors that were able to attend as well.
- B. Mayor Dunn thanked Chair Donna Kaelke and the I-Lan Sister City Committee, and Staff Liaison Franki Shearer, for hosting another terrific Lunar New-Year Celebration that rang in the "Year of the Dragon." This was once again held at the Leawood Blue Koi Restaurant, in which they prepared a superb meal. They were delighted to welcome the Taipei Economic and Cultural Office in Kansas City Director General Jack Yang and his wife, Rita Yang, as their honored guests.
- C. Sustainability Advisory Board Chair Debra Filla and her committee hosted another great informational dinner for the Homes Association Officers throughout all of Leawood. Also in attendance were Councilmembers Lou Rasmussen, Jim Rawlings, Carrie Rezac and James Azeltine. There were numerous comments on the value of the information that was given to help us all live greener lives. Students who participated in the essay and art contests were also present and honored. Mayor Dunn thanked Parks and Recreation Director Chris Claxton and her great team for all of their work on this terrific event.
- D. An article in the January 28th edition of the Kansas City Star recognized awards presented to area schools. Johnson County schools were home to 21% of the State's highest achieving schools and received the Governor's Achievement Award based on the 2011 Kansas assessment tests. These schools are among the top 5% in the State. One of the schools honored was Prairie Star Middle School, located here in Leawood. Another was St. Thomas Aquinas High School, which has several Leawood students attending. Johnson County is home to 15 of the 72 schools to earn this recognition. Mayor Dunn congratulated the students, parents and school districts on achieving this honor.
- E. Mayor Dunn visited with a number of 2nd grade students from Prairie Star Elementary School. One 2nd grade student, Maddox Truitt, is the 2012 Muscular Dystrophy Association [MDA] Ambassador for the State of Kansas. Maddox has both Cerebral Palsy and Duchene Muscular Dystrophy. He is very active with the MDA and has attended many events. His very favorite is touring fire stations and helping with the MDA Boot Drive on Labor Day weekend. Mayor Dunn congratulated Maddox Truitt on this great achievement and great honor.

9. COUNCILMEMBERS' REPORT

10. STAFF REPORT – CITY ADMINISTRATOR SCOTT LAMBERS

As a result of two City Council members planning to be absent for the February 20, 2012, Governing Body meeting, the applicant for Slab N Pickle has requested that their application be continued to the March 5, 2012, Governing Body meeting. This will be posted on the City's website. Staff plans to notify those that have expressed interest in this as best they can. There is no work session scheduled for February 20, 2012, and the Governing Body meeting will begin at the regularly scheduled 7:30 P.M. time.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION - None

12. OLD BUSINESS

Ordinance No. 2522C amending § 13-407 of the Code of the City of Leawood, 2000, entitled 'Duty to Prune Overhanging Trees' [Roll Call Vote] **-CONTINUED FROM THE JANUARY 17, 2012 GOVERNING BODY MEETING**

Staff Comment: This is a revision to the current Code that shall allow for a clear space of ten feet above the surface of the sidewalk and fourteen feet above the surface of the street at the curb line; provided, however, limbs less than 1 inch in diameter shall be allowed in the clear space above the street but not in the clear space above the surface of the sidewalk. This Ordinance would become effective July 1, 2013.

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

Councilmember Bussing had previous concerns on how this ordinance may affect some of the less mature trees in the neighborhoods and expressed his appreciation to Parks and Recreation Superintendent Brian Anderson for addressing these concerns by visiting some of the neighborhoods and providing an excellent report.

The motion carried following a unanimous roll call vote of 8-0. Nay: None.

13. OTHER BUSINESS - None

14. NEW BUSINESS – None.

ADJOURN

There being no further business, the meeting was adjourned at 8:10 P.M.

Debra Harper, CMC, City Clerk

Pam Gregory
Recording Assistant City Clerk