

**Minutes Summary**

Audio Tape No. 412

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:30 p.m., Monday, March 2, 1998. Mayor Peggy J. Dunn presided.

Councilmembers present: \*\*Adam Bold (left the meeting at 10:50 p.m.), John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Gregory J. Peppes, James E. Taylor, Sr., \*Mike Gill (arrived after approval of the agenda), and Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Mark Andrasik, Director of Information Services; J. Stephen Cox, Chief of Police; Joe Johnson, Director of Public Works; Ben C. Florance, Fire Chief; Robert McKay, Director of Planning and Development; Kathy Rogers, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

**APPROVAL OF AGENDA**

Councilmember Bold asked about the proper order in which to consider a request by Southwestern Bell Wireless for a special use permit to construct a cellular tower at the Saddle & Sirloin Club, 10515 Mission Rd., and an ordinance adopting an amendment to the 1997 Master Development Plan Map for the Saddle & Sirloin property. City Attorney Wetzler said it was not necessary to consider them in any particular order. They were related issues. The Mayor felt it was prudent to leave them in the order shown on the agenda (special use permit first), view them together, but with separate action. On motion of Rasmussen, seconded by Clawson, the agenda was approved unanimously.

Councilmember Gill arrived.

**PRESENTATION IN MEMORY OF J. CALVIN "CAL" SPRADLEY.** Mr. Spradley passed away early December 1997. The Mayor presented a plaque to his grandson in honor of Mr. Spradley's long and dedicated service to the community, 1968 to 1997, in many capacities, including service on the Board of Zoning Appeals from 1968 to 1978, and Plan Commission from 1971 to 1986 (chairman from 1975 to 1986).

**PROCLAMATIONS.** The Mayor proclaimed:

1. March 27, 1998, as "Arbor Day;"
2. March 2-8, 1998, as "Juvenile Arthritis Awareness Week;"
3. March 19, 1998, as "Absolutely Incredible Kid Day."

274 **CITIZEN COMMENTS.** Kelly McArthur, 12417 Cambridge Circle, was concerned about the absence of a lighting code in the City. His neighbor's high wattage security lighting which

lit up Mr. McArthur's yard had become a nuisance. He had tried to shade the lighting with trees and shrubs. The matter would be considered by City staff.

- 440 **CONSENT AGENDA.** Two items were removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by LaHue:
1. Arts Committee report (minutes) of their January 27, 1998, meeting;
  2. Golf Course Committee report (minutes) of their February 16, 1998, meeting;
  3. Public Works Committee report (minutes) of their February 19, 1998, meeting;
  4. Bid of \$1.00 per square yard from the low bidder Musselman & Hall Contractors for the 1998 Slurry Seal Program (\$50,000 was budgeted for the program);
  5. Purchase of a Plymouth Grand Voyager minivan in the amount of \$16,960.00 from Jack Miller Automotive through the metropolitan area cooperative purchasing group for D.A.R.E.;
  6. Replacement of Police Department handguns – the .40 Glock pistol from OMB Police Supply for \$400 per weapon less trade-in of current guns of \$200 to \$260 depending on the model; net amount of \$7,860 for pistols, plus \$5,247 for holsters and magazine carriers, for a total of \$13,107.00;
  7. Purchase of radar (speed awareness) trailer for the Police Department in the amount of \$13,860 from Kustom Signals;
  8. Purchase of a small utility vehicle for the sports and park maintenance departments – a Toro Workman in the amount of \$17,950 from Modern Distributing Co.

Minutes of the February 17, 1998, Council meeting. Councilmember Bold felt that the portion of the minutes concerning the final plat and final plan of Price Chopper at 135<sup>th</sup> and Mission Rd. were too abbreviated. He wanted to be sure that the video tape was the official record of the meeting. City Attorney Wetzler said it was. On motion of Bold, seconded by Campbell, Council unanimously approved the minutes.

Request for a septic tank in Merry Lea Farms subdivision, Lot 2 of 2<sup>nd</sup> Plat, property owner Mickey Doyle. Planning Director McKay said that a (County) sanitary sewer district wasn't formed without the cooperation of residents, and to date, he hadn't seen that cooperation in the subdivision. Mr. Doyle said that the County had no plans to put in sewer lines without the approval of a majority of residents in the subdivision. Mr. Doyle said he would not oppose sewer lines in Merry Lea Farms. Mr. McKay said that the City required a recorded copy of the replat prior to release of a building permit to Mr. Doyle. Councilmembers LaHue and Rasmussen felt there should be a covenant running with the land on Mr. Doyle's property to encourage the installation of sanitary sewers. On motion of Campbell, seconded by Bold, Council unanimously approved the request with the understanding that a covenant as discussed be filed by the property owner.

## PLAN COMMISSION

**Request by Southwestern Bell Wireless for a special use permit to construct a cellular tower on Saddle & Sirloin Club property at 10515 Mission Rd.** Councilmember Gill said he would have to abstain from the vote to avoid the appearance of a conflict of interest. He left his Council seat.

Curtis Holland, applicant on behalf of Saddle & Sirloin Club of Kansas City and Southwestern Bell Wireless, gave a brief presentation. He said that last year the City had amended its zoning regulations regarding communication towers. In his opinion, the regulations were the most restrictive zoning regulations in the entire Kansas City metropolitan area. Towers were not allowed in areas zoned or planned residential. That limitation basically ruled out about 90% of Leawood for potential tower locations. In addition, regulations did not permit towers within 500 feet of any property zoned or planned residential. That requirement almost eliminated the rest of the City for potential tower locations. It was very difficult, if not almost impossible, to find a site that would comply with the City's zoning regulations. Also, Leawood had very large, well organized neighborhood associations with which to contend in almost all zoning matters, making efforts of cell tower applicants even more difficult. Against the odds, they found the Saddle & Sirloin property which complied with both the City's zoning regulations and the engineering requirements of Southwestern Bell Wireless. Mr. Holland showed an aerial photograph of the Club property and surrounding properties. The tower would be located on a part of the property which allowed Southwestern Bell Wireless to take advantage of some of the screening on the grounds – location between 2 barns to remove any visibility of the base of the tower; large trees to the east and north of the tower would help screen the tower; elevation of the land significantly rose to the north of the tower which would act as a screen. Mr. Holland described the proposed 4-carrier monopole. Originally, the tower was to have been an architecturally compatible (with surrounding properties) 170-foot windmill style pole (170 feet for greater co-location to reduce further requests for additional towers). After hearing feedback from the community, staff asked Southwestern Bell Wireless to consider changing the style of the pole to monopole. They did so, and the height of the tower was reduced to 150 feet. Southwestern Bell Wireless also hired a consultant to analyze their entire network in the Kansas City metropolitan area, and the consultant recommended other changes – 1) change in the type of antennas normally used by SWBell, from triangular style platform antennas to dual polar antennas (less intrusive) (Mr. Holland couldn't say what style the other 3 carriers would use); 2) to place the SWBell antennas at the 100-foot level rather than at the 150-foot level – still wanted to provide as many co-location opportunities as possible, that was the intent of Saddle & Sirloin for their benefit. Mr. Holland said that there might be some flexibility in reducing the height of the tower to some degree. He described the compound itself shown on the site plan. The Plan Commission recommended approval of the request with a 6-1 favorable vote. The applicant agreed with all stipulations of approval.

Councilmember Clawson wanted to know if Southwestern Bell Wireless would agree to a stipulation that said that if Saddle & Sirloin decided to sell its property for development, Southwestern Bell would take the tower down regardless of the length of their contract with Saddle & Sirloin. Mr. Holland said he would have to consult with his client, but did say that Southwestern Bell was putting millions of dollars of equipment on the facility and expected Southwestern Bell would like to amortize the expense over some time. However, perhaps, if

the Council determined there was another site that was appropriate in the near area, his client might look at that.

Mr. Holland told Councilmember LaHue that there would not be a generator on site and that lighting was not required.

W.R. Ames of Cellular One said that his company needed the height above 100 feet. Because their customer base was increasing, they needed more capacity along the I-435 corridor. They wanted to be near a residential area, to be near their customers. He said there were many towers in the metropolitan area that didn't cause problems for residents trying to sell their homes. Cellular One was in contract negotiations with Saddle & Sirloin.

Becky Garten of Sprint PCS liked the site for future co-location for both capacity and coverage, and was in contract negotiations with Saddle & Sirloin.

Lester Dean, a board director of the Saddle & Sirloin Club, said that the site on the Club's property provided a level of screening/camouflage from most every direction. He said the height was important to maximize the numbers of carriers and lessen the number of tower requests in the City. The tower would give the Club more income. The Club would be willing to have the tower reduced to 135 feet, with 3 carriers. Mr. Dean said that the Club had no plans at the present time to sell their property although they had been approached several times over the past 20 years. Mr. Dean said, in response to Councilmember Peppes, that the Club's membership had been notified about the tower, there was a majority agreement, and Mr. Dean represented the membership at the Council meeting.

In response to Councilmember Rasmussen, Planning Director McKay said that Council approval of the request for a special use permit would be the only reason to change the master plan. Also in response to Mr. Rasmussen, City Attorney Wetzler said that he didn't believe that changing the master plan and the use of the property would have any effect on certain Saddle & Sirloin Club rights, like trap shooting, that had been "grandfathered" in. The actual use of the property was not going to change.

## RESIDENTS

Jeff Nessel, 12012 Ensley Lane, spoke in opposition to the cell tower application, with health concerns, concern for devaluation of property, and concern for aesthetics. As far as health issues were concerned (which could not be discussed in accordance with the telecommunications act), he said that applicants would say that cell towers were on line with federal guidelines regarding radiation, however, Mr. Nessel claimed that there were no federal guidelines for low level radiation exposure. Mr. Nessel stated that towers did have negative impact on the resale value of homes. Mr. Nessel said that when the application was to be heard by the Plan Commission, he discovered that some residents adjacent to Saddle & Sirloin property had not been notified by certified mail of the proposed change in the master plan in accordance with City ordinance, a violation which was corrected by staff. He said that he had never heard any resident speak in favor of a cellular tower. He said that it was wrong to change the master plan to fit a development; the development should fit the master plan.

G. Gordon Thomas, 10516 Mohawk Lane, opposed the application. The applicant must address the so-called negative criteria, must balance the variance to demonstrate that a so-called public good would not substantially impair the intent and purposes of the zoned plan, the City ordinances, and the will of the people.

Bobbi Higuchi, 10500 Mohawk Lane, opposed the application. She felt that the burden of proof for the necessity of the tower was on the applicant. She wanted to know who would compensate the property owners if there was some property value lost or other damages to residents close to or within sight of the tower. Would it be Southwestern Bell, Saddle & Sirloin, Cellular One? It shouldn't be the property owners.

Sam Goller, 10409 Mohawk Lane, opposed the application. The cell tower was a risk to animals (for instance, horses at Saddle & Sirloin). Saddle & Sirloin property was a regular layover for migrating birds as they traveled north to south; birds might sense and be attracted to the electromagnetic fields generated by cell towers. Estimates placed the average death toll at 2,500 birds per tower per year. Mr. Goller was also concerned about the documented adverse effect on property values, due to fears (whether real or imagined) of adverse health effects, and the loss of a neighborhood's reputation for being a safe and beautiful place in which to live and raise a family. Air and noise pollution was also a concern – from generators at the tower and wind hitting the tower. And lights, that surely would be placed on the tower for air safety (the applicant had stated that lights were not a requirement), were also a form of pollution. It was this type of lack of planning that led residents to believe that Saddle & Sirloin had not thoroughly thought through the needs of the community and were rushing to build the tower so they could selfishly begin collecting revenue. If the tower was constructed, the future use of the surrounding property would be limited to commercial and industrial ventures which would completely destroy the residential nature and value of the neighborhood.

Councilmember Rasmussen wanted it clear that every letter included in the Council meeting packet was part of the record of proceedings.

Mark Arensberg, 10300 Howe Lane, opposed the application. He said that current zoning of agricultural at the Club would not allow a cell tower as the property was master planned for low density residential. He covered several points that he had written in a letter which had been distributed to the Council.

Carroll Boylan, 3410 W. 88<sup>th</sup> St., a member of the Saddle & Sirloin Club, said that some statements made were untrue. She said that Lester Dean did not speak for the full membership of the Club. The full membership had not been notified about the cell tower issue, nor had they voted on the matter. Mrs. Boylan was very involved in real estate, and stated that cell towers did damage property values. It was not good planning for the City to allow construction of a tower at Saddle & Sirloin. She said it was not good for the Club – not good for the horses, and the tower would lower the Club's property value if, in the future, the Club decided to sell the property.

Quentin Cole, 10505 Mohawk Lane, opposed the application. He said that the tower would not be screened and showed pictures of what it would look like from residents' homes to the east. The pictures were given to the City Clerk.

Jill Eggleston, 10505 Pawnee, opposed the application. Reaffirmed her opposition to and concern about a master plan change as indicated in her letter which had been distributed to the Council.

Diana Cooley, 10504 Mohawk Lane, opposed the application. She had also written a letter to the Council. She felt that the applicant had not really addressed the need for the tower, with a tower already in place approximately 1000 feet away. She didn't feel there was conclusive evidence as to whether or not there might be another location nearby for the tower, that was still up in the air. She did commend the applicant for thinking about lowering the tower, and for using dual pole antennas to have control over any other carriers.

Councilmember Taylor mentioned economic blight. He said that there could be 209 single family residential lots developed on the Saddle & Sirloin property, if that property was sold. There could be approximately \$141,000 in tax revenue to the City. If the tower was constructed, all property within 500 feet of the tower would be eliminated from the development, and therefor only 114 lots could be developed, reducing the potential tax dollars to \$76,000. Tax revenue generated from the improvements that would be made around the tower was estimated at \$763. He considered the facts to indicate economic blight; the City would not be able to generate the tax revenue that would be the right thing to do from the standpoint of future development. The applicant, Curtis Holland, said that he had been involved in many redevelopment projects, and that was the most unique definition of economic blight he had ever heard, and didn't feel it was a fair characterization of the tower project.

Councilmember LaHue spoke about the City's master plan. He felt that the City had a right to change its master plan or its zoning if changes were in its best interests. As far as the issue under consideration was concerned, he didn't see it as a great benefit to the City to change the master plan. The City itself wasn't going to gain financially or otherwise from a cellular tower on Saddle & Sirloin Club property. For him, it wasn't an issue of a hazard to animals/fowl, nor a health issue, nor a blight issue, but strictly an issue of the City's master plan.

Dr. LaHue moved to deny the request for a special use permit, seconded by Clawson. Dr. LaHue said that if the master plan had indicated commercial for the property instead of residential as it had been for many many years, he would have been in favor of the request.

Councilmember Bold said he had to believe that if the cost of erecting towers became prohibitive, technology would evolve to place more users on existing towers. An engineer with the applicant said that technology was moving in that direction, however, technology also included creating smaller towers or smaller radius towers in order to meet demands. He couldn't say whether or not the capacity would be met on the tower forever.

Councilmember Rasmussen said that the proposed use would require a change in the master plan. Master plans were developed after long and sometimes exhausting processes and were not to be changed lightly, or as with the request under consideration, to accommodate a use that required such a change under an ordinance equally developed after a long process. He said that his constituents on both sides of the issue had been continuously subjected to change after change in the master plan, zoning, after they had been part of the community for many years. The evidence in the issue under consideration indicated that the City's master plan had been in existence for at least 20 years. The evidence also indicated that the surrounding area had not changed in that time period. Except for the special use permit request, there would be no reason to change the master plan. His constituents had reacted with disgust whenever the master plan was changed even with a preponderance of evidence. Why change the master plan when the only evidence for change was to accommodate the tower application. He knew of nothing in the telecommunications act that required the City to change its master plan to accommodate such a use. In fact, to do so, in his opinion, would so undermine the whole basis of a municipality's right to control land use. And in his opinion, land use was the issue under consideration. He said he would vote against the applicant's request.

The Mayor said that a valid protest petition had been received, and she asked City Attorney Wetzler to clarify how many votes were required to deny the applicant's request. Mr. Wetzler said only 5 (a simple majority) were required.

The motion to deny the request carried; Peppes opposed, Gill abstained to avoid the appearance of a conflict of interest, all others (6) in favor. The Mayor stated for the record that if she had had an opportunity to vote, she would have abstained to avoid the appearance of a conflict of interest.

Mr. Wetzler said that because the request was denied, staff needed to prepare a written record of proceedings and a written statement setting forth the reasons for denial which would then be presented to the Council for approval at the next Council meeting on March 23<sup>rd</sup>.

Councilmember Taylor stated his reasons for voting to deny the request. He said that comments he had made to the applicant, Mr. Holland, a little earlier in the discussion, would suffice; the tower would be an economic burden on the City. He also supported other Councilmembers' comments about not changing the master plan.

Councilmember Rasmussen said that the record already indicated his reasons for denying the request.

Dr. LaHue said that his motion to deny, and his comments prior to the motion, would suffice.

Councilmember Clawson had seconded the motion to deny. She was concerned about a master plan change. The City had a long-standing master plan for low density residential in the area. It was inappropriate to change the master plan to fulfill the desires of the applicant.

Councilmember Campbell said he echoed Mr. Rasmussen's and Mrs. Clawson's reasons for denial.

Councilmember Bold said that the City had prospered because of the high quality of its residential neighborhoods. He felt that the master plan was designed to protect the neighborhoods, and couldn't see changing the plan to facilitate one applicant's desires.

Mr. Wetzler said that the applicant wanted to know when the decision would actually be effective. He told the applicant that the decision would not be final until such time as there was written decision that had been approved by the Council, such written documentation Mr. Wetzler anticipated presenting to the Council for approval at the next Council meeting on March 23<sup>rd</sup>.

**Ordinance to adopt an amendment to the 1997 Master Development Plan Map for Saddle & Sirloin Club property from low density residential to open space - private.**

Councilmember Clawson moved to not pass the ordinance, seconded by Bold. The motion carried on roll call vote; Gill abstained to avoid the appearance of a conflict of interest, all others (7) in favor.

**Resolution No. 1386, attached as part of the record, approving a revised final plat and plan for Estates of Iron Horse, 154<sup>th</sup> & Iron Horse Drive.** The matter had been remanded to the Plan Commission at the February 17<sup>th</sup> Council meeting and the Plan Commission, for the second time, recommended denial. Planning Director McKay said that the developer Mark Simpson was requesting front setbacks of 30 feet rather than the 35 feet shown on the approved plan, and rear setbacks of 15 feet rather than the required 25-foot golf course setbacks in order to accommodate patios.

Mr. Simpson explained that he was having difficulty with a number of house plans fitting more than half of the homes on their sites. The sites couldn't be changed because the sewers had already been installed. He said he would need to install decorative retaining walls on some of the steep sites. He said that when he took the development over from Bell Development, the street and storm sewer plans had already been approved by former Public Works Director Ron Brandt. Parks & Recreation Director Whitaker told him that the plans should not have been approved because they didn't address a lot of stormwater discharge onto the City's IronHorse golf course. He said he might undertake correction of drainage problems and the City would understand that he was doing so voluntarily and assist him in making home sites more capable of taking on more expansive homes.

Mr. Simpson said the front setbacks were very important to the development for consistency and only applied to lots that backed up to the golf course. He would agree to front setbacks at 30 feet, 20-foot setbacks in the back for patios, and some kind of retaining walls 15 feet from the rear property lines where needed.

Councilmember Rasmussen said that allowing a change in the 25-foot "no build" golf course setback was a serious matter. The Golf Course Committee had reviewed each lot to determine which ones, in their judgement, could have 15-foot setbacks. They also wanted a covenant running with the land that every home buyer in the development abutting the golf course would not take action against the City because there was a golf course in their backyard. He felt Mr. Simpson's request was incomplete. He moved to remand the matter to the Plan Commission again to review Mr. Simpson's oral modifications, with a recognition of what the Golf Course Committee had stipulated, and with a reflection of how the stormwater would be handled. Motion seconded by Bold.

Councilmember Bold said that the City had prospered because of stringent regulations for residential development. He felt that the Council and Plan Commission had shown a willingness to work with Mr. Simpson, make some exceptions for him. The Council didn't like to second guess the Plan Commission. He felt a great obligation to protect the City's golf course, and felt that the Commission was the proper venue, not the Council.

Councilmember Campbell felt that the Council needed to make a decision. He was opposed to a remand; the Plan Commission had looked at the matter twice and recommended denial twice. He felt that the drainage issues could be nailed down. Public Works Director Johnson said that the plans were complete and approved and a bond received for the work to be paid for by Mr. Simpson.

Mr. Rasmussen said that the document from the Golf Course Committee given to the Council at the last Council meeting should be part of any decision made tonight, because that document had certain Committee stipulations.

Mr. Simpson said he could forget about patios, but needed the retaining walls 15 feet from the rear property lines and 30-foot front setbacks. He would place any patios at 25-foot setbacks.

On the basis of Mr. Simpson's offer and Mr. Campbell's assurances, Mr. Bold withdrew his second to the motion to remand. Mr. Rasmussen withdrew his motion to remand.

Councilmember Taylor moved that the front setbacks be 30 feet, limit the designated lots identified in the staff report to the regulations that had been set forth, and allow decorative retaining walls to be built within 15 feet of the rear property lines on 12 designated lots.....

END OF TAPE

New Tape #413

Motion continued.....Dr. LaHue seconded the motion and confirmed that Mr. Simpson would take care of the drainage work. Motion carried unanimously.

### **MAYOR'S REPORT**

The Mayor showed a limited edition print of a water color "Sorghum Time" by the late Harold F. Nelson, a well known Kansas City commercial artist and former Leawood resident. He had lived at 2029 W. 95<sup>th</sup> St. from the early fifties to the late seventies. The print was donated to the Leawood Historic Commission by Homer E. Paris, Jr., of Prairie Village.

The Mayor and City Administrator recently met with the County Appraiser Paul Welcome to discuss increases in appraisals. Only homes south of I-435 had been reappraised. The Mayor said that overall, there was a 6% average increase.

Councilmember Rasmussen thought that the J.C. Nichols Company was going to have an art auction this month. He wanted to know to what level of discretion the City Administrator had to participate in an auction. He thought the City Administrator could expend up to \$5,000 without Council approval. City Administrator Garofano didn't know whether the City could participate in an auction. Councilmember Clawson said that the Arts Committee was in the process of preparing a policy on public art to forward to the Council for consideration. The policy would provide for the establishment of a committee to select art

work for the City. The Mayor said there might be a way to participate in an auction if recommendation was made through the committee process and approved by the City Council.

10:50 P.M. Councilmember Bold left the meeting.

### **OLD BUSINESS**

**Discussion of City standard agreements for architectural services, engineering services, and documents and specifications for construction contracts, as recommended by the Contract Review Committee.** City Attorney Wetzler requested that the Council not take action on the matter. He and the Public Works Director felt there was one fundamental question that needed to be addressed – did the fixed-fee agreements recommended by the ad hoc Contract Review Committee include a limit on expenses? He said that a truly fixed-fee agreement would not have a limit on additional expenses. He said the Committee had discussed a lump sum plus a “not-to-exceed” amount for reimbursable expenses. Mr. Wetzler needed to know the Committee’s intent. He also had questions on what the reimbursable items were.

Councilmember Rasmussen said that the Committee felt there would be a fixed dollar amount which would include reimbursables of a “not-to-exceed” (maximum) amount, to avoid claimants coming before the Council for additional reimbursables. Mr. Wetzler understood that the Committee wanted to track reimbursable expenses. A consultant would receive all of the lump sum fee, but not necessarily receive all of the reimbursable maximum.

Public Works Director Johnson said wording would be changed to state there would be a lump sum fee, and in addition to that, there would be a not-to-exceed fee for reimbursable expenses.

Councilmember Rasmussen moved to continue the matter along with the next two agenda items (resolutions) to the March 23<sup>rd</sup> Council meeting, seconded by Gill. Motion carried unanimously.

**Resolution revising the City’s Contractor’s Performance Policy, as recommended by the Contract Review Committee.** Continued to the March 23<sup>rd</sup> Council meeting.

**Resolution adopting a Professional Services Performance Policy, as recommended by the Contract Review Committee.** Continued to the March 23<sup>rd</sup> Council meeting.

### **NEW BUSINESS**

**Approval of Appropriation Ordinance No. 827 (Feb. 1-A) 1998.** On motion of LaHue, seconded by Taylor, Council unanimously approved the ordinance on roll call vote.

**Approval of Appropriation Ordinance No. 828 Feb. (2) 1998.** On motion of LaHue, seconded by Taylor, Council unanimously approved the ordinance on roll call vote.

2232 **Resolution No. 1387, attached as part of the record, requesting Johnson County CARS funding for the City's 5-year capital improvements program (1999-2003).**

Councilmember Clawson moved to adopt the resolution, seconded by Campbell. There was discussion about the use of concrete rather than asphalt in the rehabilitation of certain sections of 95<sup>th</sup> Street. Public Works Director Johnson said that the use of concrete would drive the costs up significantly and, thus, the request for funding from CARS. It would create a separate CIP project.

11:00 P.M. On motion of Campbell, seconded by Gill, Council voted to extend the meeting for 15 minutes; Taylor opposed, all others in favor.

The motion to adopt the resolution carried unanimously.

**Authorize contract for federal aid road construction engineering by a consultant for Mission Rd. improvements, 103<sup>rd</sup> St. to I-435.** On motion of LaHue, seconded by Taylor, Council unanimously approved the contract. Bucher, Willis & Ratliff engineers would perform the inspection services.

**Authorize Supplemental Agreement No. 5 for construction engineering services for Mission Rd. improvements, 103<sup>rd</sup> St. to I-435.** On motion of Rasmussen, seconded by Taylor, Council unanimously approved the agreement with Bucher, Willis & Ratliff engineers. The total cost of the agreement was \$252,800 with Leawood's share 51%, Overland Park's share 49%.

**Acceptance of Tomahawk Creek Flood Study** – study along Tomahawk Creek from its beginning in Olathe to its end in Leawood at College and Tomahawk Creek Parkway to identify the limits of flooding and which looked at each city's land use to determine ultimate flooding limits. Leawood's share of the \$600,000+ cost - \$16,647.71.

The Mayor reminded the Council about a work session on March 9<sup>th</sup>, 7:00 P.M., to discuss the capital improvements program.

The Mayor reminded everyone that the regular March 16<sup>th</sup> Council meeting had been changed to March 23<sup>rd</sup> because of spring break.

Regarding the Tomahawk Creek Flood Study, Public Works Director Johnson said he would have a report on elevation certificates for residents along Tomahawk Creek at the March 23<sup>rd</sup> Council meeting.

11:10 P.M. There being no further business before the Council, the meeting was adjourned.