MINUTES
REGULAR COUNCIL MEETING

Tape No. 317

38 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., Tuesday, January 3, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Systems; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

67 On motion of Moore, seconded by Dunn, the agenda was approved unanimously after the addition of an executive session at the end of the meeting.

100 <u>PRESENTATION OF CERTIFICATES OF APPRECIATION TO CITY EMPLOYEES</u>: Certificates were presented to Steve Blann and Pete Chronister of the Fire Department, Troy Donehey of Parks and Recreation, Jill Manson of the Police Department, and Joyce Murphy of Finance, for their work in making the "Have a Heart, Help a Child" employee giving program at Christmas a success. Employees provided Christmas for over 200 children.

198 <u>CITIZEN COMMENTS</u>: Councilmember Rasmussen thanked the Public Works Department for their work in keeping the streets clear during bad weather on New Year's Eve.

230 <u>CONSENT AGENDA</u>: The following were approved unanimously on motion of Clawson, seconded by Rasmussen:

1. Minutes of the December 19, 1994, Council meeting;
2. Public Works Committee report (minutes) of their December 8, 1994 meeting;
3. Purchase and installation of separate telephone number and voice mail system for Police Department, and routing of Public Works and Fire Station calls through the city hall phone system; $13,899.22 (AT&T), $2,828.00 (SWBell), for a total of $16,727.22;
4. Purchase of a personnel lift for the Public Works Department from Lee Mathews Equipment, Inc., in the amount of $4,246.00;
5. Change Order No. 10 to the contract with Landscapes Unlimited, Inc., for construction of the IronHorse Golf Course; 18 items with no increase to the contract amount.

239 <u>RESOLUTION NO. 1214 APPROVING A REQUEST FOR REZONING FROM CP-1 TO CP-2, AND APPROVING THE PRELIMINARY PLAN, FOR WATERWAYS LOCATED AT THE NORTHWEST CORNER OF 119TH AND TOMAHAWK CREEK PARKWAY, LOT 10 IN CAMELOT COURT SHOPPING CENTER</u>: The Plan Commission recommended denial of the request. They felt the location was not appropriate for a car wash and gasoline service and were concerned about the flow of traffic. Attorney Marvin Rainey, representing the owner of Waterways Henry Dubinski,

gave a presentation.

1860 Councilmember LaHue moved to adopt the resolution (approve the request, overriding the Plan Commission recommendation), seconded by Giblin. Dr. LaHue felt that the plan was "user and viewer friendly", and that the owner/developer had addressed the traffic flow concerns. Councilmember Dunn said she would vote against the motion because she felt a car wash/gasoline service was inappropriate for the location which was a gateway to the City's trail/park system; such a service might be nice in another location in the City. Councilmember Moore said he would vote in favor of the motion. He felt the owner had met all the criteria, the car wash was a quality project, the owner had made every effort to comply with previous demands for changes to the plan, and felt the area was appropriate for such a service. Councilmember Rasmussen was concerned about keeping Tomahawk Creek Parkway looking like a parkway; a substantial amount of plantings around the car wash would help retain the parkway look.

2295 Dr. LaHue's motion carried; Dunn opposed, all others in favor. (Mrs. Clawson voted for the motion because of the many favorable citizen comments she had received, even though she was concerned about supporting the project because of the Plan Commission's recommendation to deny.) Resolution attached as part of the record.

2349 <u>ORDINANCE NO. 1451 REZONING PROPERTY (WATERWAYS) LOCATED AT THE NORTHWEST CORNER OF 119TH AND TOMAHAWK CREEK PARKWAY, LOT 10 OF CAMELOT COURT SHOPPING CENTER, FROM CP-1 TO CP-2</u>: The ordinance was considered and passed on motion of Giblin, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---Dunn.

2444 <u>AUTHORIZE PROPOSAL FOR INSTALLATION OF TRAFFIC SIGNALS AT K-150 AND ROE AVENUE</u>: On motion of LaHue, seconded by Giblin, Council unanimously approved a proposal from Teague Electric Construction Co. in the amount of $35,000.

2472 <u>RESOLUTION NO. 1215 AUTHORIZING SUPPLEMENTAL AGREEMENT NO. 2 TO AGREEMENT NO. 59-91 WITH KDOT RELATING TO I-435 IMPROVEMENTS</u>: For the construction of Leawood Sanitary Sewer System manhole adjustments within I-435 right-of-way, and the construction and maintenance of an irrigation system for landscape improvements in and around the planned sound barrier. On motion of LaHue, seconded by Clawson, the resolution was adopted unanimously. Attached as part of the record.

2530 <u>AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY AND OVERLAND PARK FOR THE PUBLIC IMPROVEMENT OF NALL AVENUE FROM 119TH STREET TO 135TH STREET</u>: The agreement provided for County (CARS) funding in the amount of $250,000. On motion of Clawson, seconded by Dunn, Council unanimously approved the agreement.

2607 <u>RESOLUTION NO. 1216 AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN LEAWOOD, OVERLAND PARK, KDOT, AND MISSOURI PACIFIC RAILROAD COMPANY, FOR INSTALLATION OF RAILROAD CROSSING SAFETY IMPROVEMENTS IN THE VICINITY OF 148TH AND KENNETH ROAD</u>: On motion of Giblin, seconded by Moore, the resolution was adopted unanimously. Attached as part of the

record.

2620 **RESOLUTION NO. 1217 ESTABLISHING THE 1995 FEE SCHEDULE FOR FEES NOT SPECIFICALLY PROVIDED FOR IN THE CODE OF THE CITY OF LEAWOOD**: Changes needed to be made on pages 4 and 7 - 3 references to Table No. 1A 1994 UBC needed to be changed to Table No. 3A 1991 UBC. The 1994 building codes would be considered for adoption by the Council in February and they would impact the fee schedule (increase fees).

Councilmember Rasmussen wanted to change the fee structure for false alarms on page 13. He was in the process of reviewing the nuisance alarm ordinance for a work session in February, so he was concerned about voting for the false alarm fees as presented on page 13.

Councilmember Patterson wanted to defer consideration of the fee schedule until Council had considered the 1994 building codes and new building fees and valuation schedules.

Council discussed the Ironhorse golf course fees on pages 15 and 16, and reinspection fees on page 10.

3580 Councilmember Dunn moved to adopt the resolution (with the changes on pages 4 and 7), seconded by Campbell. Motion carried; Giblin, Patterson opposed; all others in favor. Mr. Patterson felt the City needed to remain sensitive to building fees, and he thought the Home Builders Association thought consideration of the fee schedule would be tabled so did not send a representative to the Council meeting. Mr. Giblin wanted to defer because the resolution as presented had errors. Resolution attached as part of the record.

3770 **APPROVAL OF APPROPRIATION ORDINANCE NO. 748**: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3860 **OTHER BUSINESS**: The Leawood/I-Lan, Taiwan Sister City Committee planned to host a dinner to celebrate the Chinese New Year on Tuesday, January 31, 1995.

3935 **EXECUTIVE SESSION**: On motion of Dunn, seconded by Rasmussen, Council voted unanimously to convene in executive session for a period not to exceed 20 minutes to discuss matters under attorney-client privilege.

3961 Council convened in executive session at 9:40 P.M., same members present, and returned to regular session at 10:00 P.M., same members present. On motion of LaHue, seconded by Moore, Council unanimously approved an agreement with Hallbrook Farms Associates, L.P., and others, collectively referred to as "Hallbrook", relating to contributions for roadway construction costs of College Boulevard, State Line Road (Phases 1 and 2), and 119th Street.

4113 10:05 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
PUBLIC HEARING

Tape No. 318

45 Minutes of a hearing for public comment on amending the 1995 Budget, held Monday, January 16, 1995, at 7:00 P.M., in the Council Chamber, 4800 Town Center Drive, Leawood, Kansas.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Councilmember John R. Campbell, Jr. was absent. Staff present: Richard J. Garofano, City Administrator; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

City Administrator Garofano explained that the budget had to be amended to include an additional $200,000 of expenditures for a youth soccer program run by the Parks and Recreation Department. The Leawood Soccer Club had formally requested that the City assume all functions and operations of the Club. The program would be supported by user fees.

There was no public comment.

562 The hearing was closed at 7:20 P.M.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 318

576 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:20 P.M., Monday, January 16, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. John R. Campbell, Jr. was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

EXECUTIVE SESSION: On motion of Dunn, seconded by Moore, Council voted unanimously to convene in executive session in the main conference room until 7:30 P.M. to discuss a matter under attorney-client privilege. Council returned to the Council Chamber and reconvened in regular session at 7:35 P.M., same members present.

592 On motion of Rasmussen, seconded by Moore, the agenda was approved unanimously.

602 **PRESENTATION OF CONTRIBUTION FROM THE CLOISTERS HOMES ASSOCIATION TO POLICE AND FIRE DEPARTMENT FUNDS**: David Butts, President of the Cloisters Homes Association, presented a check in the amount of $1,345.00 to Police Chief Cox and Fire Chief Strack.

665 **APPEAL OF PLAN COMMISSION DENIAL OF A REQUEST TO APPROVE REVISED PRELIMINARY PLAT AND FINAL PLAT, LEAWOOD ESTATES, LOTS 1410 AND 1411, 9415 AND 9421 LEE BOULEVARD**: Planning Director McKay explained that the owners of the 2 lots, Timothy and Patricia Smith, had requested to replat 2 lots into 2 lots by changing the lot lines to accommodate a tennis court. The Plan Commission denied the application for a revised preliminary plat and final plat because they were concerned about the negative impact of noise and drainage from the proposed tennis court, and they were concerned that the replat would be inconsistent with the surrounding subdivision platting.

Pete Heaven, attorney representing Dr. and Mrs. Smith, believed the Plan Commission probably made a wrong decision because of certain information provided to them, and said that the Smiths were not allowed to make a presentation at the November 22, 1994 Plan Commission meeting because of the late hour and other reasons. The Council would be serving as a quasi-judicial body, as judges, not as councilmembers or legislators, and he asked that they review the evidence fairly, impartially, and apply the true facts to the law. Inaccurate information was given to the Plan Commission without the ability of a retort - that it would be a lighted tennis court, it would cause drainage problems, and it would cause excessive noise. Mr. Heaven said it would be like any other outdoor tennis court. It would have a chain link fence around it with an asphalt base with no backboard or lighting.

Mr. Heaven said that in 1992, the Smiths applied to the Board of

Zoning Appeals for a variance of fence height, requesting a 12-foot fence to contain tennis balls. The Board denied the variance request. He said a tennis court was not denied, only a variance for a fence, because in 1992 there were no regulations relating to tennis courts. After the BZA case, Leawood changed its development ordinance to permit 12-foot chain link fences in residential districts, but require 10-foot setbacks for tennis courts - they had to be 10 feet from the rear of a lot and 10 feet from each side. This prevented the Smiths from having a tennis court in their backyard. Replatting the 2 lots would give the Smiths the necessary setbacks, and the tennis court could be moved to a lot further away from 1 neighbor who was concerned about noise. The 2 lots would fully comply with all zoning regulations. He said that a tennis court was a permitted use, and Council should confine their consideration to the replat.

Because of a concern about noise, Mr. Heaven hired Acoustic Design, Inc., to conduct noise readings. They simulated what the conditions would be in the neighborhood on Lee Boulevard and simulated a hard tennis game. They found that the sound of playing tennis in the neighborhood was less than ambient sound, sound that was in every neighborhood to which people were accustomed. The level of noise heard in bedrooms with windows closed would be almost inaudible.

Mr. Heaven said that according to the Kansas Supreme Court in 1982, if an applicant complied with subdivision regulations, there would be no discretion in approving a replat. His client had complied fully with subdivision regulations. A plat should not be denied on the basis of "what ifs" or "maybes" - for instance, what if tennis players made excessive noise. Mr. Heaven said there were specific ordinances which could punish people who exceeded noise levels.

There was concern about a drainage problem. Mr. Heaven said a County stormwater management (SMAC) project had already been approved for the area, so there would be no drainage problem. However, since City staff would not issue a building permit until the Smiths had a stormwater management plan that would not impact the neighborhood, the Smiths agreed to prepare such a plan.

Mr. Heaven said there was concern about symmetry of lots, orderly platting and land development in the City. The Plan Commission felt the 1 L-shaped lot was bad symmetry, not in keeping with zoning ordinances, and their approval would set a dangerous precedent. He told the Council that 2 lots to the east of the Smith property were not symmetrical. The L-shaped lot was probably more consistent with the neighborhood than inconsistent.

1525 Don Culp, attorney representing residents on Lee Court and immediately behind the 2 lots under consideration, said that Mr. Heaven had not been denied an opportunity to speak at the November 22nd Plan Commission meeting. He said that the Plan Commission found that the application did not meet the requirements of the City's subdivision regulations, and denied the application. He said that the Council and Plan Commission, according to state statutes, had broad discretion to consider matters affecting public welfare, such as drainage, flood issues and property values. The replat would negatively affect the land values of Lee Court properties, and a drainage problem had been confirmed. He said that Article 9 of the Leawood Development Ordinance was the basis for the Plan Commission's decision, one section stating

that lots shall be of a symmetrical shape and size, and another stating that the ordinance was intended and would be administered to harmoniously relate the development of different tracts of land to the existing community. Lee Court was replatted years ago. City ordinance stated that plats must comply with subdivision regulations to be approved.

1876 Mr. Heaven confirmed for Councilmember Patterson that a nonregulation-size tennis court could be built on the south lot, a regulation court could not.

Mr. Heaven confirmed for Councilmember Dunn that there would be room for landscaping along a fence if there was one, there would be no bubble, no lights, and no tennis lessons would be given.

Mr. Heaven confirmed for Councilmember Rasmussen that it was his (Heaven's) position that because it was not specified in the subdivision regulations, the Council could not take into account the overall effect of lot size and shape on the community.

Mr. Rasmussen asked Mr. Culp what in his opinion was the basis for giving a quasi-judicial group a judgment call on symmetry of lots. Mr. Culp felt it affected property values negatively. Mr. Culp said the Council did have the ability under the subdivision regulations to consider land use in platting considerations. It was Mr. Culp's position that the overall shape and size of lots in a particular area have some consistency so buyers of those individual lots could rely basicly on their surrounding neighbors having lots that were reasonably consistent with their own. Mr. Culp would want to be able to rely on the reasonableness of the Plan Commission and City Council to preserve the integrity of the neighborhood that was platted and replatted years ago, and not allow piecemeal platting (for recreational purposes) which would not be good planning or good zoning, not be good common sense, and would be unfair.

2571 Cecil Hammonds, 9820 Pembroke, President of the Leawood Estates Homes Association (including the Lee Court area), said that the Smiths had not approached the homes association about the replat or the tennis court. He said that the homes association did have jurisdiction under the covenants over the usage of the land - the tennis court. But that was not the issue. Under the homes association declaration/covenants, they did have a say about replatting. Over the years the homes association had always opposed a replat into irregular shaped lots for the purpose of performing a particular function on the lot. A replat would devalue properties and would interfere with the whole concept of the first lots platted in Leawood Estates subdivision, however, he did feel that construction of the Lee Court area was the first inroad into breaking the integrity of the subdivision. He asked the Council to support the Plan Commission's denial.

The resident immediately east of the proposed replatting was concerned about noise, especially from an elevated tennis court which he believed the proposed court would be. He was concerned about noise from the possibility of tennis lessons and tennis ball machines.

Betty Sexton Ball, 9316 Lee Court, was concerned about devalued property, potential drainage problems, and noise (the court would not be a "casual use" court).

Eric Swanson, 9312 Lee Court, said he had never received notice of the replat. Council should decide the appropriate use of property in

the neighborhood. He did not want the character of the neighborhood changed.

Wallace Beasley, 9410 Lee Blvd. (across the street from the Smiths), said that no noise existed, felt the Smiths had complied with the technical requirements, and said there was no way that the tennis court would be elevated. And if the drainage problem was addressed, the Smiths should be able to use their property for the desired purpose. He supported the Smiths.

Dr. Eugene Wise, 9401 Lee Blvd., north of the Smith property, said there would be no elevation of a tennis court, and there would be no drainage problem. He supported the Smiths.

Tricia Smith, 9415 Lee Blvd., and the applicant for the replat, said there was no house closer than 40 feet from the proposed tennis court. There was a tennis court next door which was used frequently; she did not understand how that tennis court would not devalue property, but her's would. The Smiths had invested heavily in the renovation of their home. She said she and her family had been under the impression that they would be able to construct a tennis court. They would never have invested so heavily if they had doubted that they could not construct a tennis court. They purchased the adjacent house because they had been told by the City that they met every requirement, that there would be no problem with a tennis court, that they could replat.

Mae Mozur, 9435 Lee Blvd., supported the Smiths. She said the tennis court next door to her and the one next door to the Smiths had never caused problems. There had never been noise problems.

3474 City Attorney Wetzler confirmed that the real issue was the replat itself.

Planning Director McKay said the replat did not comply with the subdivision regulations.

Councilmember Moore asked Mr. McKay about staff's control over construction of a tennis court. Mr. McKay said a building permit would be required; plans would have to be submitted to staff for approval; review would be based on compliance with certain minimum standards relating to screening, compatibility to any lighting and surface runoff, and other factors could be considered at the discretion of the Director of Planning and Development. If he did not approve the plans, there was an appeal process to the Plan Commission. The Plan Commission would have to review the lighting plan.

Councilmember LaHue said he would vote for denial of the replat because the replatting was inconsistent with the original subdivision platting of a consistent and cohesive neighborhood. A tennis court could be constructed on the south lot (if running east-west); he didn't think the City would have any reason to deny it.

3745 Dr. LaHue moved to support the Plan Commission's denial of the replat, seconded by Clawson. Councilmember Moore said he originally felt that denial was appropriate, but after having heard the evidence, the fact that the Smiths owned both properties, the fact that it was just a replatting issue, and that Mr. McKay had stated that technically the replat met all the qualifications, he decided to vote against the motion. Councilmember Rasmussen understood that a tennis court was a permissible use, and he did not feel a drainage problem would be made worse by the possibility of a tennis court. However, he felt the Coun-

cil should take into account the geography of the land, the overall characteristics of the surrounding area, so when land is platted or subdivided, there would be a rational basis for cutting it up. The City would not want to cut up land to leave parcels that would be untaxable or unownable. So the issue was whether or not a lot could be subdivided subsequent to the original platting of the ground, and whether or not that potential cutting up of a lot had an adverse effect on the surrounding area and the potential down the road for further cutting up of an area, which got back to the responsibility of determining the density of the land use.

4107 Dr. LaHue's motion to deny failed; LaHue, Clawson, Rasmussen in favor; Giblin, Moore, Dunn, Patterson opposed. Due to concern about the impact on the surrounding community, the Mayor would have voted in favor of the motion which would still have failed due to a tie vote.

4233 Councilmember Patterson moved to remand the matter to the Plan Commission, seconded by Dunn, to allow for a concurrent request for a variance before the Board of Zoning Appeals to avoid the concern that lots were being cut up. Mr. Patterson felt the Plan Commission had considered matters of usage (the tennis court and drainage) more than matters of platting, subdivisions and engineering. The Plan Commission should consider the issue only on the basis of the merits of a replat, not on the basis of drainage or noise or anticipated usage, and not consider the issue such an infringement on the existing lots since this was not an infill-type development but more of an accommodation to support a particular use, and allow the applicant to amend the replat if they chose to do so. Dr. LaHue said he was strongly opposed to changing the characteristics of the lots significantly different than other lots in the area. Councilmember Clawson agreed with Dr. LaHue, and felt a remand was not in order.

The motion to remand carried; Giblin, Moore, Dunn, Rasmussen, Patterson in favor; LaHue, Clawson opposed.

4757 **CITIZEN COMMENTS**: Dale Normand, 11900 Ensley Lane, just south of Hallbrook, said that wild deer in the area were becoming a nuisance. He wanted to know what the City could do to help him get rid of them. The Mayor said that Animal Control's recommendation was to put up some kind of deterrent. She asked Police Chief Cox to follow up with Mr. Normand.

Steve McGurren, 12216 Reinhardt Lane, felt that the Ironhorse Golf Club's Conductors Club which limited membership to 125 would eliminate equal access for remaining Leawood residents. All Leawood residents should have equal access to a public facility. If the Conductors Club was in the end deemed to be appropriate, he suggested not including tee times as a benefit of the club. He made other suggestions. He felt further discussion was needed, and requested that no further publication of fees be released to residents or the news media until the matter was resolved. The Mayor said that Scott Whitaker, Director of Parks and Recreation, planned to talk to the Golf Course Committee, and Mr. McGurren would be invited to attend that meeting.

Greg Stanwood, 13706 Granada, felt Leawood residents should receive equal treatment on advanced tee times.

5089 **CONSENT AGENDA**: The Police Department report for December 1994, final

pay request for the 1994 Curb Rehabilitation Program, and staff's request that Council authorize preparation of a plan for the lower level of City Hall, were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Rasmussen:

1. Minutes of the January 3, 1995, Council meeting;
2. Parks and Recreation Advisory Board report (minutes) of their January 10, 1995 meeting;
3. Departmental reports;
4. Application for Cereal Malt Beverage License (renewal) - Leawood Garden Chinese Restaurant, 12248 State Line Rd.;
5. Purchase of additional furniture and equipment for new City Hall (4800 Town Center Drive) from Office Pavilion in the amount of $8,429;
6. Assignment to the Public Works Committee to investigate Janice Avvinen's request (resident at 12501 Sagagmore) that something be done to keep street debris, sand, and silt from stormwater runoff out of the private pond in Royce subdivision.

Police Department report for December 1994: Councilmember Rasmussen asked if the Police Department had documentation on how successful the City was in prosecuting offenses. Police Chief Cox said that within the next few months, the Department would have a new report that would indicate cases filed in municipal court. On motion of Rasmussen, seconded by Clawson, Council unanimously approved the report.

Pay Request No. 1 (FINAL) by T.S.C., Inc., of Prairie Village in the amount of $85,892.04, for the 1994 Curb Rehabilitation Program: After a brief explanation of the overruns, and on motion of Dunn, seconded by Moore, Council unanimously approved the pay request.

Authorize preparation of plan for the lower level of the new City Hall: The approved 1995 Capital Improvements Plan included the finish of the lower level. The primary and long-term use of the space would be for a community center, however, it would also house the municipal court for the next several years, and include a storage area, Emergency Operating Center (EOC), and an area for display of a gift from sister city I-Lan, Taiwan. Staff recommended that the City retain the services of Shaughnessy, Fickel and Scott Architects, Inc., for programming and schematic design services in an amount not to exceed $6,800.

Councilmember Dunn thought additional proposals would be sought, and Councilmember Rasmussen thought the first priority would be to solve the problem of the municipal court space. City Administrator Garofano explained that he had talked with 3 architectural firms, received 3 proposals and made his recommendation - went through the same process as Public Works did for engineering consultant selection because time was of the essence to resolve municipal court space needs (their present space not being in compliance with ADA). He did say, however, that staff didn't want to do anything in the design of the court space that would preclude or prevent staff from carrying out what he interpreted as the long-term plan of using the space for a community center.

On motion of Dunn, seconded by Rasmussen, Council unanimously approved staff's recommendation.

5570 10:00 P.M. Recess.

END OF TAPE

Tape No. 319

10:05 P.M. Council returned to regular session, same members present.

DISCUSSION OF STORMWATER MANAGEMENT (SMAC) PROJECT ON SAGAMORE ROAD; 97TH STREET TO 98TH STREET: Public Works Director Brandt presented 3 alternatives for the storm drainage improvements. Staff recommended Alternative #3 - larger culverts at 97th and 98th Streets; 1 property just south of 97th St. would have improvements; collection systems at High Dr., Sagamore Rd. and 97th Street; no improvements along the channel between 97th and 98th Streets; approximate cost $255,294, excluding engineering, administration, landscaping, land acquisition costs, or improvements south of 98th Street. Public Works crews would do improvements on High Dr. just south of 98th St. which was part of the SMAC project.

Councilmember Rasmussen was very concerned about preserving the integrity of the street south of 98th St., and the type of improvements between 97th and 98th Streets might not be appropriate for the area south of 98th St.

Mr. Brandt said the City was working out a funding mechanism with the County in order to construct the project at the full maximum possible at the local end.

Eldon Shields, 9701 High Dr., was concerned about destruction of mature trees in the backyards along the creek channel. He preferred no improvements if the nature and character of the neighborhood were destroyed.

Bob Canfield, 9722 Sagamore, was concerned about destruction of backyards, and was pleased with staff's recommendation not to do improvements along the creek channel between 97th and 98th Streets. He would support Alternative #3.

Brian Bradley, 9705 High Dr., felt it was a road issue rather than a drainage issue north of 97th Street - the water collection points were almost completely paved over all along 97th Street and that was the reason water ran over the roadway into yards. And a large extensive bridge at 97th Street was not needed.

654 Councilmember Clawson moved to accept Alternative #3 with the stipulation that it would include larger culverts at 97th and 98th Streets, the collection systems at High Dr. and Sagamore Rd., improvements to High Dr. south of 98th St. to protect the street itself. Motion seconded by Moore.

Councilmember LaHue said that the County had looked at this project on a cost benefit ratio, and with the motion, portions of the project were being removed. This would significantly hinder the probability of there being funding available for the creek for a long time. The "meat" (what really called the project to the attention of the County) of the project was being removed. He didn't know how long SMAC funds would be available. He said the creek was in bad shape.

1016 Dr. LaHue moved to amend the motion to state that any homeowner on the creek channel who wanted erosion control, spot repair done, should

be entitled to that through the SMAC and City program, seconded by Patterson. The property owner would have to approach the City - the City would not seek out spot repairs - by March 1.

1293 Councilmember Rasmussen moved to amend the motion to state that homeowners who requested spot repairs would be responsible for providing any required easements (to avoid condemnation action), seconded by Dunn. Motion carried; LaHue opposed (he felt it was appropriate for the City to seek the necessary easements since the City would be doing the project), all others in favor.

Dr. LaHue's motion to amend carried; Giblin opposed, all others in favor.

Mrs. Clawson's motion, as amended twice, to accept Alternative #3 carried unanimously.

1496 **AUTHORIZE CONDEMNATION PAYMENTS RELATED TO NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET**: Councilmember Rasmussen moved to authorize payments totaling $9,850 to the district court for 9 tracts, seconded by Moore. Motion carried unanimously.

1662 11:00 P.M. On motion of Moore, seconded by Dunn, Council voted to extend the meeting until 11:30 P.M.; LaHue, Giblin opposed, all others in favor.

APPROVAL OF AMENDED 1995 BUDGET: For an additional $200,000 of expenditures for a soccer program; see public hearing minutes. Approved unanimously on motion of Rasmussen, seconded by Dunn.

1674 **AUTHORIZE SUPPLEMENTAL AGREEMENT NO. 1 TO ENGINEERING DESIGN CONTRACT WITH HDR ENGINEERING, INC., FOR MISSION ROAD IMPROVEMENTS, COLLEGE BOULEVARD TO THE BRIDGE OVER INDIAN CREEK**: For design items that were not in the original scope of services. On motion of Rasmussen, seconded by Clawson, Council unanimously approved the supplemental agreement with an additional fee of $12,095.97.

1722 **AUTHORIZE AGREEMENT FOR DESIGN OF STORMWATER MANAGEMENT (SMAC) PROJECTS**: On motion of Dunn, seconded by Clawson, Council unanimously approved the agreement with Phelps Engineering, Inc., in the amount of $33,197.28, for the design of JB-04-005 and JB-04-006 (James Branch, Meadow Lane to Manor Road in the vicinity of 96th Street).

1818 **AUTHORIZE CONSTRUCTION ENGINEERING CONTRACT FOR INTERSECTION IMPROVEMENTS AT 89TH STREET AND MISSION ROAD**: On motion of Rasmussen, seconded by Dunn, Council unanimously approved a proposal from Larkin Associates in the amount of $48,837 to provide construction engineering services, and authorized the Mayor and City Clerk to execute an agreement between the City, Larkin and KDOT.

1847 **ORDINANCE NO. 1452 GRANTING A PERMANENT PARK EASEMENT TO THE CITY OF KANSAS CITY, MISSOURI, FOR PUBLIC PARK PURPOSES, INCLUDING A BIKE/HIKE TRAIL, ON THE EAST SIDE OF STATE LINE ROAD AND NORTH OF INDIAN CREEK**: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

1870 **APPROVE LOW BID FOR CONSTRUCTION OF 143RD STREET BETWEEN WINDSOR AND KENNETH ROAD:** Councilmember Dunn moved to approve the low bid of $378,680.30 from Leavenworth Excavating and Equipment Co., Inc., and to authorize the Mayor and City Clerk to execute a contract with the company. Motion seconded by Clawson and carried; Giblin abstained to avoid the appearance of a conflict of interest, all others in favor.

1900 **ORDINANCE NO. 1453 AUTHORIZING THE ISSUANCE OF TEMPORARY NOTES; SERIES 124-95-1; 135TH STREET [K-150], STATE LINE-NALL AVENUE; $1,000,000:** The ordinance was considered and passed on motion of Clawson, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1454 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 132-95-2; STATE LINE ROAD, PHASE I; $1,000,000: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1455 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 126-95-3; MISSION ROAD, 95TH STREET-103RD STREET; $100,000: The ordinance was considered and passed on motion of Moore, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen.

ORDINANCE NO. 1456 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 129-95-4; 143RD STREET, MISSION-1320 FEET EAST; $400,000: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1457 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 142-95-5; BELL DRIVE AND IRON HORSE DRIVE; $300,000: The ordinance was considered and passed on motion of Moore, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1458 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 137-95-6; STATE LINE ROAD, PHASE IV; $100,000: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1459 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 134-95-7; STATE LINE ROAD, PHASE II; $300,000: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1460 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 136-95-8; STATE LINE ROAD, PHASE III; $700,000: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn,

Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1461 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 115-95-9; MISSION ROAD, COLLEGE BOULEVARD - I-435; $800,000: The ordinance was considered and passed on motion of Moore, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1462 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 131-95-10; NALL AVENUE, 119TH-135TH STREET; $500,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1463 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 140-95-11; 83RD STREET; $500,000: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2028 **RESOLUTION NO. 1218 CONSENTING TO THE ENLARGEMENT OF BLUE RIVER SEWER SUB-DISTRICT NO. 6 AND CREATION OF LATERAL SEWER DISTRICT NO. 10 OF THE JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT** - to allow for construction of sanitary sewer lines in a 5-acre area located near Mission Road, south of 143rd Street: Adopted on motion of LaHue, seconded by Dunn; Patterson abstained to avoid a conflict of interest, all others in favor. Attached as part of the record.

2060 **ORDINANCE NO. 1464C RELATING TO THE CUTTING OF WEEDS AND VEGETATION (PROPERTY MAINTENANCE)**: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2080 **APPROVAL OF APPROPRIATION ORDINANCE NO. 749A**: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

APPROVAL OF APPROPRIATION ORDINANCE NO. 750: The ordinance was considered and passed on motion of Clawson, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2245 **EXECUTIVE SESSION**: On motion of Giblin, seconded by Clawson, Council voted unanimously to convene in executive session for a period not to exceed 10 minutes to discuss land acquisition.

2251 Council convened in executive session at 11:20 P.M., same members present, and returned to regular session at 11:30 P.M., same members present. On motion of Patterson, seconded by Giblin, Council unanimously authorized the Mayor to execute a contract for acquisition of land as negotiated and approved by the City Attorney and City Admin-

istrator.

2282 There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 320

33 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, February 6, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and Doug Patterson. * John R. Campbell, Jr., arrived 8:05 P.M. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

44 On motion of Moore, seconded by Dunn, the agenda was approved unanimously.

63 **ACKNOWLEDGMENT OF DONATION TO D.A.R.E. TRUST FUND**: Police Chief Cox had previously accepted $2,000 from Hy-Vee Food Stores. The Mayor formally acknowledged the donation.

113 **RECOGNITION OF CITY EMPLOYEES**: Ronald Brandt, Director of Public Works, had been elected to serve as president of the Metro Chapter of the American Public Works Association.

Alan Marstall, Recreation Supervisor, received "The 1994 Outstanding Young Professional" award at the Kansas Recreation and Parks Association annual state conference held in Overland Park January 23-26. He also received the "Clinician of the Year" for his work with the National Youth Sports Coaches Association.

Scott Whitaker, Director of Parks and Recreation, became chairperson of the recreation branch of the Kansas Recreation and Parks Association.

The Parks and Recreation Department received a state programming award for the "Blades, Skates, and Wheels" program held during the summer on Sundays on Tomahawk Creek Parkway, and received the "Chapter of the Year" award for work with the National Youth Sports Coaches Association.

244 **CITIZEN COMMENTS**: Earline Boutell, 8719 Meadow Lane, complained about the terrible condition of the street and curbs in the 2500 block of West 88th St.

Kay Hamilton, 12605 Granada, was concerned about traffic congestion on Mission Rd. at the Mission Trail Elementary School (13200 Mission Rd.) where cars were backed up in the mornings waiting to drop children off at the school and in the afternoons at pickup time. Other motorists crossed the double yellow line on Mission to pass the waiting cars, and there were many times when accidents almost occurred at the entrance to the parking lot. She had been informed that it was permissible to cross a double yellow line when traffic was impeded. She thought that was illegal. She suggested there be a "no passing" zone in a school zone during school hours.

577 **PROCLAMATIONS**: The Mayor proclaimed February 19-25, 1995, as "Engineers Week".

586 **CONSENT AGENDA**: The following were approved unanimously on motion of Clawson, seconded by Moore:

1. Minutes of the January 16, 1995, Public Hearing on amending the 1995 Budget;
2. Minutes of the January 16, 1995, Council meeting;
3. Engagement letter from KPMG Peat Marwick to perform audit of 1994 financial statements for a fee of $14,325.00;
4. **Resolution No. 1219**, attached as part of the record, approving the revised final plat of Town Center Plaza located on 119th St. between Roe and Nall;
5. Pay Request No. 8 (FINAL) from Holland Corp. for $15,969.52 for 143rd and Mission Rd. improvements;
6. Golf Course Committee recommendations, attached as part of the record, on the Ironhorse Hole Sponsorship Program, an opportunity to highlight many local businesses on and around the golf course, practice tee, and learning center;
7. Appointment of Barbara Gadd-Alley, 4411 W. 112th Terr., to the Sister City Committee;
8. Purchase of audio/visual equipment (including a portable LCD projector) for the main conference room at City Hall from Professional Video Supply of Overland Park in the amount of $9,193.00.

616 **MAYOR'S REPORT**: The Mayor commended Councilmember Dunn and those who prepared for the successful sister city dinner event on January 31st to celebrate the Chinese New Year.

683 **RESOLUTION NO. 1220 APPROVING A REQUEST FOR REZONING FROM AG TO RP-4, AND APPROVING THE PRELIMINARY PLAT AND PRELIMINARY PLAN, FOR STONE LEDGE, LOCATED AT APPROXIMATELY 154TH AND NALL**: At the December 19, 1994, Council meeting, Council remanded this matter to the Plan Commission. The original proposal was for duplexes with an RP-4 zoning. The preliminary development plan was revised to incorporate single family detached homes, keeping the RP-4 zoning.

Attorney Larry Winn III gave a brief presentation of the revised plan for the applicant. He said questions about setbacks and design had been addressed, and the protest petition had been withdrawn.

On motion of LaHue, seconded by Patterson, the resolution was adopted unanimously. Attached as part of the record.

917 **ORDINANCE NO. 1465 REZONING PROPERTY (STONE LEDGE) LOCATED AT APPROXIMATELY 154TH STREET AND NALL AVENUE FROM AG TO RP-4**: The ordinance was considered and passed on motion of Moore, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

* 8:05 P.M. Councilmember Campbell arrived.

943 **AUTHORIZE DESIGN AND CONSTRUCTION CONTRACTS FOR THE IRONHORSE GOLF CLUB CLUBHOUSE**: City Attorney Wetzler explained that the original agreement previously approved by the Council was a design/build agreement with

IRONHORSE GOLF CLUB
HOLE SPONSORSHIP PROGRAM

The Ironhorse Hole Sponsorship Program recognizes Ironhorse Golf Club will be a showpiece not only for Leawood, but for Kansas City and the surrounding area. The Ironhorse Hole Sponsorship Program is designed for that very purpose. Given this concept, it creates a wonderful opportunity to highlight many local businesses on and around the course, practice tee, and learning center. As the course builds it's reputation and clientele, those participating in the initial hole sponsorship program will benefit hand in hand. Name recognition and a sense of contributing something to your community amenities are the heart and soul of our program.

The opening of Ironhorse Golf Club is scheduled for June. Normally, the Ironhorse Hole Sponsorship Program runs for a period of three (3) years. ***For the inaugural sponsorship program we will be offering the remainder of the 1995 season for free!!*** This will actually allow the sponsors to receive four (4) years for the price of three (3). We believe this will be a tremendous value for the sponsor especially with the publicity Ironhorse will attract in it's first season.

A detailed breakdown of the Hole Sponsorship Program is listed on the next page. If you have any questions regarding this program please contact Shane Gardner or Scott Whitaker at 339-6700.

A. Recognition of Sponsors

1. Plaque on Tee, Learning Center, etc. - A black granite plaque will be placed below the tee sign. The plaque will be 18 by 6 inches in size. An example of the tee sign and black granite plaque are shown on the bottom of the brochure at the end of this package.

2. Exposure - From the opening in June through the 1998 season we expect to see 140,000 rounds of golf played at Ironhorse. A typical hole sponsorship will cost $8,000. That would create approximately a .06 exposure cost per round.

3. VIP Sponsorship Tournament - A VIP Sponsorship Tournament will be held to honor all of our Sponsors. This tournament will allow the sponsors to fill out a foursome and show off their contribution. Prizes will be awarded at the conclusion of play.

4. Gift Package - Each sponsor will receive a gift package that will be given away prior to the start of the VIP Sponsorship Tournament.

5. Recognition - Each sponsor will receive special recognition at a City Council meeting and in the minutes of that meeting. Also recognition will be given in the form of press releases to the local newspapers.

6. Landscaping - Included in the Ironhorse Hole Sponsorship Program will be the landscaping around the tee sign. This area will be beautifully landscaped to compliment not only the tee sign but the golf course in general.

B. Cost of Sponsorship

Hole	Cost	Hole	Cost
1	$16,000	10	$16,000
2	$8,000	11	$8,000
3	$8,000	12	$8,000
4	$8,000	13	$8,000
5	$8,000	14	$8,000
6	$8,000	15	$8,000
7	$8,000	16	$8,000
8	$8,000	17	$8,000
9	$16,000	18	$20,000
Learning Center	$30,000		
Practice Tee	$22,000		

*Note- Sponsorship would be for a three (3) year period of time. The 1995 season would be free!!

Eshenroder Construction, Inc. For this particular type of project, the contractor was unable to obtain a bond that also covered the design portions. Therefore, the agreements were separated - one with Eshenroder for construction, and one with Eshenroder's architect under the original agreement, Corner & Associates, for design. The total costs and responsibilities were the same.

On motion of Moore, seconded by Dunn, Council unanimously approved an agreement with architects Corner & Associates in the amount of $25,000 for design. On motion of Campbell, seconded by LaHue, Council unanimously approved an agreement with Eshenroder Construction, Inc., in the amount of $464,778 for construction.

1251 **AUTHORIZE INDEMNIFICATION AGREEMENT WITH KANSAS CITY POWER & LIGHT RELATING TO ELECTRICAL SERVICE FOR THE WEST REST STATION AT THE IRONHORSE GOLF CLUB**: For reasons of aesthetics, beautification, lack of obstruction, the City desired that KCPL position electrical equipment at locations which were not as convenient for or accessible to KCPL for installation, operation, maintenance, and removal purposes, as the positioning of such equipment originally intended by KCPL. Therefore, this agreement was necessary. On motion of LaHue, seconded by Clawson, Council unanimously approved the agreement.

1270 **ORDINANCE NO. 1466 GRANTING A RIGHT-OF-WAY EASEMENT TO KANSAS CITY POWER & LIGHT COMPANY TO PROVIDE ELECTRICAL SERVICE AT THE IRONHORSE GOLF CLUB WEST REST STATION**: The ordinance was considered and passed on motion of LaHue, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

1284 **AUTHORIZE KANSAS CITY POWER & LIGHT "CONSENT TO ENCROACHMENT" FOR MAINTENANCE FACILITY AT THE IRONHORSE GOLF CLUB** - necessary because the City wanted to construct concrete material storage bins and light fixtures at the maintenance facility which would encroach on a KCP&L power easement. On motion of Dunn, seconded by Moore, Council unanimously authorized execution of the consent.

1344 **RESOLUTION NO. 1221 RELATING TO KDOT'S AWARD OF A CONSTRUCTION CONTRACT TO STELMACH CONSTRUCTION CO. OF PRAIRIE VILLAGE, AND COMMITTING LOCAL FUNDS ($75,769.00; 50% TO BE REIMBURSED BY CARS), FOR INTERSECTION IMPROVEMENTS AT 89TH STREET AND MISSION ROAD**: Adopted unanimously on motion of LaHue, seconded by Moore. Attached as part of the record.

1385 **AUTHORIZE PROPOSAL FOR CONSTRUCTION ENGINEERING FOR 119TH STREET (THIN BONDED CONCRETE) OVERLAY PROJECT BETWEEN MISSION ROAD AND ROE AVENUE**: Councilmember Dunn moved to approve a proposal from Burns & McDonnell to provide construction engineering in an amount not to exceed $50,215, and authorize the Mayor and City Clerk to execute an agreement with Burns & McDonnell and KDOT. Motion seconded by Patterson.

Councilmember Giblin said he would vote against the motion because he did not feel the City should be involved in an experimental research project; it was too expensive and a big risk.

Motion to approve the proposal carried; Giblin opposed, all others in favor.

2195 **AUTHORIZE CONTRACT FOR SURVEYING SERVICES FOR 97TH STREET REHABILITATION PROJECT, STATE LINE ROAD TO LEE BOULEVARD**: On motion of Dunn, seconded by Clawson, Council unanimously authorized the Mayor and City Clerk to execute a contract with Schlagel & Associates for a fee of $16,455.

2215 **AUTHORIZE CONTRACT FOR 91ST STREET REHABILITATION BETWEEN PAWNEE LANE AND 92ND STREET**: The low bid was $381,611.30 from Mega Industries Corp. of Kansas City, Missouri. However, Public Works recommended the seconded lowest bid of $404,174.11 from Seal-O-Matic Paving Co. because of problems with Mega during the bridge replacement at 85th Terr. and High Dr. Councilmember LaHue moved to accept the bid from Seal-O-Matic Paving, seconded by Clawson. Contractors were evaluated on their performance, and in accordance with the evaluation policy, the City would not request bids from unsatisfactory contractors for a period of one year from the date of unsatisfactory evaluations. Since the bridge replacement occurred prior to the adoption of the evaluation policy, Mega was not subject to the one year and was free to bid on any other project in the City. Public Works Director Brandt suggested smaller paving projects. City Attorney Wetzler said that based on staff's recommendation, Council had determined that the bid from Mega was not the lowest and best bid.

Dr. LaHue's motion carried unanimously.

2492 **AUTHORIZE AGREEMENT TO VACATE RIGHT-OF-WAY OR, IN THE ALTERNATIVE, TO CONVEY REAL PROPERTY FOR MISSION ROAD EXTENSION**: The City owned property generally located along Indian Creek near the intersection of College Boulevard and Tomahawk Creek Parkway. The City intended to construct a roadway in that general area to connect Tomahawk Creek Parkway to Mission Road, and needed to acquire easements and rights-of-way from a property owner in the area, Marshall Long. After construction of the roadway, one or more small parcels of ground owned by the City would remain adjacent to the City and Long properties, and would be of no use to the City, but might have value to Mr. Long. The agreement would convey certain interests to the City and to Mr. Long.

On motion of Campbell, seconded by Clawson, Council unanimously approved the agreement.

2636 **ACCEPTANCE OF PRELIMINARY/ALIGNMENT STUDY FOR ROE AVENUE IMPROVEMENTS, 124TH STREET TO 135TH STREET**: On motion of Dunn, seconded by Patterson, Council unanimously accepted the study prepared by the project consultant Boyd, Brown, Stude & Cambern.

APPROVAL OF APPROPRIATION ORDINANCE NO. 751: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

APPROVAL OF APPROPRIATION ORDINANCE NO. 749B: The ordinance was considered and passed on motion of Giblin, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

2951 **OTHER BUSINESS**: Councilmember LaHue moved to refer the following items to the Public Works Committee for review. Motion seconded by Dunn and carried unanimously.

1. A letter from Renee Fleeman, 2524 W. 89th St., requesting that attention be given to a stormwater problem in the 2500 block of West 89th St.

2. A letter from Dr. Mark Young, 10216 Howe Lane, requesting review of the safety of children and the sidewalks along 103rd St. between Lee Blvd. and Mission Rd.

3. Kay Hamilton's concerns about traffic safety at the Mission Trail Elementary School (see citizens comments).

4. Consideration of sidewalks along Lee Blvd. south of 103rd St.

3206 **EXECUTIVE SESSION**: On motion of LaHue, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 20 minutes to discuss litigation and 2 matters under attorney-client privilege.

3269 Council convened in executive session at 9:18 P.M., same members present, and returned to regular session at 9:38 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 321

24 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., Tuesday, February 21, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. John R. Campbell, Jr. and Marnie S. Clawson were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

36 On motion of Rasmussen, seconded by Dunn, the agenda was approved unanimously after the addition of 1) a resolution and ordinance relating to condemnation for College Boulevard improvements, 2) a resolution relating to nuisance alarm fees, 3) an agreement with The Marned Corporation relating to Leawood Town Center, 4) a resolution accepting a petition for creation of an improvement district relating to the development of Leawood Town Center Plaza, and 5) a discussion of property reevaluation.

138 **CITIZEN COMMENTS**: Gordon Thomas, 10516 Mohawk Lane, felt the City should rescind some taxes (those on utility billing statements); reiterated his earlier suggestion that the City deed the College Blvd. right-of-way back to the County to save the taxpayers money; and felt the Council should take an active role in reducing taxes.

293 **CONSENT AGENDA**: The following were approved unanimously on motion of Rasmussen, seconded by Patterson:

1. Minutes of the February 6, 1995, Council meeting;
2. Departmental reports;
3. Application (renewal) for Cereal Malt Beverage License - Leawood Hen House, Camelot Court Shopping Center;
4. Purchase and installation of new playground equipment (handicap accessible) and purchase and installation of rubberized playground surface material for Leawood Park at 10601 Lee Blvd. from the low bidder Iron Mountain Forge in the amount of $34,361.00;
5. Ratification of reinvestment of Series 1992 Refunding Bond Investments to increase return.

355 **ORDINANCE NO. 1467C AMENDING SECTIONS OF THE CODE OF THE CITY OF LEAWOOD RELATING TO NUISANCE ALARMS**: Councilmember LaHue moved to pass the ordinance, seconded by Moore. The ordinance provided that the registration fee be collected from the end user (residential or commercial occupant) of an alarm system. Councilmember Rasmussen felt that was an improper burden on the end user, and that the burden of registration should fall on the alarm system companies who knew who their clients were and could provide the City with that information (and keep it up to date), and that would ensure that the companies obtained occupation

licenses to conduct business in the City. Mr. Rasmussen would not vote in favor of the ordinance as written.

Police Chief Cox disagreed with Mr. Rasmussen. He said that many alarm companies had out-of-state central stations, and those central stations could choose not to register clients and thereby not comply with City ordinance. The City would have no leverage to require them to register other than litigation. Since it was the end user, the person protected by an alarm system, who expected to receive City services, the end user should pay the costs of administering the ordinance.

On roll call to pass the ordinance, the vote was: Yeas---LaHue, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen.

989 **RESOLUTION NO. 1222 ESTABLISHING NEW ALARM SYSTEM FEES NOT PROVIDED FOR IN THE CODE OF THE CITY OF LEAWOOD**: Adopted unanimously on motion of Moore, seconded by Rasmussen. Attached as part of the record.

1007 **RESOLUTION NO. 1223 ENDORSING A PROPOSED JOHNSON COUNTY 1/4-CENT SALES TAX**: The Board of County Commissioners planned to place the proposed tax for public safety on the April 4, 1995 ballot. The Board would dedicate its portion of the sales tax to the construction and operation of a minimum/medium security jail, additional community corrections beds and a juvenile hall expansion to help prevent overcrowding that could violate federal and court standards. Leawood would receive a portion of the sales tax to assist it in maintaining services and to absorb CARS costs between 1996 and 1999 without adding to the property tax.

The resolution was adopted unanimously on motion of Moore, seconded by Dunn. Attached as part of the record.

1167 **RESOLUTION AND ORDINANCE RELATING TO CONDEMNATION TO OBTAIN NECESSARY HALLBROOK COUNTRY CLUB EASEMENT FOR COLLEGE BOULEVARD IMPROVEMENTS, STATE LINE ROAD WEST TO BRIDGE ABUTMENT OVER TOMAHAWK CREEK**: Staff recommended that the City proceed with condemnation. Public Works Director Brandt said that staff and Country Club representatives had reached an impasse in negotiations. He reviewed the appraisal and review appraisal for right-of-way, easements and trees, and the City's offer and Club's counter offer for cash compensation, landscaping, fence and pipe installation. The total amount of the benefit the Club wanted to receive was approximately $103, 482.00, and Mr. Brandt could not recommend that amount. He recommended beginning the condemnation process which could be stopped if an agreement was reached at a later date.

Mike Palmer, President of the Country Club, and board member Tom Raupp, explained the Club's position (which differed from the City's), landscaping plan, fencing along College, and miscommunications. They thought they had an understanding with the City, and felt that the difference between what the Club had requested and what the City had offered was about $4,000. They did not want to be involved in condemnation proceedings, or stand in the way of the College Blvd. improvements.

The Mayor said the Council had always understood that the easements would be given without cost to the City. The City had no way of

knowing that the Country Club property would be turned over to Club members and that subsequently there would be a cost to the City for the easements.

2092 Councilmember LaHue moved to defer consideration of the resolution and ordinance to the February 27th special Council meeting, seconded by Moore, and carried unanimously.

2200 **AUTHORIZE UTILITY RELOCATION AGREEMENT WITH KANSAS CITY POWER & LIGHT COMPANY FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1 CONSTRUCTION**: On motion of LaHue, seconded by Moore, Council unanimously authorized the Mayor to sign the agreement. The City would pay KCPL $6,053.00 upon completion of the power line relocation.

2216 **RESOLUTION NO. 1224 SUPPORTING OVERLAND PARK STORMWATER MANAGEMENT STUDY OF THE TOMAHAWK CREEK DRAINAGE BASIN**: Leawood would join in seeking 1996 funding from the Johnson County Stormwater Management Advisory Council (SMAC) for the study. The study would provide up-to-date, accurate information for the entire Tomahawk Creek Drainage Basin including current 100-year floodplain boundaries and ultimate boundaries of development, the most effective site plan for individual developments, and the impact of individual developments on the floodplain. The study would attempt to resolve discrepancies in the current FEMA (Federal Emergency Management Agency) designations. Leawood's cost would be $17,490 if Olathe participated, $20,582 without Olathe.

The resolution was adopted unanimously on motion of Rasmussen, seconded by Dunn. Attached as part of the record.

2463 **ORDINANCE NO. 1468 AUTHORIZING AND PROVIDING FOR THE VACATION OF UTILITY EASEMENTS GRANTED TO THE CITY BY PLAT OF LEAWOOD COMMONS RECORDED IN PLAT BOOK 89, PAGE 1** - to allow for construction of the proposed Exchange Bank: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2481 **APPROVAL OF APPROPRIATION ORDINANCE NO. 752**: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2507 **AGREEMENT WITH THE MARNED CORPORATION RELATING TO SUBMITTAL OF A PETITION FOR A BENEFIT DISTRICT FOR THE PUBLIC IMPROVEMENTS NECESSARY TO ACCOMMODATE THE LEAWOOD TOWN CENTER PLAZA DEVELOPMENT ALONG 119TH STREET BETWEEN ROE AVENUE AND NALL AVENUE**: On motion of Rasmussen, seconded by Giblin, Council unanimously authorized the Mayor to execute the agreement.

2644 **RESOLUTION NO. 1225 ACCEPTING PETITION FOR CREATION OF AN IMPROVEMENT DISTRICT FOR THE DEVELOPMENT OF LEAWOOD TOWN CENTER PLAZA ALONG 119TH STREET BETWEEN ROE AVENUE AND NALL AVENUE**: Adopted unanimously on motion of Giblin, seconded by Dunn. Attached as part of the record.

2659 **OTHER BUSINESS**: Councilmember Moore asked to briefly discuss property

reevaluation, increase in assessed valuation, and possible increase in taxes. He felt that Council should address this issue early. The Mayor said Council would discuss the matter when preparing the 1996 budget. Finance Director Malnicof said he would meet with the County Appraiser tommorow.

2837 9:05 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
SPECIAL COUNCIL MEETING

Tape No. 322

35 The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 4800 Town Center Drive, at 7:50 P.M., Monday, February 27, 1995. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson, to consider a resolution and ordinance relating to condemnation to obtain necessary right-of-way and easements from Hallbrook Country Club for College Boulevard improvements, State Line Rd. west to the bridge abutment over Tomahawk Creek; to convene an executive session to discuss a personnel matter; and to consider any other business that might come before the Council. No Councilmembers were absent.

Staff present: Richard J. Garofano, City Administrator; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

51 **EXECUTIVE SESSION**: On motion of LaHue, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 15 minutes to discuss the condemnation issue under acquisition of property/attorney-client privilege.

118 7:55 P.M. Council convened in executive session, same members present, and returned to special session at 8:10 P.M., same members present. On motion of Dunn, seconded by Moore, Council voted unanimously to extend the executive session for 10 minutes to continue the same discussion. Council returned to special session at 8:20 P.M., same members present.

125 **DISCUSSION OF POSSIBLE CONDEMNATION TO OBTAIN NECESSARY RIGHT-OF-WAY AND EASEMENTS FROM HALLBROOK COUNTRY CLUB FOR COLLEGE BOULEVARD IMPROVEMENTS**: Deferred from February 21st Council meeting.

Mike Palmer, President of the Country Club, said that since the Club finally realized that a City landscape plan did exist, and in an effort to resolve the matter, they were willing to accept the $14,554 appraisal amount as compensation for the taking. He said the appraisal had indicated assurance (apparently by a City staff member) that a chain link fence similar to that around the Hall family property would be installed after the taking; it appeared that a fence had been considered in arriving at the appraisal amount of $14,554.

The Mayor said the $2,000 for drainage pipe installation under the roadway embankment was part of the project, as was landscaping (the City's plan), and not payable directly to the Country Club. The City's landscaping plan was acceptable to the Country Club. Councilmember LaHue said that whether right or wrong, appraisal information indicating that there would be a fence had been reviewed by City staff and sent on to the Country Club. It appeared the City had approved the fence. Councilmember Campbell suspected that there was presumption on

the part of the appraiser that there would be a fence, and perhaps this had an impact on the appraisal, so the City might want to request a revised appraisal if Council was not in favor of the fence.

406 Councilmember LaHue moved to pay the Country Club the $14,554 appraisal compensation for the taking, and that the project include the costs of a chain link fence and drainage pipe, and that the City follow the landscaping plan (for City property and Hallbrook property) in the amount of $42,000. Motion seconded by Campbell and carried; LaHue, Campbell, Clawson, Moore, Dunn in favor; Giblin, Rasmussen, Patterson opposed.

618 **EXECUTIVE SESSION**: On motion of Campbell, seconded by Clawson, Council voted unanimously to convene in executive session in the main conference room until 10:00 P.M. to discuss a personnel matter and a matter under attorney-client privilege.

651 8:40 P.M. During a short recess, Council heard a request from Parks and Recreation Director Whitaker that members of the Golf Course Committee be given a one-time-only Conductor Club membership as a token of the City's gratitude for their extensive volunteer work. Several Councilmembers felt this would set a bad precedent, other City volunteers not having received consideration of this nature. The Mayor said she had heard a suggestion that the Committee's contribution be acknowledged with a plaque in the golf course clubhouse which would be appropriate.

688 8:45 P.M. Council (same members) went to the main conference room for the executive session.

10:00 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 323

55 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 6, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Louis Rasmussen. Douglas J. Moore and Doug Patterson were absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

63 The agenda was approved unanimously on motion of Campbell, seconded by Dunn, after the addition of a discussion of traffic concerns on 103rd St. between Lee Blvd. and Mission Rd. in the vicinity of Brookwood School.

83 **PRESENTATION OF REPRODUCTIONS OF WORLD WAR II POSTERS**: Barbara Seibel, Regent of the Shawnee Mission Chapter of the National Society of the DAR; Judi Henry, librarian at the Leawood Pioneer Branch Library; and Roger Edgar, Johnson County Library Board member, were present. The Shawnee Mission Chapter of the DAR had been designated a commemorative community by the Department of Defense in support of the 50th anniversary of World War II. The Chapter was responsible for developing educational programs and commemorative activities or events to honor World War II. Mrs. Seibel had presented the reproductions to the Mayor in February. Since there was no repository area at City Hall where the posters could be accessible to the public, the Mayor presented the posters to Judi Henry. The posters would be displayed and could be checked out at the library. Mrs. Seibel also said that the DAR Chapter had presented a national DAR award to Mayor Rinehart for excellence in community service.

247 **CITIZEN COMMENTS**: None.

252 **PROCLAMATIONS**: The Mayor proclaimed March 1995 as "National Middle Level Education Month".

256 **CONSENT AGENDA**: Change Order No. 2 to the contract for the construction of Bell Dr. was removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Rasmussen:

1. Minutes of the February 21, 1995 Council meeting;
2. Minutes of the February 27, 1995 Special Council meeting;
3. Parks and Recreation Advisory Board report (minutes) of their February 16, 1995 meeting;
4. Low bid proposal of $7,738.00 from Automatic Doors of Kansas, Inc., for the installation of automatic door systems at City Hall (4800 Town Center Dr.) and the Police Department (9617 Lee Blvd.) for compliance with ADA;

5. Appointment (permanent replacement for Nancy Garland) of Jackie Harkness, 12402 Howe Dr., as Leawood's representative on the Johnson County Drug and Alcoholism Council (DAC), term to expire December 31, 1997;

6. **Resolution No. 1226**, attached as part of the record, approving the final plat of Lakes of Leawood located at 117th and Tomahawk Creek Parkway;

7. Change Order No. 1 to the contract with Industrial Excavating and Equipment, Inc., for Mission Rd. improvements, College Blvd. to I-435, in the amount of $5,445.00; provided for removal and replacement of a sanitary sewer manhole.

Change Order No. 2 to the contract with O'Donnell & Sons Construction Co. for construction of Bell Dr. in the amount of $22,776.00: provided for the construction of a temporary, rock-surfaced access road to the Ironhorse Golf Club clubhouse construction site, and construction of electrical conduit and sectionalizer pads from Mission Rd. to the end of Bell Dr. Mr. Rasmussen asked why a classic subsurface for a residential street wouldn't be sufficient, rather than spending additional money on a rock-surfaced road. Public Works Director Brandt said that the present dirt/mud road would deteriorate with the weather and would not be adequate for Fire Department emergency access. A rock surface would stabilize the soil. Planning Director McKay said there was a codes requirement of an emergency access for building construction. Mr. Brandt said the rock could be salvaged and used in the future subgrade of Bell Dr. The change order was approved unanimously on motion of Campbell, seconded by Clawson.

378 **RESOLUTION NO. 1227 APPROVING THE REVISED PRELIMINARY PLAT OF HAZELWOOD, 4TH PHASE, LOCATED AT 119TH AND PAWNEE**: Councilmember Clawson moved to adopt the resolution, seconded by Campbell. Councilmember Dunn said she would not vote for the motion because the street design did not meet public street standards of width. The motion carried; Dunn opposed, all others in favor. Resolution attached as part of the record.

461 **MAYOR'S REPORT**: The Mayor had attended a Johnson County Council of Mayors meeting at which property reappraisals (resulting in tax increases) were discussed. People could either appeal tax increases or pay the taxes under protest. Council would look at the effect of reappraisals on City taxes during 1996 budget preparation. The City could also be affected by changes in statutes (motor vehicle tax and sales tax on new construction) proposed by the state legislature.

534 **ACCEPTANCE OF LEAWOOD ECONOMIC DEVELOPMENT STRATEGIC PLAN**: Staff recommended acceptance of the Plan as recommended by the Economic Development Task Force and authorization for staff to proceed with implementation of the Plan. Councilmember Giblin moved for staff's recommendation, seconded by Dunn. Finance Director Malnicof had prepared a memo on the 1995 property reappraisals in the County with 1994/1995 market value comparisons, and Councilmember Rasmussen was concerned that commercial land market value had decreased, which seemed incomprehensible; Council and staff had done nothing to decrease the

value of commercial property in the City, but rather had tried to enhance the value. Mr. Malnicof said the county appraiser was researching the matter, and that he would advise the Council as soon as he had information. The motion carried unanimously.

683 **DISCUSSION OF DORSET MANOR LANDSCAPING PROPOSAL FOR MISSION ROAD IMPROVEMENTS SOUTH OF 103RD STREET**: The Dorset Manor Homes Association proposed a buffer along the Mission Rd. side of their subdivision (along the backyards of 6 homes) - construction of a wall/fence combination with stone pillars constructed every 40 feet with solid cedar fencing between each pillar, and a dense planting of pines staggered and spaced approximately 9-10 feet apart supplemented by plantings of evergreen shrubs, cost approximately $64,100.00. Public Works Director Brandt thought the homes association would want the wall constructed on the right-of-way, but he objected to that because of maintenance and the increase in liability for a structure on City-owned right-of-way. Mr. Brandt said the current Mission Rd. project only included 3 of the 6 lots. The next Mission Rd. project, I-435 to 103rd St., was not scheduled for construction until 1997. The City would have to be careful not to build something that would be in the way of the next phase of construction. He recommended approval of the landscape proposal to construct the wall on private property rather than on right-of-way. He wanted to see detailed plans. Mr. Brandt said he preferred that the landscaping be done at the end of the second Mission Rd. phase to avoid tearing down and replacing a buffer.

946 Councilmember Dunn said it did not appear to be urgent to approve a landscape proposal. She moved that the matter be referred to the Public Works Committee for review and determination of a formula for these types of landscape requests, seconded by Giblin.

1073 Al Hagemann, 10314 Howe Lane, was opposed to waiting 2 more years (completion of the second Mission Rd. phase) for privacy. Councilmember Rasmussen told Mr. Hagemann that when the homes association talked with the Public Works Committee, the residents should be ready to grant construction easements to the City.

1406 Motion for referral to the Public Works Committee carried unanimously.

1419 **ORDINANCE NO. 1469 AUTHORIZING THE IMPROVEMENT OF LEE BOULEVARD (9700-9800 BLOCK) STORMWATER IMPROVEMENT PROJECT**: The ordinance was considered and passed on motion of Clawson, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Rasmussen. Nays---None.

1433 **RESOLUTION NO. 1228 AUTHORIZING ISSUANCE OF GENERAL OBLIGATION BONDS FOR LEE BOULEVARD (9700-9800 BLOCK) STORMWATER IMPROVEMENT PROJECT**: Adopted unanimously on motion of Campbell, seconded by Clawson. Attached as part of the record.

1530 **ORDINANCE NO. 1470 AUTHORIZING THE IMPROVEMENT OF 8435 CHEROKEE LANE STORMWATER IMPROVEMENT PROJECT**: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Rasmussen. Nays---None.

1575 **RESOLUTION NO. 1229 AUTHORIZING ISSUANCE OF GENERAL OBLIGATION BONDS FOR 8435 CHEROKEE LANE STORMWATER IMPROVEMENT PROJECT**: Adopted unanimously on motion of Clawson, seconded by Dunn. Attached as part of the record.

1603 **RESOLUTION NO. 1230 RELATING TO KDOT'S AWARD OF CONTRACT (TO J.M. FAHEY CONSTRUCTION CO. OF GRANDVIEW, MISSOURI) AND COMMITMENT OF LOCAL FUNDS ($90,488.00) FOR THE 119TH STREET OVERLAY, MISSION ROAD TO ROE AVENUE**: Adopted on motion of Campbell, seconded by Rasmussen; Giblin opposed (the project was too experimental), all others in favor. Resolution attached as part of the record.

2086 **REQUEST BY WILLIAMS PIPE LINE CO. FOR ADDITIONAL PAYMENT FOR UTILITY RELOCATION FOR THE 143RD STREET IMPROVEMENT PROJECT**: The original estimate for the relocation was $19,500. The company's revised cost was $30,044 due to conflicts with other utilities which caused downtime and additional move in expenses. On motion of LaHue, seconded by Campbell, Council approved the payment; Giblin abstained, all others in favor.

2141 **AUTHORIZE PROPOSAL FOR PHASE I ENVIRONMENTAL ASSESSMENT OF PARK LAND AT 124TH AND NALL AVENUE**: The land had been used as a firing range by the Police Department. The City needed to know what levels of lead existed on the site in order to determine what was appropriate to make the area suitable for park (active recreational) purposes in accordance with EPA standards. Councilmember Dunn moved to approve a proposal from Terracon Environmental, Inc., in the amount of $8,850.00, seconded by Clawson. Since Terracon had done an initial assessment (for a fee), staff did not bid for Phase 1. There was a possibility that a second phase assessment would have to be done, and it would be an additional $14,000. Mr. Campbell felt it was too expensive.

2655 The motion and second were withdrawn. Councilmember Giblin moved to seek proposals for the assessment, seconded by Campbell. Motion carried unanimously.

2739 **RESOLUTION NO. 1231 RELATING TO PROPOSED RESTRUCTURING OF UNITED STATES DEPARTMENT OF TRANSPORTATION AND ITS FUNDING PROGRAMS**: Councilmember Dunn moved to adopt the resolution, seconded by Campbell. Councilmember Rasmussen said he would vote against the resolution. It seemed to him that with every attempt made by the federal government to change the way things were done, cities were bombarded with resolutions etc. from various organizations. He was upset by what he perceived to be the attitude of some organizations that the federal government had a financial problem, but they didn't want to be involved in any part of it.

The Mayor said she understood that one of the reasons for bringing this matter to the attention of cities in the area, was that a great deal of time had been spent with the concept of the ISTEA (Intermodal Surface Transportation Efficiency Act of 1991) program and funding and getting its regulations into place, and there was concern that with changes, there might be a different kind of program, and it would take a few more years to establish the new program with its regulations. This was an effort to keep ISTEA in place without having to go to new regulations.

Motion to adopt the resolution carried; Rasmussen, Clawson opposed (Mrs. Clawson felt the resolution was superfluous, was meaningless coming from the governing body); all others in favor. Resolution attached as part of the record.

2921 **APPROVAL OF APPROPRIATION ORDINANCE NO. 753**: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Rasmussen. Nays---None.

2970 **OTHER BUSINESS**: Councilmember Clawson felt children attending Brookwood School on 103rd St. between Lee Blvd. and Mission Rd. were endangered by increased traffic on 103rd St. Police Chief Cox said there had been the perception for a long time that the sidewalk along 103rd St. near Brookwood School was unsafe because it had been placed immediately back of curb. The Public Works Committee was studying the matter. Chief Cox felt more of a problem was created by children stepping off the sidewalk into the street than the danger of vehicles jumping the curb. Chief Cox said another problem was the number of parents stopping on 103rd St. to drop off or pick up children, causing traffic congestion and potential accidents. His department was working with the school on a plan to alleviate the problem. And Chief Cox said there would be an increase in traffic due to the construction improvements on I-435. He was trying to work on all the problems, including the possibility of signs to encourage children to walk their bicycles in certain areas.

3308 **LIQUOR LICENSE FOR IRONHORSE GOLF CLUB**: Councilmember Rasmussen moved that the City Attorney prepare an ordinance to allow for the appropriate liquor license, seconded by Clawson. Motion carried unanimously.

3486 **EXECUTIVE SESSION**: On motion of Giblin, seconded by Campbell, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a personnel matter.

3509 9:20 P.M. Recess.

9:25 P.M. Council convened in executive session, same members present, and returned to regular session at 9:55 P.M., same members present. On motion of Dunn, seconded by Campbell, Council voted unanimously to extend the executive session for 20 minutes to continue discussion of the same matter.

10:15 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 324

50 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 20, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Louis Rasmussen, and Doug Patterson. Peggy J. Dunn was absent. Staff present: Julie Hakan, Human Resources Director; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

57 The agenda was approved unanimously on motion of Moore, seconded by LaHue, after the addition of 1) a discussion of the number of closed police cases and conviction rate subsequent to an increase in the number of detectives in the Police Department, 2) an update on the City's rental inspection program, 3) an executive session to discuss a matter under attorney-client privilege, and 4) a discussion of a staff request to hire a property maintenance administrator.

179 **CITIZEN COMMENTS**: None.

180 **PROCLAMATIONS**: The Mayor proclaimed April 23-29, 1995, as "National Volunteer Week".

183 **CONSENT AGENDA**: The Fire Department report for February was removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Moore:

1. Minutes of the March 6, 1995 Council meeting;
2. Public Works Committee report (minutes) of their March 9, 1995 meeting;
3. Parks and Recreation Advisory Board report (minutes) of their March 14, 1995 meeting;
4. Departmental reports;
5. Authorize $6,000 for membership on the Kansas City Area Development Council (KCADC);
6. Appointment of Councilmember Marnie Clawson as Leawood's 1995-1996 representative to the KCADC;
7. Appointment of ad hoc committee to examine the feasibility of an "In-House" attorney - Councilmember John Campbell, Chr.; Councilmember Louis Rasmussen; Robert Canfield, 9722 Sagamore; Jim Schwartze, 10500 Ensley; and Lynn Cockle, 12305 Fairway Rd. The committee would report its findings and recommendations by the July 3rd Council meeting.

February Fire Department report: Councilmember LaHue asked about emergency response times that seemed high. Chief Strack said that he evaluated times exceeding 5 minutes, and generally, there was just cause for those response times. The average emergency response time of 3.91 minutes was good within the County and he felt it would be good

nationwide. On motion of LaHue, seconded by Clawson, Council unanimously approved the monthly report.

287 **AUTHORIZE CONTRACT FOR CONSTRUCTION OF STORM DRAINAGE IMPROVEMENTS ON LEE BOULEVARD, 97TH STREET TO 98TH STREET**: On motion of Rasmussen, seconded by Moore, Council unanimously authorized a contract with the low bidder Pyramid Excavation & Construction Co., Inc., of Shawnee, Kansas, in the amount of $84,000.

313 **AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE PUBLIC IMPROVEMENT OF THE INTERSECTION AT 89TH STREET AND MISSION ROAD** - project included in the 1994 C.A.R.S. program: By the agreement, C.A.R.S. funding not to exceed $40,000 of an estimated project cost of $80,000. On motion of Rasmussen, seconded by LaHue, Council unanimously approved the agreement.

333 **RESOLUTION NO. 1232 REQUESTING COUNTY PARTICIPATION IN THE CITY'S 5-YEAR (1996-2000) CAPITAL IMPROVEMENTS PROGRAM THROUGH THE COUNTY ASSISTANCE ROAD SYSTEM (C.A.R.S.)**: Councilmember Patterson requested additional wording (underscored) in the second "Whereas" of the resolution so it would read, "Whereas, pursuant to the Johnson County Commissioners' commitment to hold Leawood harmless from any loss, the City of Leawood is requesting participation from Johnson County, Kansas, through the County's Assistance Road System (C.A.R.S.)." The resolution, attached as part of the record, was adopted unanimously on motion of Moore, seconded by Clawson.

578 **APPROVE BID FOR 1995 STREET SLURRY SEAL**: On motion of Rasmussen, seconded by Clawson, Council unanimously approved the low bid from Musselman & Hall Contractors in the amount of $0.885 per square yard ($50,000 budgeted).

641 **ORDINANCE NO. 1471 AUTHORIZING THE ACQUISITION OF PARK LAND IN THE VICINITY OF 147TH AND MISSION ROAD BY LEASE/PURCHASE, AND APPROVING THE LEASE**: 70 acres for a cost of $1,240,000. Under the terms of the lease/purchase, the City had the ability to purchase some 21.05 acres at an appraised value of $400,000, while the balance would be subject to the lease/purchase agreement. The 21-acre tract would be purchased with an approximate $200,000 federal grant which would be matched by the City from park impact fees collected over the years. Once the transaction was completed, only the 21.05 acres would be subject to federal purview and the restrictions previously agreed to as a condition of accepting the grant. In addition, the City reserved the ability to carve out an additional 2.5 acres for a fire station site close to Mission Rd. at the southeast corner of the tract. The City would meet the annual financial obligations of the lease through the use of park impact fees, special parks and recreation funds (alcohol tax receipts) and general tax receipts (to the extent necessary).

Councilmember LaHue moved to pass the ordinance, seconded by Campbell. There was discussion of whether or not the City would have to pay taxes on the property. City Attorney Wetzler said he knew of several lease/purchase obligations which were not taxable. He said it was the intent of the City, if the transaction was concluded, to

request that it be nontaxable, and he thought there was a good chance that it would not be on the tax rolls. Even if it was on the tax rolls, there was a good likelihood that the amount of the tax would be nominal.

On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1080 **AUTHORIZE AMENDMENT TO GOLF COURSE PROJECT MANAGEMENT CONTRACT**: There were several modifications and changes to the golf course that were not foreseen. On motion of Campbell, seconded by LaHue, Council unanimously approved the amendment with project manager Continental Consulting Engineers, Inc., for an additional fee of $88,850.70.

1435 **AUTHORIZE WATER MAIN EXTENSION PETITION AND AGREEMENT TO SERVE THE IRONHORSE GOLF CLUB**: Councilmember Rasmussen said that in planning for the golf course, the City had made sure that it was close to sewer effluent as a backup for water supply. He said that Water District No. 1 then decided that sewer effluent was "water" and that they had the sole right to use it. He wanted to be sure the District wouldn't deprive the City from using the effluent if it needed it, and tell the City that it had to use the District's "water" (the golf course becoming a revenue source for the District). He said it would seem that the District had decided they had the right to distribute sewer effluent. He had also taken exception to the rate structure proposed by the Water District. The issues needed to be addressed and satisfied. Golf course project manager Phil Gibbs of Continental Consulting Engineers said he had not discussed the matter with the Water District. Mr. Gibbs reported on the amount of water which had been pumped from the Blue River to date. The Mayor said the real question was one of policy - the waste water was owned by the County sewer district which the Board of County Commissioners controlled. She said she did not know if the Board had given control of the effluent to the Water District. The Mayor suggested that City staff pursue the matter.

Mr. Gibbs explained that the water main extension would run from Mission Rd. along the new Bell Dr. for fire protection for the clubhouse, and would serve the Bell development. On motion of LaHue, seconded by Moore, Council unanimously authorized the Mayor to sign the petition for water main extension and agreement to pay Water District No. 1 of Johnson County an estimated $63,295.00 for the extension (cost to be paid by the "Bell Drive" benefit district).

1720 **ORDINANCE NO. 1472 DEDICATING IRONHORSE GOLF COURSE PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY (BELL DRIVE) BY DEED OF DEDICATION** - dedication necessary for the construction of a water main to serve the golf course; water district required all water main extensions to be within dedicated rights-of-way. The ordinance was considered and passed on motion of LaHue, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1734 **ORDINANCE NO. 1473 CONVEYING A TRACT OF LAND ADJACENT TO BELL DRIVE TO BELL DEVELOPMENT BY QUIT-CLAIM DEED TO ALLOW FOR CONSTRUCTION AND MAINTENANCE OF AN ENTRANCE MONUMENT COMPLETE WITH RETAINING WALLS, BRONZE**

HORSE SCULPTURE, AND LANDSCAPING: The ordinance was considered and passed on motion of Rasmussen, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1757 **ORDINANCE NO. 1474 ACCEPTING A QUIT-CLAIM DEED FOR A TRACT OF LAND ADJACENT TO IRONHORSE GOLF COURSE NO. 9 FAIRWAY TO INCORPORATE A SECTION OF CART PATH ONTO THE GOLF COURSE PROPERTY**: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1771 **ORDINANCE NO. 1475 CONVEYING 2 TRACTS OF LAND ADJACENT TO IRONHORSE GOLF COURSE NO. 9 FAIRWAY BY QUIT-CLAIM DEEDS TO HENRY AND BETTY COULTER** - an exchange for land deeded to the City by Ordinance No. 1474: The ordinance was considered and passed on motion of Campbell, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1783 **ORDINANCE NO. 1476C AMENDING SECTIONS OF THE CODE OF THE CITY OF LEAWOOD DEALING WITH THE TIME OF SALE OF CEREAL MALT BEVERAGES AND ALCOHOLIC LIQUORS**: The primary reason for the amendments was to be consistent with State law. The legislature had eliminated the restriction on the sale of cereal malt beverages and alcoholic liquor at retail, by package, on election days. The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1798 **APPROVAL OF APPROPRIATION ORDINANCE NO. 754**: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1904 **EXECUTIVE SESSION**: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session at the end of the meeting for a period of 10 minutes to discuss a matter under attorney-client privilege.

1919 **OTHER BUSINESS**: Prior to work on the 1996 budget, Councilmember Rasmussen requested results from an increase in detectives in the Police Department; he wanted to know if there had been any reduction in backlog and any conviction rate improvement, or if the increase in personnel hadn't been productive. He also wanted results from the rental inspection program in the Planning Department which was supposed to have been revenue neutral. Councilmember LaHue asked for a status report on expanded permit requirements for certain items installed in homes such as hot water heaters. Planning Director McKay reminded Council that the revenue neutral aspect of the rental inspection program had been removed in 1994; it was revenue neutral during the first year of operation. On motion of Rasmussen, seconded by Moore, Council voted unanimously that staff provide the requested information on the 3 items.

2036 Planning Director McKay had distributed a memo to Council concerning the hiring of and salary information for a property maintenance administrator. The matter would be discussed at the next Council meeting.

2151 At the last Council meeting, Councilmember Rasmussen expressed concern about the decrease of approximately $2.8 million in improved commercial land market value after reappraisals. Finance Director Malnicof received additional information from the county appraiser - there were 3 assessment rates (30%, 25%, 12%) assigned to land values/uses, and after rating all the commercial land, there was a decrease as compared with last year. There were new assessment rates this year. Last year all commercial land was assessed at 30%.

2251 The April 3rd Council meeting would be held at 5:00 p.m.

The first meeting in July would be held on the regularly scheduled day - Monday, July 3rd - because it was not a holiday for the City. A public hearing on the proposed 1996 budget would be held that night.

2431 Councilmember LaHue suggested the Council might want to let the legislature know how they felt about the (drastic) cutback in the motor vehicle tax; perhaps a phased cutback (the Governor's original proposal) would be preferable. The Mayor felt that it was the intent of the Governing Body to roll back taxes as much as possible, not take advantage of the reappraisals, not to cut back on public safety personnel, and to take into consideration what the legislature was doing. Mr. Malnicof said there was a compromise bill, and it was still a significant decrease in motor vehicle revenue, especially in the first year.

2686 9:00 P.M. Council convened in executive session, same members present, and returned to regular session at 9:10 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 325

50 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 5:05 P.M., Monday, April 3, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and Louis Rasmussen. * John R. Campbell, Jr. arrived at 5:30 P.M. Marnie S. Clawson and Doug Patterson were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; Captain Sid Mitchell, Police Department; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

62 On motion of LaHue, seconded by Dunn, the agenda was approved unanimously after the addition of 1) (under the Consent Agenda) an assignment to the Golf Course Committee to consider a Police Department request to have a D.A.R.E. golf tournament on August 8th at the Ironhorse Golf Club, 2) a discussion of city identification ("welcome to Leawood") signs or markers at I-435 and State Line Rd., and 3) an executive session at the end of the meeting to discuss wastewater effluent reuse on golf courses in the County and Water District No. 1's involvement (attorney-client privilege).

138 **CITIZEN COMMENTS**: None.

144 **PROCLAMATIONS**: The Mayor proclaimed:

1. April 3-9, 1995, as " Volunteer Income Tax Assistance (VITA) Volunteer Week";
2. April 1995 as "Fair Housing Month";
3. April 9-15, 1995, as "National Public Safety Telecommunications Week". The proclamation was presented to Police Captain Sid Mitchell for display in the Police Department.

160 **CONSENT AGENDA**: A request by the Kansas City Rotary Club for a special solicitation permit, Change Order No. 2 to the contract for Mission Rd. improvements (I-435/College), ADA improvements to the Police Station and Courthouse, purchase of a 1995 Ford truck, and purchase of surveying equipment, were removed for further discussion. The following were approved unanimously on motion of Dunn, seconded by Moore:

1. Minutes of the March 20, 1995, Council meeting;
2. Low bid from Cardinal Lawn Service in the amount of $30,666.67 for 1995 mowing and maintenance of traffic medians and rights-of-way;
3. Bid (only bid) from Atcheson Lawn and Landscape for 1995 property maintenance mowing and brush removal;
4. **Resolution No. 1233**, attached as part of the record, approving the final plat of Stone Ledge at approximately 154th & Nall Ave.;
5. Assignment to the Golf Course Committee to consider a Police Department request to have a D.A.R.E. golf tournament on August 8th at the Ironhorse Golf Club.

Request by the Downtown (Kansas City) Rotary Club for a special solicitation permit to sell special editions of the Kansas City Star on street corners for Greater Kansas City Day, Friday, April 7, 6:00-9:00 a.m.; proceeds to go to the Rotary Foundation in support of Rotary youth camp: Councilmember LaHue expressed his annual concern for the safety of people soliciting funds in the streets. On motion of Rasmussen, seconded by Moore, Council approved the solicitation permit; LaHue opposed, all others in favor.

Change Order No. 2 to the contract with Industrial Excavating & Equipment Co. for Mission Rd. improvements, I-435 to College Blvd., in the amount of $64,690.90; for the construction of a temporary roadway on Mission to connect the north end of the bridge over Indian Creek to I-435 necessary for the completion of the access road between Mission and Leawood Park: In response to questions from Councilmember LaHue, Public Works Director Brandt explained that KDOT had not included the temporary roadway in their construction plans for the access road and I-435 improvements, as the City had expected. However, the City was going to have to pay for the temporary roadway anyway. On motion of LaHue, seconded by Moore, Council approved the change order; Rasmussen opposed, all others in favor.

Proposal from general contractor Allison & Alexander, Inc., in the amount of $15,538, for ADA improvements to the Police Station at 9617 Lee Blvd. and the Courthouse at 9615 Lee Blvd.: Councilmember Dunn asked about the statement made in the proposal that the contractor would assume no responsibility for the work to comply with ADA requirements because the scope of work had not been prepared by a licensed architect. ADA Coordinator Julie Hakan explained that the City had made the determination as to what needed to be done in order to comply with ADA; there was no architect involved. The contractor made the statement to protect his own liability. On motion of Dunn, seconded by Moore, Council unanimously approved the proposal.

Purchase (from a cooperative bid) of a 1995 Ford F Super Duty truck in the amount of $12,414.00 from the low bidder Olathe Ford for the Public Works Department; and purchase of a total station surveying instrument with necessary attachments (a Sokkia Set 4B11) from Accutech Instruments, Inc., of North Kansas City (the lowest quote) in the amount of $13,156.95: Public Works Director Brandt said both item costs were within budgeted amounts. Councilmember Moore suggested that in the future, Mr. Brandt indicate on staff reports requesting purchase approval that items were within budgeted amounts. On motion of Moore, seconded by LaHue, Council unanimously approved both items.

424 **MAYOR'S REPORT**: The Mayor reported that Leawood resident Harolyn Clark O'Brien (wife of County Treasurer William E. O'Brien) had been selected to receive a 1995 Governor's Arts Award on March 29th. She was one of six selected by a panel assembled by the Kansas Arts Commission. Mrs. O'Brien was a founder of the Arts and Humanities Association of Johnson County, and an art teacher at Brookwood Elementary School.

450 **PUBLIC WORKS RECOMMENDATION ON TRAFFIC PROBLEM AT MISSION TRAIL ELEMEN-**

TARY SCHOOL, 132ND AND MISSION RD.: The matter had been referred to the Public Works Committee for review at the February 6, 1995, Council meeting. The Committee recommended sending a letter to the school requesting that the school construct a third exit drive near its south property line. In the interim, the City would pay for the installation of a "No Stopping, No Standing" sign on Mission Rd. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the recommendation.

480 **PUBLIC WORKS RECOMMENDATION ON DRAINAGE PROBLEM AT 9814 LEE BOULEVARD (BERGIN PROPERTY)**: Dr. James Bergin had requested that the City construct a gabion basket wall along the south bank of the James Branch Creek. Council referred the matter to the Public Works Committee at the August 1, 1994 Council meeting. The Committee approved a staff recommendation which included gabion lining of the drainage ditch at an estimated cost of $94,649.83 plus design costs.

Councilmember LaHue moved to approve the recommendation, seconded by Dunn. The Mayor asked for clarification of the recommendation. Public Works Director Brandt recommended the City budget for the improvements in 1996; no funds were available in the 1995 budget. He said that the entire James Branch channel from 103rd to 97th Place was referred to SMAC for possible funding in 1991 and again in 1995, but was not added to the SMAC list of improvements for funding, which was difficult to understand because of all the drainage problems.

* 5:30 P.M. Councilmember Campbell arrived.

The Mayor expressed concern about improving the James Branch channel piecemeal (doing the Bergin property) and perhaps creating problems elsewhere along the channel. Mrs. Dunn said that even though the channel was a private creek, it did drain public streets, and staff had advised the Public Works Committee that improvements would not create problems downstream. Therefore, the Committee had recommended the expenditure for improvements.

Dr. LaHue clarified his motion - to submit the entire creek channel to SMAC to get it on the list for funding, and once on the list, bond the project (the Bergin property), and request reimbursement from SMAC when the project became eligible for (SMAC) funding.

Mr. Brandt said he would talk to the County about breaking up the entire channel into smaller portions for funding in order to consider the Bergin property alone which could possibly be approved for funding. He also said he would check into interim improvements for the property in case the project was not approved by SMAC.

Dr. LaHue's motion (as clarified) carried; Rasmussen opposed, all others in favor.

1293 **PUBLIC WORKS RECOMMENDATION ON CLEANUP/MAINTENANCE OF ROYSE LAKE, ROYSE SUBDIVISION**: Council had referred the matter to the Public Works Committee at the January 16, 1995 Council meeting. Public Works staff recommended welding steel rods across the opening of 67 street inlets to restrict debris from entering the storm sewer system that emptied into the lake, at an estimated cost of $1,820.39. The Public Works Committee did not approve the recommendation (3-2 against).

Councilmember Dunn moved to approve the recommendation, seconded by Campbell. Public Works Director Brandt expected residents to pick up debris collected at the inlets so water flow would not be restricted. Otherwise, the City could have 67 additional problems to deal with. The City would not take responsibility for maintaining the lake itself.

Since the lake was a catch basin for 67 storm sewers from 4 subdivisions, Councilmember Rasmussen asked if the other 3 subdivisions had been notified that they would be expected to maintain the debris at the inlets. Mr. Brandt said they had not been contacted. Mr. Rasmussen felt they should be notified that if the debris was not removed, flooding could occur. Royse Homes Association would advise its residents that they had a responsibility for maintenance of the inlets. The Mayor requested that the Public Works Department advise the other homes associations of their maintenance responsibilities. Mr. Brandt said that if drainage problems did occur, it was understood that the steel bars would have to be removed.

Mrs. Dunn's motion carried; Giblin opposed, all others in favor.

1787 **APPEAL OF AN APPLICATION BY MCCORKENDALE CONSTRUCTION COMPANY TO BLAST IN WORTHINGTON, 2ND PLAT, 143RD & ROE AVE.**: Blasting was necessary to construct sewer lines and possibly some basements. Dressler Consulting Engineers, Inc., had provided all items required by City ordinance and had completed the pre-blast survey on all structures within the survey area. A written appeal was received from Geraldine Smarr of 4319 W. 143rd St. Her home had been surveyed on the exterior only because her renters had not allowed the surveyors to enter the home. Mrs. Smarr was out of town, but would return April 7th. Public Works recommended that the application for a blasting permit be approved by the Council.

Councilmember Rasmussen moved to approve the application for a blasting permit, seconded by LaHue. If the contractor started blasting after April 7th, that would give the surveyors time to survey the interior of the home. If the contractor started sooner, the engineers would ask him to start at the north end of the project to allow time to do the interior survey. Mr. Rasmussen's motion carried unanimously.

2027 **ORDINANCE NO. 1477C ADOPTING THE 1994 EDITIONS OF THE UNIFORM BUILDING CODE, VOLUMES 1, 2, AND 3**: Staff proposed that there be no increase in permit fees. Councilmember Rasmussen said that fees had not been reviewed in 2 years, and felt that any increase in fees should reflect an increase in labor costs over the last 2 years - perhaps a 6 or 7% defensible, reasonable increase. He moved that the overall fee schedule (base amounts and square foot costs) be calculated to increase by 6%, seconded by Campbell.

Councilmember Giblin said the City was trying to encourage businesses to come to Leawood, and raising fees was not going to attract them. Leawood's fees were already the highest in the County. City Administrator Garofano said Leawood's fees had not had a detrimental effect on building activity. Councilmember LaHue said staff had worked hard to promote economic development this year; a fee increase this year didn't seem appropriate.

The motion and second on fees were withdrawn.

Councilmember Giblin moved to pass the ordinance, seconded by

Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen. Nays---None.

2652 **ORDINANCE NO. 1478C ADOPTING THE 1994 EDITION OF THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS**: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen. Nays---None.

2664 **ORDINANCE NO. 1479C ADOPTING THE 1994 EDITION OF THE UNIFORM MECHANICAL CODE**: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen. Nays---None.

2682 **ORDINANCE NO. 1480C ADOPTING THE 1995 EDITION OF THE INTERNATIONAL PLUMBING CODE**: Letters had been received requesting that the Council not adopt the International Plumbing Code, a consolidation of the Southern Building Code, the ICBO, and the BOCA, and hopefully a simpler code. Leawood had allowed the use of plastic pipe for water supply and distribution systems for several years with no problems, and staff did not propose to disallow the use as the plumber's union had requested. The union wanted the City to allow copper piping only. A majority of homeowners could not install copper piping as they could plastic, and copper was more expensive. Councilmember LaHue moved to pass the ordinance, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen. Nays---None.

2876 **ORDINANCE TO ADOPT THE 1993 EDITION OF THE NATIONAL ELECTRICAL CODE**: Councilmember Moore moved to pass the ordinance, seconded by Dunn. The ordinance would allow the use of aluminum wire, not previously allowed. Leawood was the only city in the area that did not allow aluminum. Councilmember Rasmussen said he would vote against the ordinance because of bi-metallic corrosion and fires when aluminum wiring was used - a basic safety issue. Motion and second were withdrawn. No action was taken. The current 1993 edition which disallowed the use of aluminum wire in residential construction (but allowed in commercial) would remain in force.

3173 **AUTHORIZE PROPOSAL FOR CONSTRUCTION INSPECTION SERVICES FOR LEE BOULEVARD STORM DRAINAGE IMPROVEMENTS BETWEEN 97TH STREET AND 98TH STREET**: On motion of Rasmussen, seconded by Campbell, Council unanimously approved a proposal from Larkin Associates in an amount not to exceed $9,000.

3204 ***ORDINANCE NO. 1481 ACCEPTING A DEED FROM GRAHAM G. AND CORNELIUS J. GIBLIN FOR RIGHT-OF-WAY REQUIRED FOR 143RD STREET IMPROVEMENTS BETWEEN KENNETH RD. AND WINDSOR***: Councilmember Giblin left his Council seat to avoid a conflict of interest. Councilmember Rasmussen moved to pass the ordinance, seconded by Campbell. Public Works Director Brandt negotiated a price of $8,500 for the land. Councilmember LaHue felt an independent appraisal should be done, even though it would be added expense, to protect the City and Councilmember Giblin. Councilmember Campbell felt that the City had enough outside basis for the $8,500 ne-

gotiated price. On roll call to pass the ordinance, the vote was: Yeas---Campbell, Moore, Dunn, Rasmussen, Mayor Rinehart. Nays---None. Abstension---LaHue.

3360 **APPROVAL OF APPROPRIATION ORDINANCE NO. 755**: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen. Nays---None.

3423 **OTHER BUSINESS**: Councilmember LaHue moved to have staff study the issue of placing landscaped and lighted City of Leawood marker monuments or signs at the entrance to and exit from I-435 at State Line Rd., seconded by Dunn. Motion carried; Rasmussen opposed (a simple sign saying "Welcome to Leawood" would be adequate), all others in favor.

3579 **EXECUTIVE SESSION**: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session for a period of 10 minutes to discuss a matter under attorney-client privilege.

3600 7:00 P.M. Council convened in executive session, and returned to regular session at 7:10 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 326

40 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, April 17, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * Marnie S. Clawson arrived 7:35 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Campbell, after the addition of discussions of the 119th St. and the State Line road construction projects.

77 ***CITIZEN COMMENTS***: Donald Brod, 11316 El Monte, wanted to know why residents with alarm systems had to pay a $16.00 registration fee per year when there was already a fee of $25.00 for false/nuisance alarms. Why another tax? He did not object to the $25, but did object to the registration fee. Staff to respond.

* 7:35 P.M. Councilmember Clawson arrived.

129 **PROCLAMATIONS**: The Mayor proclaimed:
1. May 4, 1995, as "National Day of Prayer";
2. May 1, 1995, as "Law Day U.S.A."

140 **CONSENT AGENDA**: The following were approved unanimously on motion of LaHue, seconded by Campbell:
1. Minutes of the April 3, 1995 Council meeting;
2. Departmental reports;
3. Purchase of a 1995 International truck cab and chassis for the Public Works Department through a cooperative bid in the amount of $34,064.00 from the low bidder K.C.R. International Trucks of Kansas City, Missouri.

149 **RESOLUTION NO. 1234 APPROVING THE PRELIMINARY SITE PLAN FOR ON THE BORDER RESTAURANT, LOT 4, TOWN CENTER PLAZA**:

450 Councilmember Rasmussen said he would be against continuous outside music because of 2 long-term care facilities in the area. Planning Director McKay said that the outparcel development restrictions restricted the music. Canned music and speakers would not be allowed outside at the pad sites. There might be some outside music on special occasions at the main center. Mr. McKay said he would have to review the restrictions on live music at the pad sites.

Councilmember LaHue felt there should be more definition on the rear (north) elevation of the building; it would make the building more

appealing.

Mr. McKay said the Plan Commission had addressed the noise issue, and he thought they had decided there would be no outside music at the pad sites. However, the zoning ordinance did give him authority to approve permits for promotional events/fairs. If that was acceptable to the Council in this situation, it could be addressed by the Plan Commission at final plan review.

Dr. LaHue moved to adopt the resolution with an additional stipulation of approval #12 that the north wall be revised to mirror the east wall with columns, diamonds and striping, and that outside music be limited to special events in accordance with the zoning ordinance. Motion seconded by Patterson and carried unanimously. Resolution attached as part of the record.

1226 **RESOLUTION NO. 1235 APPROVING THE PRELIMINARY SITE PLAN FOR GRADY'S RESTAURANT, LOT 2, TOWN CENTER PLAZA**: Councilmember Dunn thought more definition on the rear elevation would improve the building's appearance.

Councilmember Clawson moved to adopt the resolution, seconded by Giblin. Dr. LaHue felt the rear elevation could be softened by appropriate landscaping. Motion carried unanimously. Resolution attached as part of the record.

1488 **MAYOR'S REPORT**: The Johnson County Council of Mayors had discussed the 21st Century Parkway, its concept, at their last meeting. The Mayors approved (in the form of a resolution) of putting the Parkway on the MARC plan. It didn't mean they approved of building the Parkway or of setting aside any funds. They thought it should be on the plan so if it was deemed important by the County Commissioners, then at least money would be available and the option would be open for growth in Johnson County. The Mayor asked if Councilmembers wanted to take a position on the Parkway to let Leawood's County Commissioner know their feelings. (See Other Business, meter #1821)

1545 **ACCEPTANCE OF BID FOR 1994 SANITARY SEWER (LEAWOOD SEWER SYSTEM) REHABILITATION PROJECT**: On motion of LaHue, seconded by Moore, Council unanimously accepted the low bid of $358,871.75 from Miles Excavating of Basehor, Kansas.

1624 **RESOLUTION NO. 1236 AMENDING CONDITIONS FOR THE CREATION OF AN IMPROVEMENT DISTRICT FOR TOWN CENTER PLAZA**: Adopted unanimously on motion of Rasmussen, seconded by Dunn. Attached as part of the record.

1682 **APPROVAL OF APPROPRIATION ORDINANCE NO. 756**: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

1821 **OTHER BUSINESS**: Councilmember Dunn said it seemed that improvements to State Line Rd. near K-150 in the area of the Royse subdivision were slowing down. Public Works Director Brandt would check on the status of the project.

Mrs. Dunn said that residents were extremely upset about the 119th

St. construction between Mission Rd. and Roe Ave. Residents felt there was a need for a temporary 4-way stop at 127th & Roe. Staff advised there was one. She also said it was very difficult to make a left turn at Town Center Dr. & Roe to go south on Roe, and asked if anything could be done to alleviate the problem. A traffic signal had been designed and ready for bid letting, but staff was waiting for Town Center Plaza participation in the cost by benefit district. Public Works recently asked the Police Department to stand by during the 4:30-6:00 rush hour traffic to assist drivers.

(See Mayor's report, meter #1488) Councilmembers wanted more information on the 21st Century Parkway concept. The Mayor would ask Leawood's County Commissioner for further information.

2194 Mayor Rinehart thanked retiring Ward 1 Councilmember Douglas Moore for his 12 years of service to the City, and read a statement of his many contributions and accomplishments. A plaque would be presented to him at a later date. Mr. Moore made parting comments.

2392 **OATHS OF OFFICE ADMINISTERED TO MAYOR-ELECT AND COUNCILMEMBERS-ELECT**: Mayor Marcia Rinehart; Gregory J. Peppes, Ward 1; Marnie S. Clawson, Ward 2; Peggy J. Dunn, Ward 3; Doug Patterson, Ward 4.

2587 **ROLL CALL OF NEW COUNCIL**: LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson.

2595 **RESOLUTION NO. 1237 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT** - to provide sanitary sewer service for an area known as Blue River No. 7 roughly between 135th and 143rd, and between Kenneth Rd. and Mission Rd. Adopted on motion of Rasmussen, seconded by Clawson; all in favor except Patterson who abstained to avoid a conflict of interest.

2631 **REQUEST BY PULTE HOMES CORPORATION OF KANSAS CITY, INC., FOR A SPECIAL USE PERMIT FOR A TEMPORARY SALES INFORMATION TRAILER AT 145TH AND HOWE IN THE STEEPLECHASE SUBDIVISION (SOUTHEAST CORNER OF 143RD AND MISSION RD.)**: On motion of Rasmussen, seconded by Campbell, Council unanimously approved a 2-year permit starting on the date of issuance of a building permit.

2682 **ORDINANCE NO. 1482 ESTABLISHING A POLICY TO PROVIDE ASSISTANCE TO OTHER JURISDICTIONS DURING DISASTERS**: The ordinance was considered and passed on motion of Rasmussen, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

2709 **OTHER BUSINESS**: Councilmember LaHue said that the Johnson County Stormwater Management Advisory Board had met about a week ago and discussed changing the funding mechanism for projects approved by SMAC, a proposal that Leawood had submitted to SMAC some time ago. The proposal was submitted to Black & Veatch Engineers. They came up with 5 alternatives for funding. The Mayor and City Administrator were in the process of reviewing the alternatives. Cities needed to respond to SMAC by approximately May 16th.

2823 **EXECUTIVE SESSION**: On motion of Dunn, seconded by Giblin, Council voted unanimously to convene in executive session for a period of 15 minutes to discuss land acquisition.

2854 9:05 P.M. Council convened in executive session, same members present, and returned to regular session at 9:20 P.M., same members present.

2855 **ORDINANCE NO. 1483 APPROVING THE ACQUISITION OF LAND IN THE VICINITY OF 143RD STREET AND OVERBROOK FOR A FUTURE PUBLIC WORKS FACILITY, AND APPROVING A REAL ESTATE CONTRACT**: Councilmember LaHue moved to defer consideration to the May 1st Council meeting to allow Council to receive more comprehensive land cost assessments in the site area for comparison purposes, seconded by Dunn. Motion failed; LaHue, Dunn in favor; all others opposed. Councilmember Clawson moved to pass the ordinance, seconded by Campbell. On roll call, the vote was: Yeas---Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---LaHue (City needed some comparison figures.)

3232 9:35 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 327

767 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, May 1, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

777 The agenda was approved unanimously on motion of Rasmussen, seconded by Dunn, after the addition of a discussion of a delay in the opening of the Ironhorse Golf Club and costs associated with the delay.

800 **PRESENTATION ON PROPOSED BLUE VALLEY FAMILY RECREATION CENTER**: Kevin Connealy, a Leawood resident and member of the Blue Valley Recreation Commission, gave the presentation. The Blue Valley Recreation Commission had joined with the City of Overland Park to develop the recreation center which could open as early as May 1997. Overland Park provided the land at 151st Street and England for the proposed 55-65,000 square foot center. In addition to providing the land, Overland Park had been asked to issue bonds for the projected $6.5 million project to secure a lower interest rate. The Recreation Commission would design, construct and operate the center if voters approved a 1-mill tax levy increase. A mail-in ballot would be sent to all Blue Valley registered voters approximately May 18th with a vote deadline of June 6th. The 1 mill would be for construction and retirement of the bonds over a 20-year period. The operation of the facility would be funded by user fees and current operating expenses. The Recreation Commission would have a long-term lease agreement with Overland Park since Overland Park owned the land; details for a period after 20 years had not been worked out.

Councilmember Campbell was concerned about ownership of the facility after 20 years if Overland Park owned the land; they might not extend the lease and thereby own the facility. Mr. Connealy said the Blue Valley Recreation Commission intended to continue to operate the facility after it was paid for. Mr. Campbell was concerned that Leawood residents who had contributed to the center might not have legal rights to the facility at the end of 20 years. Mr. Connealy said the center had to be approved by voters, the Blue Valley School Board, and the City of Overland Park, and then the arrangements for the use of the property would be worked out. Mr. Campbell felt voters were being asked to approve of and invest for 20 years in the center without knowing the details to be worked out.

1055 **CITIZEN COMMENTS**: None.

1060 **PROCLAMATIONS**: The Mayor proclaimed:

1. May 1-7, 1995 as "Student Achievement Week";
2. May 14-20, 1995 as "Police Week" and May 15, 1995 as "Peace Officers Memorial Day"; the Mayor presented the proclamation to Police Chief Cox;
3. May 7-13, 1995 as "Municipal Clerks Week"; the Mayor presented the proclamation to City Clerk Martha Heizer.

1118 **ORDINANCE NO. 1484C AMENDING SECTIONS OF THE CODE OF THE CITY OF LEAWOOD RELATING TO MEMBERSHIP, TERMS, AND QUALIFICATIONS OF THE LEAWOOD ARTS COMMITTEE** - only number of members changed - from 5 to 7: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1190 **CONSENT AGENDA**: The following were approved unanimously on motion of Rasmussen, seconded by Dunn:

1. Minutes of the April 17, 1995 Council meeting;
2. Public Works Committee report (minutes) of their March 30, 1995 meeting;
3. Appointment of presiding officers: Ron LaHue, May-July, 1995; Lou Rasmussen, Aug.-Oct., 1995; John Campbell, Nov.,1995-Jan., 1996; Graham Giblin, Feb.-Apr., 1996;
4. Appointments to committee and commissions, attached as part of the record;
5. Purchase of a 3-way dump body for the Public Works Department from the only bidder Scherer Truck Equipment, Inc., of Riverside, Missouri, in the amount of $11,879.00;
6. Purchase of a ten-yard dump body (with options) for the Public Works Department from the low bidder Scherer Truck Equipment, Inc., of Riverside, Missouri, in the amount of $14,054.00;
7. Declaration of surplus property - mobile and portable radios no longer used by the Police Department.

1199 **MAYOR'S REPORT**: Councilmember Clawson commended Economic Development Coordinator Deidre Markley on the bimonthly economic development report she had published. The last page of the report congratulated the Kansas City area on reaching its 5-year goal of 60,000 new jobs almost 2 years ahead of schedule which was very impressive because of the competition between cities for new jobs.

1243 **ORDINANCE NO. 1485C RELATING TO PROVISIONS FOR ADDITIONAL FINES AND PENALTIES FOR TRAFFIC VIOLATIONS OCCURRING IN ROAD CONSTRUCTION ZONES**: Councilmember LaHue moved to pass the ordinance, seconded by Campbell. Councilmember Rasmussen said that providing additional fines for traffic violations in road construction zones undercut in some peoples' minds the whole approach toward traffic control; it diminished the overall importance of other traffic laws, and could make it appear that existing laws were not being enforced.

Chief Cox felt the ordinance recognized the unusual hazards in construction areas, and additional penalties increased awareness and served as a deterrent to speeding or otherwise violating traffic laws in construction areas.

April 28, 1995

TO: City Council

FROM: Mayor Rinehart

RE: Appointments to committees and commissions

I hereby submit the following names for appointments or reappointments to Leawood's 1995-'96 committees or commissions. Please call me (649-2188) if you have any questions.

	Reappointment	**New**
Alcohol Planning Council-Leawood rep. (Info. only, previously approved)	Jackie Harkness (12/31/97)	
Arts Committee	Ann Leitner (1998) Marnie Clawson - Council liaison (1996)	Mary Reed (1998) Doug Alpert (1998)

Note: At the request of the Arts Committee and of the Council liaison (Marnie Clawson), the committee size will be increased to seven. This change must be done by ordinance before approval of this committee's membership can take place.

Board of Zoning Appeals	Phil Mabry (1998)	
Budget & Finance (1996)	Josh Garry Dale Putman Patricia Raysik	Thomas Martin David Imhoff

NOTE: This committee will consist of the entire Governing Body as a committee of the whole plus the names listed above. The Mayor will chair the committee.

	Reappointment	**New**
Building Code Board of Appeals - Wes Welch, Chr.	Charles Duval (1998) Wayne Lischka (1998)	
Debt Management Advisory Council (Jo. Co.) - Leawood rep.		Doug Patterson (1996)
Emergency Preparedness Coordinator	Bettie Bridges	
Golf Course Advisory Board	Dick Fuller, Chr. (1998) John Campbell (1996) Jim Dickson (1998) Charles Lewis III (1996) Mike O'Connell (1997) Lou Rasmussen (1996) Bob Reid (1997)	

Note: 3-year staggered terms for non-council members. Council appointees are annual.

Golf Course Review Committee	Jim Dickson (1998)	
Historic Commission - Jody Craig, Chr.	*Jon Meulengracht (1998)* Elaine Steinke (1998) Graham Giblin - Council liaison (1996)	
In-House Attorney Ad Hoc Committee (Info. only, previously approved)	John Campbell, Chr. Lou Rasmussen Robert Canfield Jim Schwartze Lynn Cockle	

	Reappointment	New
Kansas City Area Development Council-Leawood rep.	Marnie Clawson (1996)	
Leawood Foundation	Peggy Dunn-Council liaison Marcia Rinehart-Ex Officio	
Parks & Recreation Advisory Board	Lenette Crawford (1999)	Mark Clark (1997)-to complete Peppes term Greg Peppes-Council liaison
Plan Commission	Don Brain (1998)	R. Melvin Henderson (1998) James E. Taylor, Sr. (1998) See attachments
Property Maintenance Code Appeals Board (Alarm Appeal Committee)	Paul Converse (1997) Shirley Davidson (1997) Richard Webber (1997)	

A reminder: this board will cease to exist once the Council officially deletes language in the ordinance (per work session on code enforcement). There will still be need for an alarm appeals board or committee. The name change and function will be amended upon Council action.

	Reappointment	New
Public Building Commission	John Elliott (1999) Doug Patterson (1999)	Ron LaHue (1996) to complete Moore's term
Public Officer for Property Maintenance Code	Bob McKay	
Public Works (1996)	Peggy Dunn, Chr. Paul Bennett Phillip Collingwood Graham Giblin Laurence Hanna	Adam Bold Tracy Neil Smith Marnie Clawson Greg Peppes
Sister City Committee	Teresa Chien Nancy Garland Tom Hammonds Ann Leitner Alice Putman Dick Reicher Jill Domoney Cecilia Thompson Barbara Gadd-Alley Peggy Dunn, Council liaison	Sophie Lin Sharon Morash
Stormwater Management Advisory Council - Leawood rep.	Ron LaHue (12/31/97)	
Stormwater Ad Hoc Committee		Doug Patterson, Chr. John Campbell Lou Rasmussen Ron LaHue

Note: As you recall, at goal setting the Council decided to "revisit" stormwater issues. I recommend that 4 Councilmembers (one per ward) serve on this committee. Citizen members will be appointed Aug. or Sept., with (a) committee recommendations going to Council by February 1996, and (b) parameters of study being determined by Council but can be adjusted by the committee.

Lou Accurso, a resident of Leawood and attorney representing Public Works employee Matt Accurso who was struck by a vehicle in a Leawood road construction zone, said it was important to make a statement by the passage of the ordinance, to alert the public to the extra dangers of a construction zone, to protect workers, to get drivers' attention with stiff fines. The City shouldn't have to bear the burden of paying the additional expenses of hospitalization and costs of workers' compensation claims; it should be placed on negligent drivers who should have been paying attention and who should have the responsibility.

Councilmember LaHue wondered if the additional fines might tend to increase the work load of the courts and add to the City's legal expenses because violators might be more inclined to fight or appeal the higher penalties.

On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1748 **AUTHORIZE LEASE PURCHASE FOR ADDITIONAL GOLF COURSE MAINTENANCE EQUIPMENT AND A STREET SWEEPER**: Lease with First National Bank of Kansas for 5 years, 6.65% interest rate; golf course equipment, $212,902.80; street sweeper, $80,000. On motion of LaHue, seconded by Rasmussen, Council unanimously authorized execution of the lease.

1813 **AUTHORIZE SUPPLEMENTAL AGREEMENT NO. 1 WITH GEORGE BUTLER ASSOCIATES FOR CONSTRUCTION INSPECTION SERVICES FOR THE SANITARY SEWER REHABILITATION**: Councilmember LaHue moved to approve the agreement, seconded by Campbell. Councilmember Rasmussen didn't feel it was prudent to have the design engineer (George Butler Associates) do the inspections. Public Works Director Brandt stated his justification for selecting the same firm for construction inspection services - there were 33 property owners involved and Butler Associates had become quite well acquainted with all of their expectations.

Councilmember Campbell felt it hard to believe that the costs of design ($61,454) and construction inspection ($61,805; 17.5% of the project cost) would end up being about one-third of the total cost of the project. The cost of Butler's services was too high. Mr. Brandt explained there was a lot of review time as far as video tapes and putting the contract together, a lot of survey work involved, many sites to visit and put into the plans, and repeat visits with residents, unlike a normal street project. Mr. Campbell asked if there were alternatives such as a different engineering firm that could save the City $20-30,000. Mr. Brandt didn't know whether money could be saved due to the complexity of the project.

Mr. Brandt said his staff could do the inspections under normal circumstances, but was presently inundated with other projects. Mr. Brandt recommended Butler Associates due to his staff's current work load, time associated with obtaining another consultant to do the work, and the large amount of time required to meet with property owners.

2370 Councilmember Dunn asked if the Council might approve the $61,805 (not to exceed) with the hopes that Mr. Brandt's proposal for revamping the Public Works Department, which he had been working on for some time and which might include additional staff, could be considered by the

Council before the project was complete so some of the work could be done in-house. Mrs. Dunn moved to amend the motion to approve the agreement to add that if City staff was available, staff would be allowed to do the inspection services, and the per-hour basis of work with Butler Associates would cease. City Attorney Wetzler said Mr. Brandt would need a new agreement for as needed inspection services up to $61,805, and Council could consider it at the next Council meeting.

Councilmember LaHue felt there could be finger pointing between Butler Associates and City staff if problems arose as City staff did some of the inspections, and could leave the City open to litigation. Any further delay in the project would indicate to residents a lack of good faith on the part of the City. Butler Associates had established good rapport with the residents.

Mrs. Dunn said she anticipated that Butler Associates would oversee the entire project with assistance from in-house inspectors. Mrs. Dunn decided that she preferred to see a new agreement in 2 weeks if that did not delay the project.

Dr. LaHue's motion to approve the supplemental agreement failed; LaHue in favor, all others opposed. The matter would be considered again at the next Council meeting.

2590 City Administrator Garofano said that adding additional staff didn't happen overnight. And Public Works staff was already working on a lot of projects. He said that the City had to be realistic, looking at the size of the department, about doing all projects in-house. He didn't see that the City had a choice but to use a consultant. He said Council would see more staff requests for consultant services.

The Mayor said that the Council needed to decide if it was appropriate to have the same engineering firm do both design and construction inspections.

Mr. Brandt said he expected to return a modification of Supplemental Agreement No. 1 to the Council. Dr. LaHue asked Mr. Brandt if he would try to negotiate a lesser fee (perhaps 10%) rather than a 17.5% fee.

2804 **WORK SESSION**: On motion of Rasmussen, seconded by Clawson, Council voted unanimously to hold a work session after the Council meeting for approximately 30 minutes to discuss the completed schematic design and cost estimate for finishing the lower level of the City Hall for use as a community center and temporary housing of the municipal court operations.

2817 **APPROVAL OF APPROPRIATION ORDINANCE NO. 757**: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

2878 **OTHER BUSINESS**: Black & Veatch engineering firm had submitted a report to the Johnson County Stormwater Management Advisory Council (SMAC) on options to fund stormwater projects. Staff would support option "B-1" (or "B-2"), essentially the same option the City had proposed to SMAC some time ago. It was a "level payment plan" under which the City could pay the County $300,000 per year for ten years to accomplish $12 million of stormwater improvements. It insulated the City against the

problem of funding its share of a large project in any given year. Staff also favored option "D-1" (or "D-2") which acknowledged that communities on the downstream end of watersheds must construct more expensive systems in order to accommodate the volume of stormwater originating from upstream communities. This would benefit Leawood since the City was at the very downstream end of various county watersheds - the last "stop" before the Dykes and James Branches and Tomahawk and Indian Creeks flowed into Missouri.

Councilmember Rasmussen said he would endorse "D-1" ("D-2") - it was a positive approach. He had concerns about "B-1" ("B-2") - not all of the approximately $12 million in projects on the SMAC list merited the improvements from a public safety point of view. The Mayor noted that there were some projects that merited improvements but were not on the SMAC list of projects. As for projects on private property, Mr. Rasmussen was concerned about property damage from stormwater, but just because those projects were on the SMAC list didn't necessarily mean the residents wanted the improvements, and the Council should listen to them. The Mayor said that as far as "B-1"("B-2") was concerned, there might be some projects that the Council would have to talk about before agreeing to do the projects; they would not give blanket approval to all the projects on the SMAC list. Mr. Rasmussen said he would be in favor of committing money for a project over a period of time, but not $300,000 a year for ten years to accomplish $12 million worth of improvements; he would like the right to schedule payments with the County for large projects.

Councilmember LaHue would attend a SMAC meeting on May 5th at the Merriam Community Center, 7:30 a.m., and indicate support for "B-1" or "D-1". He said that "B-1" was probably more feasible.

3375 City Administrator Garofano said the County had asked for an "Intent to Proceed" on 2 stormwater projects - 84th & State Line Rd. channel widening and modifications, and the stabilization of Indian Creek in the vicinity of the public works facility at 103rd & State Line area. Public Works Director Brandt recommended that an intent be signed only for the stabilization project (to be done in 1996) at this time. Mr. Garofano said that staff had discussed suggesting to the County that the County fund the stabilization at 90% rather than 75%. An "Intent to Proceed" would be considered at the May 15th Council meeting. Mr. Brandt wanted to hold off on the project at 84th & State Line because the area was on the upstream end of Dykes Branch. Improving that area could cause property damage downstream.

3704 Councilmember LaHue said he had been told that due to a delay of 1 month in the opening of the Ironhorse Golf Club, there would be a shortfall in funding of $150,000. He wanted to know the reasons for the delay. Parks & Recreation Director Whitaker said the contractor had hit trench rock in several locations. The contractor was completing seeding he hadn't completed last fall. Councilmember Campbell said the contractor was overdue on the contract; results of discussions with the contractor about resolving that issue might partially offset some shortfall. Revenues, extra events, and hole sponsorships might help offset it also. The golf course dedication would be June 30th, media day on June 28th, official grand opening on July 1st.

3920 9:10 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 328

30 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, May 15, 1995. Councilmember Ronald LaHue presided in the absence of Mayor Marcia Rinehart.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. * Doug Patterson arrived at 7:35 P.M. Marnie S. Clawson was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

47 The agenda was approved unanimously on motion of Rasmussen, seconded by Campbell, after the addition, under the Consent Agenda, of an assignment to the Public Works Committee to investigate a drainage problem in the Cloisters subdivision.

72 **CITIZEN COMMENTS**: A petition signed by 422 homeowners in Leawood South, Leawood South Townhouse, Cambridge Townhouse, and Cambridge Lane subdivisions, had been filed with the City Clerk, requesting the resurfacing of Overbrook Road in 1995 rather than in 1996 from 123rd Street to 128th Street and State Line Road. Staff advised that funding for 1995 projects of this nature had already been committed to other rehabilitation projects. De Wycoff, 12408 Overbrook, said residents felt that the poor condition of the entire length of Overbrook warranted immediate consideration.

* 7:35 P.M. Councilmember Patterson arrived.

On motion of Giblin, seconded by Dunn, Council voted unanimously to refer the matter to the Public Works Committee.

294 **PROCLAMATIONS**: The Mayor had proclaimed:
1. May 21-27, 1995 as "National Public Works Week"; Councilmember LaHue presented the proclamation to Public Works Director Brandt;
2. May 17, 1995 as "Way To Go Day";
3. May 22-29, 1995 as "Buckle Up America! Week"; Dr. LaHue presented the proclamation to Police Chief Cox.

380 **CONSENT AGENDA**: Change Order No. 1 to the contract for the construction of the Ironhorse Golf Club maintenance facility, and Change Order No. 1 to the contract for the construction of the Ironhorse Golf Club clubhouse, were removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Campbell:
1. Minutes of the May 1, 1995 Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their May 9, 1995 meeting;
3. Departmental reports;

4. Application for cereal malt beverage license (renewal) - Hallbrook Country Club, 11300 Overbrook;

5. Acceptance of federal community policing 3-year grant for 1 police officer;

6. Assignment to the Public Works Committee to investigate a drainage problem in the Cloisters subdivision.

Change Order No. 1 to the contract with Eshenroder Construction, Inc., for the construction of the Ironhorse Golf Club maintenance facility and rest stations - increased the contract amount by $30,340.00 for several items.

Change Order No. 1 to the contract with Eshenroder Construction, Inc., for the construction of the Ironhorse Golf Club clubhouse - increased the contract amount by $43,987.00 for several items: Parks & Recreation Director Whitaker said that staff realized from the beginning that water lines would be installed at the 2 golf course rest stations, and explained why the installation was part of the change order for the maintenance facility and rest stations - since Eshenroder had given the City the best bid, it was easier to make the installation part of a change order to their existing contract rather than having a separate contract. Councilmember Giblin felt that the fee for installation of kitchen equipment on the change order for the clubhouse was too high. Mr. Whitaker said that staff felt it was cheaper for the contractor to do the delivery to the site and installation, instead of having the company that furnished the equipment deliver and install the equipment.

On motion of Giblin, seconded by Campbell, Council unanimously approved both change orders.

472 **DISCUSSION OF SAFETY CONCERNS AT BROOKWOOD ELEMENTARY SCHOOL, 103RD & WENONGA**: The Public Works Committee recommended the installation of approximately 1,063 feet of a 3-Strand Cable Barrier along 103rd St. near the school, estimated cost of $24,500.00. It would not require the removal and replacement of sidewalks or utilities. Alternatives of relocating sidewalks or constructing a concrete barrier along 103rd St. were too expensive. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the recommendation.

688 **RESOLUTION NO. 1238 AUTHORIZING CERTAIN IMPROVEMENTS AND CONSTRUCTION RELATING TO THE DEVELOPMENT OF LEAWOOD TOWN CENTER PLAZA (SHOPPING CENTER) ALONG 119TH STREET, ROE AVE. TO NALL AVE., AND TO PETITION FOR CREATION OF AN IMPROVEMENT DISTRICT**: Councilmember Rasmussen moved to adopt the resolution, seconded by Dunn. City Attorney Wetzler said there might be a need in the future for a traffic signal in the area of the City Hall on Town Center Drive. Attorney Larry Winn III, representing the developers, stated that the developers were willing to furnish a letter to the City indicating their willingness to participate in the funding of the signal if it should be warranted in the future. Mr. Winn said that since the exact location of such a signal was unknown and a percentage of cost sharing could not be calculated, it was not included in the benefit district petition. The resolution was adopted unanimously. Attached as part of the record.

1131 **(In conjunction with the benefit district for various improvements relating to the development of Town Center Plaza) LETTER AGREEMENT WITH SHAFER, KLINE & WARREN ENGINEERS (engineers hired by property owner Marned Corp.) FOR THE DESIGN OF TOWN CENTER DRIVE AND 4 TRAFFIC SIGNALS**: Councilmember Patterson moved to approve the Letter Agreement in the amount of $81,000 (negotiated by Marned Corp. and to be paid for by the benefit district), seconded by Dunn and carried unanimously.

1232 **DISCUSSION OF "INTENTS TO PROCEED" FOR STORMWATER MANAGEMENT PROJECTS**: The County wanted to know if the City was interested in proceeding with 2 new stormwater projects added to the SMAC program to be considered for funding in 1996 - 84th St. & State Line Rd. (a flooding and public safety issue), estimated cost $557,650, Leawood's share $139,412.50; and Indian Creek Bank Stabilization near 104th St. and State Line (a property damage issue), estimated cost $436,440, Leawood's share $109,110. Staff recommended the City proceed with the Indian Creek project; the 84th St. & State Line project ideally shouldn't be constructed until adequate storm sewers were built downstream.

Councilmember LaHue moved to execute an "Intent to Proceed" for the 84th & State Line Rd. project since it ranked higher on the SMAC ratio of values, Leawood residents were more immediately affected by the drainage problems, and there was a public safety concern. Motion seconded by Campbell. Public Works Director Brandt said he could request County funding at 90% rather than 75% for the Indian Creek project since the City contributed only a minor amount of water reaching that point (near 104th St.) of the Creek. He felt the City could obtain the 90% funding, and hoped the Council would indicate commitment to both projects.

Councilmember Rasmussen was concerned that Council had already authorized large expenditures for stormwater projects, and that there would be no money in 1996 for either of the 2 projects.

Mr. Brandt said there might be a good chance that he could also obtain 90% County funding for the 84th St. & State Line Rd. project. If 90% funding could be obtained for both projects, chances of funding both projects in 1996 increased significantly.

Dr. LaHue's motion carried; Rasmussen, Giblin, Patterson opposed; all others (4) in favor. Mr. Brandt would go ahead and submit the Indian Creek project for 90% funding as a backup project.

1737 **AUTHORIZE SUPPLEMENTAL AGREEMENT NO. 1 WITH GEORGE BUTLER ASSOCIATES FOR CONSTRUCTION INSPECTION SERVICES FOR SANITARY SEWER REHABILITATION**: Discussed at the May 1, 1995 Council meeting - hiring the same consultant to perform design and construction inspection, and excessive fee (approximately $61,000, 17.5% of the project cost) for construction inspection. Public Works Director Brandt negotiated the fee down to $45,836 (12.7% of the project cost) by eliminating 1 inspector.

Councilmember Dunn moved to approve the agreement with Butler Associates, seconded by Campbell. Motion carried; Giblin opposed (he still felt uncomfortable with the design engineer inspecting their own work, and wanted to bid the construction services), all others in favor.

1871 **AUTHORIZE PROPOSAL FOR ADDITIONAL ENGINEERING SERVICES FOR K-150 IM-**

PROVEMENTS, STATE LINE ROAD TO NALL AVENUE: Staff recommended that Council approve a proposal from Howard Needles Tammen & Bergendoff (HNTB) (the design engineer for K-150) in the amount of $391,800.00 for additional engineering services, including construction inspection. Councilmember Campbell moved to approve the proposal, seconded by Dunn.

Councilmember Rasmussen said he would vote against the proposal. He was concerned about the perception of a conflict of interest - the design engineers should not perform inspections. He would have preferred that the City hired 1 firm to perform the construction inspections on all projects.

Public Works Director Brandt advised the Council that the City had requested to take KDOT's place as the project administrator, which would eliminate several state rules and regulations that the City had to follow under KDOT's administration. KDOT agreed and staff was waiting to hear from the Missouri Highway Department. The City should save approximately $500,000-750,000 on right-of-way costs, engineering fees, and bidding the project sooner.

Mr. Campbell's motion to approve the proposal carried; Rasmussen opposed, all others in favor.

2250 **AUTHORIZE PROPOSALS FOR APPRAISALS AND REVIEW APPRAISALS FOR LAND ACQUISITION FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, TOMAHAWK CREEK PARKWAY TO EL MONTE**: On motion of Rasmussen, seconded by Campbell, Council unanimously approved a proposal from Metropolitan Appraisal Company in the amount of $10,000 to perform appraisals, and a proposal from Donahoo & Associates in the amount of $6,750.00 to perform review appraisals.

2314 **AUTHORIZE SUPPLEMENTAL AGREEMENT FOR CONSTRUCTION INSPECTION SERVICES FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1**: On motion of Patterson, seconded by Dunn, Council approved the agreement with Johnson Brickell Mulcahy & Associates (JBM) in the amount of $482,778.69; Rasmussen opposed, all others in favor.

2344 **AUTHORIZE CONSTRUCTION CONTRACT FOR IMPROVEMENTS OF 83RD STREET, STATE LINE ROAD TO WENONGA**: The low bidders on 2 alternatives were - PCC pavement (Portland Cement Concrete), Reno Construction, $2,089,921.51; and AC pavement (asphaltic concrete), McAnany Construction, $1,844,924.86. Staff recommended that Council authorize a contract with Reno for the PCC pavement. Councilmember Rasmussen moved to approve staff's recommendation, seconded by Peppes.

Pat McAnany of McAnany Construction presented reasons why his company should be given the contract and discussed life cycle cost analyses. A representative from Black & Veatch (design engineers for the project) told the Council that the City would have a net savings of a little over $4,100 per year over 30 years for the maintenance and difference in the initial cost with Portland Cement Concrete, and described advantages and disadvantages of both pavements. Public Works Director Brandt said the PCC pavement was more durable. Mr. McAnany hoped that the matter would be tabled so he could accumulate additional information for the Council, or that the Council would accept his figures and accept his bid for an asphaltic concrete pavement.

Mr. Rasmussen's motion for the PCC pavement carried; Campbell,

Dunn, Patterson opposed; all others (4) in favor.

3421 **AUTHORIZE CONTRACT FOR CONSTRUCTION INSPECTION SERVICES FOR 83RD STREET IMPROVEMENT PROJECT, STATE LINE ROAD TO WENONGA**: On motion of Dunn, seconded by Campbell, Council approved a contract with Black and Veatch Engineers in the amount of $139,281.00; Rasmussen opposed, all others in favor.

3454 **AUTHORIZE WORK ORDER FOR REMOVAL OF TRAFFIC CONTROL SYSTEM AT 83RD & LEE BOULEVARD**: As part of the 83rd St. improvement project, the traffic signals at the intersection would be rebuilt to new and improved standards and provide for new left turn lanes. The new signals would be City-owned and maintained. The existing signals were leased from Kansas City Power & Light. Staff recommended that Council approve the work order and authorize payment of $9,717.00 to KCPL for the signal removal. Councilmember Patterson moved to approve staff's recommendation, seconded by LaHue.

Councilmember Campbell wanted more information (a breakdown, written criteria based on the life cycle of the signal) on how KCPL arrived at the $9,717.00. Information would probably be found in the lease arrangement. Public Works Director Brandt said he could verify that the City would save money in the long run with a City-owned signal even with the buy out price. Councilmember Giblin moved to amend the motion to state that if the lease arrangement indicated that the $9,717 was correct, staff would be authorized to pay that amount to KCPL. Motion seconded by LaHue and carried; Rasmussen abstained, all others in favor.

Mr. Patterson's main motion as amended carried; Rasmussen abstained, all others in favor.

3714 **AUTHORIZE CONTRACT FOR CONSTRUCTION OF MISSION ROAD/BELL DRIVE STREET LIGHTING**: On motion of Rasmussen, seconded by Dunn, Council unanimously authorized a contract with the low bidder Capital Electric; $60,111 for Mission Road and $55,768 for Bell Drive; total, $115,879.00.

3729 **AUTHORIZE AGREEMENT WITH WATER DISTRICT NO. 1 FOR RELOCATION OF WATER MAINS ON NALL AVENUE, 125TH STREET TO 128TH STREET**: City to pay the Water District approximately $35,180.00. On motion of Rasmussen, seconded by Giblin, Council unanimously authorized execution of the agreement.

3746 **AUTHORIZE CONTRACT FOR UPDATE OF SANITARY SEWER MASTER PLAN**: The City and Johnson County were negotiating the County's takeover of the Leawood Sewer System. The update would provide information on the current condition of the System. On motion of Rasmussen, seconded by Dunn, Council unanimously approved a contract with George Butler & Associates in the amount of $13,154.00.

3784 **ORDINANCE NO. 1486C ADOPTING THE 1994 EDITION OF THE UNIFORM FIRE CODE**: Fire Chief Strack reviewed the few changes in construction blasting. The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue,

Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

3926 **RESOLUTION NO. 1239 RELATING TO FEES FOR PERMITS REQUIRED BY CHAPTER 7, ARTICLE 2 (FIRE PREVENTION), OF THE CODE OF THE CITY OF LEAWOOD, SUCH FEES NOT SPECIFICALLY PROVIDED FOR IN THE CODE**: Adopted unanimously on motion of Dunn, seconded by Rasmussen. Attached as part of the record.

3981 **APPROVAL OF APPROPRIATION ORDINANCE NO. 758**: The ordinance was considered and passed on motion of Rasmussen, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

4064 **EXECUTIVE SESSION**: On motion of Rasmussen, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 20 minutes to discuss 2 matters under attorney-client privilege.

4103 9:45 P.M. Council convened in executive session, same members present. Councilmember Rasmussen left the meeting at 10:00 P.M.

Council returned to regular session at 10:05 P.M., same members present except Mr. Rasmussen. On motion of LaHue, seconded by Dunn, Council voted unanimously to reconvene in executive session for 10 minutes to continue the same discussion.

10:15 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 329

50 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, June 5, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, and Peggy J. Dunn. Louis Rasmussen and Doug Patterson were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

57 The agenda was approved unanimously on motion of Campbell, seconded by Peppes, after the addition of 1) an ordinance amending sections of the Code of the City of Leawood relating to possession and consumption of cereal malt beverages and alcoholic liquor on public property, specifically the Ironhorse Golf Club; 2) an additional item for discussion in executive session under attorney-client privilege; and 3) a discussion of Leawood's soccer program.

90 **RECOGNITION OF FIRE DEPARTMENT CAPTAIN DENNIS THOMASON ON HIS RETIREMENT**: Captain Thomason had worked for the City 27 years - December 1, 1968 to June 11, 1995. He received a retirement plaque from the Mayor and his badges from Fire Chief Strack.

245 **CITIZEN COMMENTS**: Jean Daugherty, 10328 Mohawk Lane, spoke on behalf of 6th graders who wanted to play next year in the City's soccer league as 7th graders. She was aware of the shortage of soccer fields and the City's willingness to expand them in the future, but hoped some creative solutions could be found so the children could play next year. The matter would be discussed at the end of the meeting. (See tape meter #3173.)

Gordon Thomas, 10516 Mohawk Lane, wanted a commitment that revenues from the new Town Center Plaza would be used to reduce debt and taxes, and that no creative financing would be done with those monies. He asked that the Council adopt a resolution regarding the display and desecration of the flag in conjunction with Flag Day (June 14th). He said that members of the Council should be addressed by their elected titles (Councilmember or member), and not by their professional titles.

393 **PROCLAMATIONS**: The Mayor, by proclamation, recognized and commended the Gillis Center and Armour Home of Kansas City, Missouri, for their 125 years of service to children and the elderly in need.

398 ***CONSENT AGENDA***: The following were approved unanimously on motion of Clawson, seconded by Giblin:

1. Minutes of the May 15, 1995 Council meeting;
2. Pay Request No. 1 (FINAL) from K & K Concrete Construction Co. in

the amount of $57,925 for sidewalk accessibility (ADA) improvements.

408 **RESOLUTION NO. 1240 APPROVING A REVISED PRELIMINARY SITE PLAN FOR BRISTOL BAR AND GRILLE AT TOWN CENTER PLAZA**: Adopted unanimously on motion of Giblin, seconded by Dunn. Attached as part of the record.

675 **RESOLUTION RELATING TO A REVISED PRELIMINARY SITE PLAN FOR LEAWOOD ELEMENTARY AND MIDDLE SCHOOLS**: The application would allow the Blue Valley School District to renovate the schools and make additions. Plan Commission stipulation of approval #5 stated that the east drive would have to be installed prior to any occupancy of the new areas and provide parallel parking on both sides allowing access for two-way traffic between parking lanes, and that a drive, 39 feet in width, was agreeable to all parties.

Kevin Merritt with Black & Veatch Architects said the School District did not agree with stipulation #5 which was a revised stipulation. The School District agreed with the original plan which called for overflow parallel parking on one side of the drive (36 feet in width) only. The School District felt that parking on both sides with two-way traffic in a student drop off area would be unsafe. The School District agreed with the original stipulation #5 which stated that all new drives would be installed prior to full occupancy or final occupancy of the new areas. The District did not agree with widening of the new drive and parallel parking on the west side of the drive (revised stipulation #5).

Planning Director McKay explained the Plan Commission's reasons for revising the stipulation - they were concerned about after-school activities; schools were not just schools anymore, but were used almost every night of the week, by churches on weekends, used by soccer and other facilities, making it very difficult to find parking. Councilmember Giblin asked if the Police Chief had reviewed the situation. Mr. McKay said usually there was a Police Department representative at staff reviews, but since it was the Plan Commission that revised the plan at their meeting, staff didn't have an opportunity to review it.

Jim Freed, Director of Construction Management for the Blue Valley School District, said it would be a financial burden to add additional parking spaces, and reiterated the safety concern.

Councilmember Giblin thought the Police Department should look at the situation and advise the City, which brought up the question of enforcement and control of parking on private property.

Planning Director McKay confirmed that staff had recommended that one lane of parallel parking was acceptable.

Police Captain Anderson said that the Police Department could enforce certain traffic laws at the School District's request, but because of past traffic problems at the schools, the Police Department probably wouldn't write tickets for parking violations.

1455 Councilmember Campbell moved to adopt the resolution with the original stipulation #5 - that there be 3 traffic lanes and parallel parking on one side only, and that the drive be constructed prior to the occupancy. Motion seconded by Clawson. Councilmember LaHue said he would vote against the motion because the Plan Commission had voted unanimously in favor of the revised stipulation to adequately provide

for the needs of the community. He did not want to override their decision, but would, however, vote for a remand for further discussion.

Councilmember Campbell agreed with staff who felt the original plan was adequate, and felt the School District had made the point that they had provided well in excess of ordinance requirements for parking, so the City would be hard pressed to place an additional financial burden on the School District for additional parking. He didn't need to hear from Police Chief Cox to know that the revised stipulation could create a safety hazard, and it was up to the School District to enforce traffic regulations on its property, just as owners of other private properties had to do.

Mr. Campbell's motion to adopt the resolution with the original stipulation failed; Campbell, Clawson, Peppes in favor; LaHue, Giblin, Dunn opposed; tie.

1758 Councilmember Giblin moved to remand the matter to the Plan Commission for further deliberation and discussion of stipulation #5, seconded by LaHue. Motion carried unanimously.

1845 **AMENDMENT TO KDOT AGREEMENT WITH THE STATE OF MISSOURI FOR IMPROVEMENTS OF A PORTION OF K-150 WITHIN MISSOURI**: The amendment would allow Leawood to administer the K-150 improvement project, rather than KDOT. On motion of LaHue, seconded by Campbell, Council unanimously approved the amendment (supplemental agreement).

1866 **AUTHORIZE AGREEMENT BETWEEN LEAWOOD, OVERLAND PARK, JOHNSON COUNTY AND KDOT RELATING TO K-150 IMPROVEMENTS**: The agreement would allow Leawood to administer the K-150 improvement project, rather than KDOT. On motion of Giblin, seconded by LaHue, Council unanimously approved the agreement. See attached.

1878 **AUTHORIZE CONTRACT FOR ENGINEERING SERVICES FOR OFF-SITE PUBLIC IMPROVEMENTS RELATING TO THE DEVELOPMENT OF TOWN CENTER PLAZA**: On motion of LaHue, seconded by Dunn, Council unanimously authorized a contract with Phelps Engineering, Inc., in the amount of $103,199.35, for the design and construction staking of the off-site improvements.

1895 **AUTHORIZE CONTRACT FOR TRAFFIC SIGNAL INSTALLATION AT TOWN CENTER DRIVE AND ROE AVENUE**: On motion of Clawson, seconded by LaHue, Council unanimously authorized a contract with the second low bidder Total Electric in the amount of $84,709.

1954 **APPROVE PROPOSAL TO CONDUCT RIGHT-OF-WAY NEGOTIATIONS FOR 83RD STREET IMPROVEMENTS, STATE LINE ROAD TO WENONGA**: On motion of LaHue, seconded by Dunn, Council unanimously approved the proposal from Right of Way Associates in an amount not to exceed $18,000 to obtain 30 remaining parcels.

1964 **AUTHORIZE CONTRACT FOR 1995 CURB REHABILITATION PROJECT**: On motion of Dunn, seconded by Clawson, Council unanimously authorized a contract with the low bidder Vision Construction in the amount of $79,439.71.

2053 **AUTHORIZE CONTRACT FOR CONSTRUCTION OF STORMWATER IMPROVEMENTS IN THE VICINITY OF 8435 CHEROKEE LANE**: On motion of LaHue, seconded by Dunn,

Council unanimously authorized a contract with the low bidder Pyramid Construction Company in the amount of $126,482.75.

2120 **AUTHORIZE CONTRACT FOR THE INSTALLATION OF A WATER LINE INTO THE IRONHORSE GOLF CLUB AND INSTALLATION OF PARKING LOT LIGHTING AT THE CLUBHOUSE**: On motion of LaHue, seconded by Peppes, Council unanimously authorized a contract with Eshenroder Construction Co. in the amount of $66,667.71.

2200 **ORDINANCE NO. 1487 ACCEPTING A RIGHT-OF-WAY GRANT FROM THOMAS S. MORGAN FOR THE CONSTRUCTION OF 115TH STREET BETWEEN ROE AVENUE AND TOMAHAWK CREEK PARKWAY** (street construction a condition of the Lakes of Leawood apartment complex development): The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1488 AUTHORIZING THE IMPROVEMENT OF COLLEGE BOULEVARD FROM STATE LINE ROAD TO THE EAST BANK OF TOMAHAWK CREEK (PHASE I): The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

2445 **ORDINANCE NO. 1489 AUTHORIZING THE ISSUANCE OF TEMPORARY NOTES; SERIES 108-95-12; COLLEGE BOULEVARD, PHASE I; $2,300,000**: The ordinance was considered and passed on motion of Giblin, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1490 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 115-95-13; MISSION ROAD, COLLEGE BOULEVARD - I-435; $400,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1491 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 124-95-14; 135TH STREET [K-150], STATE LINE-NALL AVENUE; $500,000: The ordinance was considered and passed on motion of Giblin, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1492 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 126-95-15; MISSION ROAD, 95TH STREET-103RD STREET; $200,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1493 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 128-95-16; OLD KENNETH ROAD; $300,000: The ordinance was considered and passed on motion of Giblin, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1494 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES

131-95-17; NALL AVENUE, 119TH-135TH STREET; $200,000: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1495 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 134-95-18; STATE LINE ROAD, PHASE II; $1,000,000: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1496 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 136-95-19; STATE LINE ROAD, PHASE III; $700,000: The ordinance was considered and passed on motion of Dunn, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1497 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 138-95-20; MISSION ROAD, 151ST - 155TH STREET; $1,700,000: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1498 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 140-95-21; 83RD STREET; $300,000: The ordinance was considered and passed on motion of LuHue, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1499 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 142-95-22; BELL DRIVE & IRONHORSE DRIVE; $500,000: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1500 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 144-95-23; MISSION ROAD, 103RD - I-435; $200,000: The ordinance was coonsidered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1501 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 146-95-24; TOWN CENTER PLAZA; $900,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1502 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 149-95-25; PUBLIC WORKS LAND; $300,000: The ordinance was considered and passed on motion of Giblin, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

ORDINANCE NO. 1503 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 150-95-26; STORMWATER; $300,000: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

2820 **ORDINANCE NO. 1504C ADOPTING THE 1994 JOHNSON COUNTY ENVIRONMENTAL SANITARY CODE** - for the City, the application of the Code was in the area of private sewage disposal systems and public and semi-public swimming pools, and the County would provide administration and enforcement: The ordinance was considered and passed on motion of LaHue, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

2871 **ORDINANCE NO. 1505C AMENDING SECTIONS OF THE CODE OF THE CITY OF LEAWOOD RELATING TO CONSUMPTION AND POSSESSION OF CEREAL MALT BEVERAGES AND ALCOHOLIC LIQUOR ON STREETS OR IN PUBLIC PLACES**: To allow the sale and consumption on the premises of both at the Ironhorse Golf Club (public property). The Council could, if they so desired in the future, amend the ordinance again to allow for sale and consumption at other public places - City Hall, for example. The ordinance was considered and passed on motion of Campbell, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

3088 **APPROVAL OF APPROPRIATION ORDINANCE NO. 759**: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn. Nays---None.

3155 **EXECUTIVE SESSION**: On motion of Campbell, seconded by Dunn, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss 2 matters under attorney-client privilege.

3173 **DISCUSSION OF THE CITY'S SOCCER PROGRAM**: Councilmember Clawson said that 7th grade girls were allowed to play, so 7th grade boys should be able to play as well to be in compliance with various regulations. She hoped the City could find a way to help children (7th and 8th graders) continue on with soccer. Mrs. Clawson moved to refer the matter to the Parks & Recreation Advisory Board for further study, seconded by Dunn. Motion carried unanimously.

3268 **DISCUSSION OF POOL RENOVATION AT LEAWOOD PARK**: The total estimated cost was $837,000 in 1994. The current total estimated cost was $1,172,000. The improvements would be financed 100% by the City at large; any debt incurred in the construction of the project would add to bonded debt which in turn would require a mill levy to retire the debt. City Administrator Garofano said there would be a significant increase in the mill levy rate for 1996 for bonded projects.

Parks & Recreation Director Whitaker introduced Ford Bohl of Bohl & Associates, the project designer selected by the Parks & Recreation Advisory Board. Construction costs of many projects had increased

about 20%. Mr. Bohl had pointed out many new concerns about the pool. Something had to be done to renovate the 20-year old facility. Councilmember Clawson was concerned about the total dollars already committed to other projects (one being the lower level of City Hall), and asked if Mr. Whitaker had a contingent plan for delaying the project 1 year. Mr. Whitaker said that specific items needed immediate attention. The Parks & Recreation Board had discussed a phased construction, but recommended doing the entire project in 1995; phasing would be too disruptive. Mrs. Clawson felt that a scheduled phasing was the only way the City could take action on the pool in the near future. Councilmember LaHue suggested doing the improvements which kept the pool functional, and phasing the amenities, in order to do the entire project.

Councilmember Dunn wanted to know the impact on the mill levy if the whole project was done, and also wanted to see a phased proposal.

4924 The design could show phasing, and would still hold for 1996; Mr. Bohl would not charge a fee for showing phasing. Council would consider a design contract at the next meeting with alternates included, with the knowledge that the project might not be bid in 1995.

COUNTY STORMWATER MANAGEMENT ADVISORY COUNCIL: Councilmember LaHue, the new chairman of the Advisory Council, said the Advisory Council had met to consider Black & Veatch's proposal for funding changes. The majority of cities did not want any changes in the current broad base funding mechanism.

5193 10:10 P.M. Council convened in executive session, same members present.

Council returned to regular session at 10:40 P.M., same members present. On motion of Clawson, seconded by Campbell, Council voted unanimously to reconvene in executive session for 10 minutes to continue the same discussion.

10:50 P.M. Council returned to regular session, same members present.

5208 **DISCUSSION OF STORM DAMAGE AT THE IRONHORSE GOLF CLUB**: Councilmember Campbell moved to authorize the expenditure of no more than $30,000 from the general fund contingency, if needed, to repair the storm damage inflicted on the golf course over the past several weeks, seconded by Peppes. Motion carried unanimously.

5261 10:55 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 330

43 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, June 19, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

52 The agenda was approved unanimously on motion of Clawson, seconded by Peppes, after the removal of a resolution relating to a preliminary plat for Hills of Ironhorse at 153rd and Mission, and the addition of 1) a discussion of drainage problems in Wilshire subdivision at 132nd and Roe Ave.; 2) a discussion of a sanitary sewer problem in the 8300 block of Cherokee Lane; and 3) a discussion of fill on land in Overland Park near Tomahawk Creek.

100 <u>CITIZEN COMMENTS</u>: Gordon Thomas, 10516 Mohawk Lane, said that some of the money expected from various sources for improvements to State Line Rd. and the College Blvd. bridge might not be available. The Council should seriously consider projects that could be cut down, set aside, or cut out, one of them being the renovation of the pool at Leawood Park, and not do creative financing to come up with the funds.

200 <u>CONSENT AGENDA</u>: The following were approved unanimously on motion of Dunn, seconded by Clawson:

1. Minutes of the June 5, 1995 Council meeting;
2. Public Works Committee report (minutes) of their May 4, 1995 meeting;
3. Departmental reports;
4. Application for cereal malt beverage license (new) - Evergreen Alliance Beverages of Kansas, Inc. (Ironhorse Golf Club);
5. Appointment of Dr. Robert Takacs, 8700 Lee Blvd., to the Parks & Recreation Advisory Board to fill the unexpired term of Jan Pickler to April 30, 1997.

215 <u>REQUEST BY J.L. ALBERTSON COMPANY FOR A SPECIAL USE PERMIT FOR THE INSTALLATION OF A TEMPORARY OFF-SITE SIGN TO BE LOCATED AT THE SOUTHEAST CORNER OF K-150 AND KENNETH ROAD (LEAWOOD FALLS SUBDIVISION)</u>: The permit would be limited to 2 years from the date of Council approval, and would be located outside the right-of-way and construction easements for both K-150 and Kenneth Road. On motion of LaHue, seconded by Giblin, Council unanimously approved the permit.

226 <u>REQUEST BY FRANK ODDO FOR A SPECIAL USE PERMIT FOR THE INSTALLATION OF A TEMPORARY OFF-SITE SIGN TO BE LOCATED AT THE SOUTHEAST CORNER OF</u>

K-150 AND MISSION ROAD (LEAWOOD NURSERY): The permit, to direct business to a tree nursery on Mission Road, south of K-150, would be limited to 4 months from the date of release of the permit, and would be located outside the right-of-way and construction easements for both K-150 and Mission Road. Councilmember Giblin moved to approve the permit, seconded by Campbell. City ordinance didn't address aesthetics. Since the Leawood Nursery sign was not attractive, the time period had been limited to 4 months instead of 2 years. A new sign ordinance to be prepared soon would contain language to regulate how signs looked, so there would be some professional look. Motion to approve carried; Clawson, Patterson opposed, all others in favor. Mr. Patterson said he didn't want the sign to return; Mrs. Clawson felt an eyesore shouldn't be allowed to remain.

387 **RESOLUTION NO. 1241 APPROVING A REVISED PRELIMINARY SITE PLAN FOR LEAWOOD ELEMENTARY AND MIDDLE SCHOOLS ON 123RD STREET**: The plan had been remanded to the Plan Commission at the June 5, 1995 Council meeting. A special Plan Commission meeting was held June 13, 1995, to consider the remand. They were advised that the Police Department had reviewed the plan and concurred with staff and the school district that pedestrian safety would be compromised by allowing parallel parking on both sides of the proposed easterly drive. However, the Plan Commission voted 7 to 1 to return their recommendation without change to the City Council. Staff believed it would be in the best interest of the City to approve the school district's original plan/application which called for parallel parking on the east side only of the drive (3 lanes).

Councilmember Campbell moved to adopt the resolution with the parallel parking plan as submitted by the school district (parallel parking on the east side only of the drive). An override of the Plan Commission. Motion seconded by Peppes and carried; LaHue opposed, all others in favor. Attached as part of the record.

732 **AUTHORIZE CONTRACT FOR DESIGN SERVICES FOR SWIMMING POOL REHABILITATION/REMODELING AT LEAWOOD PARK, 10601 LEE BOULEVARD**: Continued from the June 5, 1995 Council meeting. City Administrator Garofano said that (if Council approved the total package - rehabilitation and new construction - to be done in 1996 before the May pool opening) the design fee of not to exceed $67,200 plus 6.5% of any additional work, would be paid from 1995 available funds in the special parks and recreation fund. The rehabilitation and new construction would be financed with bonds in 1996 as part of the capital improvements program.

Councilmember LaHue moved to authorize a design contract with Bohl & Associates for a total package, single project (rehabilitation and new construction for amenities) subject to the City Attorney's final revisions, seconded by Campbell.

Councilmember Giblin was not in favor of spending a large amount of money on a facility that was used only 3 months of the year. He didn't think the pool would be used very often by residents south of I-435 because of the many private pools, and said that access to Leawood Park from the north would be cut off. He thought the City should investigate selling the pool complex to a private enterprise be-

fore spending money on the pool. Parks & Recreation Director Whitaker felt that the amenities would draw residents from the south part of the City; he said that access from the north (Lee Boulevard bridge over I-435) would be cut off just for a very short time - the new bridge would be constructed in 3 to 6 months - and there would also be access from Mission Rd. for south residents. Mr. Whitaker felt it was important for the City to retain control of the pool complex, and that the pool was an important amenity that the City provided for its residents. Mrs. Clawson said that years ago residents fought hard to have the pool complex. She added that there were more families with young children now, and many of them did not have private pools or belong to country clubs.

Mr. Giblin moved to amend Mr. Campbell's motion - that a design contract would be considered after exploring the possibility of selling the pool to a private enterprise. Motion seconded by Patterson. Councilmember Peppes said rehabilitation of the 20-year old complex needed to be done for safety reasons, and the City's image was at stake. Mr. Giblin said the pool should be run like a business. Mr. Whitaker felt he did run pool programs like a business - user fees charged paid for the various programs. He could do a better job of running the pool like a business when the pool was improved and creating a positive cash flow.

Ford Bohl of the design firm of Bohl & Associates gave a presentation, focusing on amenities which would return operating costs without the debt service.

Motion to amend failed; Giblin in favor, all others opposed.

Dr. LaHue's motion to authorize the design contract carried; Giblin opposed, all others in favor.

2037 **AUTHORIZE REQUEST FOR STUDY OF SIDEWALK CONSTRUCTION ON LEE BOULEVARD SOUTH OF 103RD STREET** - to determine how much pedestrian traffic used Lee Boulevard to enter Leawood Park, and to forecast how many people there would be if a sidewalk was constructed: KDOT had a program to assist small cities with traffic-related studies at no cost. Councilmember LaHue moved to authorize Public Works' request, seconded by Dunn. Councilmember Clawson felt the study should not be done until the Lee Boulevard bridge, Mission Rd. from 103rd to the I-435 bridge, and the new access road from Mission Rd. to Leawood Park were completed, so there would be a true picture of the traffic flow. Public Works Director Brandt said he hoped to have the study done before the Lee Boulevard bridge was removed shortly after July 4th. Mrs. Clawson was unaware that the study could be completed so quickly.

Many residents along Lee Boulevard were opposed to sidewalks, and had asked for a study. If a study indicated that a sidewalk was warranted, they would prefer a "ribbon" sidewalk abutting the curb. They were not anxious to have a sidewalk down the middle of their front yards.

Motion to authorize a study carried unanimously.

2334 **RESOLUTION NO. 1242 AUTHORIZING KDOT TO AWARD CONSTRUCTION CONTRACT AND COMMITTING CITY FUNDS FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1, STATE LINE ROAD TO TOMAHAWK CREEK** - low bidder Clarkson Construction Company in the amount of $3,960,013.10; City to pay $1,539,213:

Adopted unanimously on motion of LaHue, seconded by Clawson. Attached as part of the record.

2538 **AUTHORIZE AGREEMENT FOR NONFEDERAL AID/CONSTRUCTION ENGINEERING FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1, STATE LINE ROAD TO TOMAHAWK CREEK**: The agreement had been prepared by KDOT. Since the project was only partially funded with federal-aid funds, there were significant nonparticipating costs. The consulting service for construction engineering (inspection) was a nonparticipating cost. The agreement between KDOT, the consultant (JBM Engineers and Planners), and the City, detailed the services required for a federal-aid project. On motion of Patterson, seconded by Dunn, Council unanimously approved the agreement.

2553 **AUTHORIZE RIGHT-OF-WAY CLEARANCE/UTILITY ARRANGEMENTS AGREEMENT FOR KDOT FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1, STATE LINE ROAD TO TOMAHAWK CREEK**: The agreement was certification that the City had purchased the necessary right-of-way and easements in accordance with the Real Property Acquisition Procedures for College Boulevard. On motion of LaHue, seconded by Clawson, Council unanimously authorized the Mayor to sign the agreement.

2679 **RESOLUTION NO. 1243 AUTHORIZING EXECUTION OF AGREEMENT NO. 32-95 WITH KDOT FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, EL MONTE TO EAST SIDE OF TOMAHAWK CREEK BRIDGE** - responsibilities for grading and surfacing: Adopted unanimously on motion of LaHue, seconded by Patterson. Attached as part of the record.

2772 **AUTHORIZE PAYMENT FOR K-150 PROPERTY CONDEMNATION AWARDS**: The condemnation jury had made a determination as to the value of property and easements for the construction of K-150 improvements. The awards presented to the Johnson County District Court totaled $888,500. City Attorney Wetzler explained the condemnation process, including appeals of payments awarded. He said an application pending for a rehearing of an appeal related to the K-150 litigation had been denied by the Kansas Supreme Court, which meant that the K-150 impact fee was in place, and the validity of the impact fee ordinance was not subject to appeal. He said the Council needed to decide if the amounts of the awards were reasonable for what the City had acquired, and if not reasonable, the City Attorney would probably recommend an appeal. And the property owners also had rights to appeal. Councilmember Giblin moved to authorize payment of the awards, seconded by Campbell. Motion carried; Patterson abstained to avoid the appearance of a conflict of interest, all others in favor.

3092 **APPROVAL OF APPROPRIATION ORDINANCE NO. 760**: The ordinance was considered and passed on motion of Giblin, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

3106 **DISCUSSION OF DRAINAGE PROBLEMS IN WILSHIRE SUBDIVISION (132ND AND ROE AVENUE)**: The Mayor had received a letter from Ronald Browne, 13217 El Monte, about the drainage problems. Councilmember LaHue had asked that

the matter be referred to the Public Works Committee. The Mayor said that she had talked to Mr. Browne who wanted some time to write to the developer. Staff would investigate and the Mayor would talk to Mr. Browne again.

DISCUSSION OF SANITARY SEWER PROBLEM IN 8300 BLOCK OF CHEROKEE LANE: Councilmember LaHue said that a sanitary sewer which ran pretty much parallel to a creek was exposed and draining into the creek, and had been in poor condition for several years. He wanted the matter directed to the Public Works Department to be sure it was repaired immediately. Public Works Director Brandt said the sewer was part of the 1995 Sanitary Sewer Rehabilitation Project which had begun. Mr. Brandt would inform the Council by memo in the next Council packet about where the exposed sewer was on the project schedule.

3279 **DISCUSSION OF FILL ON LAND IN OVERLAND PARK NEAR TOMAHAWK CREEK:** Residents in Berkshire had reported to Councilmember Giblin that someone was filling in land across the street from Hawthorne in Overland Park where the Shriners had placed their Christmas tree lot in a park area. There was a rumor that apartments would be built on the filled land. Mr. Giblin said it could affect Tomahawk Creek. Residents wanted to know what was going on. City Administrator Garofano said that if anything was going to happen to the creek, Overland Park, the Corps of Engineers, and FEMA would have to be involved. He would try to find out some information, but the Council would have to acknowledge that the area was not in Leawood, no jurisdiction. Overland Park had jurisdiction and the responsibility to ensure that all federal and local regulations were complied with. He would respond to the Council by memo.

3357 Planning Director McKay had sent a letter to the developer of the Pavilions of Leawood about the developer's intent to clean up siltation damage on the Ironhorse golf course. The siltation had been traced to the subdivision development. Mr. McKay said he had met with the developer and they had resolved the matter.

Councilmember LaHue wanted the Council to know about and to consider reimbursing 7 property owners in the Cloisters (or the Cloisters Homes Association) along 83rd Street for the costs of extending their sprinkler systems in conjunction with the 83rd Street improvement project. Their lot lines would be extended to the north because of the closure of the third lane on 83rd Street.

Councilmember Dunn asked about the status of a traffic signal at 128th and State Line Road. Public Works Director Brandt said that a warrant study would be done after State Line Road improvements were completed. If warranted, he expected a traffic signal possibly in 1997 or 1998.

3688 9:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 331

45 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, July 3, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * Ronald LaHue arrived 7:40 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Rebecca Hessel Garten, City Planner, Planning and Development; Jerry L. Strack, Fire Chief; Alan Marstall, Recreation Supervisor; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

53 On motion of Campbell, seconded by Dunn, the agenda was approved unanimously after the addition of a first reading of a natural gas franchise ordinance, and a discussion of 1996 budget procedure.

80 <u>CITIZEN COMMENTS</u>: Don Dubowski, 8515 Cherokee Place, presented a petition from residents of the Cherokee Place cul-de-sac off of 86th Street in Leawood Lanes subdivision, requesting that a total curb, driveway fillet, and street rehabilitation be scheduled for the cul-de-sac. They did not want piecemeal replacements of curbing and driveway fillets which would result in a patchwork appearance on the cul-de-sac. They also requested that no work be done until a decision had been reached and communicated to all of the residents of the cul-de-sac. (See tape meter #1094.)

* 7:40 P.M. Councilmember LaHue arrived.

331 <u>CONSENT AGENDA</u>: The following were approved unanimously on motion of Dunn, seconded by Clawson:

1. Minutes of the June 19, 1995, Council meeting;
2. Public Works Committee report (minutes) of their June 8, 1995, meeting;
3. Acceptance of $1,600 donation to the Police Department D.A.R.E. program from the Leawood Woman's Club;
4. Pay Request No. 1 (FINAL) from Tri-State Equipment Company in the amount of $28,179.80 for a standby generator replacement at the Police Department, 9617 Lee Blvd.

338 <u>RESOLUTION NO. 1244 APPROVING THE PRELIMINARY AND FINAL PLATS OF LEAWOOD ELEMENTARY AND MIDDLE SCHOOLS AT 2400 AND 2410 W. 123RD STREET</u>: Adopted unanimously on motion of Campbell, seconded by Patterson. Attached as part of the record.

352 <u>RESOLUTION NO. 1245 APPROVING THE PRELIMINARY AND FINAL PLATS OF THE GREENBRIER OF LEAWOOD, SECOND PLAT, LOCATED AT APPROXIMATELY 131ST TERRACE AND PEMBROKE</u>: Adopted unanimously on motion of Campbell, seconded by Giblin. Attached as part of the record.

425 **MAYOR'S REPORT**: The Mayor commended Parks & Recreation Director Whitaker and his staff and other City staff involved in the dedication of the Ironhorse Golf Club on June 30th, and in the project in general.

547 **AUTHORIZE CONTRACT FOR CONSTRUCTION OF MISSION ROAD IMPROVEMENTS, 143RD STREET TO 151ST STREET**: On motion of Campbell, seconded by Dunn, Council unanimously authorized the Mayor to sign a contract with the low bidder Leavenworth Excavating and Equipment Co., Inc. (LEXECO), in the amount of $547,447.90.

698 **AUTHORIZE AUTOMATIC AID AGREEMENT WITH CONSOLIDATED FIRE DISTRICT NO. 2 OF JOHNSON COUNTY** - to provide dual response to structure fires in the southeast part of District #2, and north of I-435 in Leawood; all of Leawood would be covered by a dual dispatch automatic aid agreement on all structural fires: On motion of Rasmussen, seconded by LaHue, Council unanimously approved the agreement.

713 **APPROVAL OF APPROPRIATION ORDINANCE NO. 761**: The ordinance was considered and passed on motion of Rasmussen, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

750 **ORDINANCE GRANTING A NATURAL GAS FRANCHISE TO WESTERN RESOURCES, INC., FIRST READING**: Councilmember Rasmussen was opposed in section 2 of the ordinance to the exclusion from the franchise fee of 5% of gross receipts of consumers purchasing gas at the Company's large industrial or large commercial rates. He also objected in section 6 to a third party (the Kansas Corporation Commission) having the ability to take action with respect to the ordinance which might preclude Western Resources from recovering from its customers any cost provided for in the ordinance, and causing renegotiation of the ordinance. On motion of Campbell, seconded by Clawson, Council voted unanimously to place the ordinance on first reading.

999 **OTHER BUSINESS**: Councilmember Rasmussen had requested a discussion of 1996 budget procedure. He was concerned about how 2 items would be addressed during preparation of the budget: 1) appropriations for contributions to charitable organizations - he felt that taxing the citizens of Leawood to make charitable contributions was not right; no matter how worthy the charities, the City was making forced contributions from taxes; and 2) allocation of the alcohol tax in the form of contributions to alcohol-free prom nights at high schools, limited to public high schools. He had no objection to the use of the funds, but felt that the distributions should be made for the protection of Leawood children regardless of where they attended school. The Mayor said the items should be discussed at the budget meetings.

1094 Councilmember Dunn moved that the request made at the beginning of the meeting for street improvements to Cherokee Place cul-de-sac in Leawood Lanes subdivision be referred to the Public Works Committee for review, seconded by Peppes. Councilmember Rasmussen said it was a struggle to get $50,000 a year for curb replacement. He hoped the Committee would recognize the fact that they might set a precedent by

improving an entire section (the entire cul-de-sac). Motion carried unanimously.

1143 Councilmember Clawson mentioned a letter from Robert Karnes, 10400 Cherokee Lane, about a drainage problem in the street in front of his house. She felt it should be referred to the Public Works Committee for review. Councilmember Rasmussen thought that that location had been considered, and it was just a matter of the Public Works Department talking to Mr. Karnes. He said that that location had had problems for years, and the engineering design was done several years ago. Mrs. Clawson wanted to address the matter at the next Council meeting.

1177 Councilmember LaHue reiterated a request from property owners along 83rd Street in the Cloisters subdivision that the City extend their sprinkler systems to irrigate the new ground that would be added to their lots as a result of the improvement of 83rd Street. The cost of the extensions would be $4,850, which appeared to be reasonable. Dr. LaHue moved to expend $4,850 to extend (to add to) the irrigation systems, seconded by Patterson. Public Works Director Brandt said that acquisition of easements could be settled once the City agreed to extend the irrigation systems. Dr. LaHue's motion carried unanimously.

1292 8:20 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 332

61 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, July 17, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * Graham G. Giblin, Sr., arrived 7:35 P.M. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Jerry L. Strack, Fire Chief; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

71 On motion of Campbell, seconded by Peppes, the agenda was approved unanimously.

92 **PRESENTATION OF HIGHWAY SAFETY AWARD TO THE LEAWOOD POLICE DEPARTMENT**: The Police Department had been selected to receive an award for "Most Innovative Program or Commmunity Activity" category in the statewide "Arrive Alive: Safe & Sober Campaign" sponsored each year by the Kansas Safety Belt Education Office and Kansas Department of Transportation to raise awareness and increase safety belt and child safety seat usage in municipalities. Terri Whiteside, Project Manager, Kansas Safety Belt Education Office, presented a trophy to Police Chief Cox and Corporal Tom Hogard. Chief Cox and Corporal Hogard described the winning safety belt program conducted with the assistance of McDonald's Restaurant.

* 7:35 P.M. Councilmember Giblin arrived.

255 **RESOLUTION OF RECOGNITION IN HONOR OF POLICE SERGEANT PAT MCCARTHY FOR HIS SERVICE TO THE CITY**: Mayor Rinehart presented a resolution from the Governing Body to Sergeant McCarthy for 20 years of service in the Police Department - July 15, 1975 to July 15, 1995. He also received a plaque from Police Chief Cox. Resolution attached as part of the record.

398 **CITIZEN COMMENTS**: Councilmember Rasmussen described an article in the June 1995 issue of "Plumbing Engineer" magazine which had mentioned the Council's discussion (at the April 3rd Council meeting) about adoption of the (new) 1995 International Plumbing Code, and lobbying attempts by groups to stave off a vote. Mr. Rasmussen said that the Council's long discussion did, indeed, have significance for residents in terms of their health and safety.

David Crabtree, 2809 W. 131st St. in Greenbrier subdivision, was concerned about a recent street slurry seal on several streets in the area. He questioned the methodology used to select the roads to receive the treatment. He wondered if its effectiveness was worth the expense. The new road surfaces were very rough with a lot of loose gravel. He had understood from a City letter he had received that the seal would get rid of a gravel problem which, he said, residents did not have, but which they did have after the seal; the seal was not

setting up right due to the heat. He felt there had either been a misapplication of the slurry process or particular streets did not warrant a slurry but some other type of improvement. Councilmember Campbell, a resident of Greenbrier, said he had received several complaints, and he thought that at some point in time, the Public Works Department should investigate whether or not slurry seal was a worthwhile process. Councilmember Rasmussen suggested that the comments be directed to the Public Works Department to find out if there was a poor application or poor product. The matter would be discussed at the end of the meeting (see tape meter #470, tape #333).

737 **CONSENT AGENDA**: A pay request for the 1995 slurry seal program, and the Public Works Committee minutes, were removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Dunn:

1. Minutes of the July 3, 1995, Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their July 11, 1995, meeting;
3. Departmental reports;
4. **Resolution No. 1246**, attached as part of the record, providing for the inclusion of eligible City employees under KPERS Optional Group Insurance Program, effective January 1, 1996;
5. Change Order No. 1 to the contract for the construction of Mission Road, 143rd to 151st, in the amount of $33,238.00, for construction of a sidewalk from 143rd St. to 148th St., extension of a reinforced concrete pipe culvert, construction of culverts under the sidewalk for street drainage, asphalt sidewalk, and seeding.

Pay Request No. 1 (FINAL) from Musselman & Hall Contractors in the amount of $40,230.68 for the 1995 Slurry Seal Program: Councilmember Rasmussen moved that the Public Works Committee look into the allegations made under citizen comments about the slurry seal in Greenbrier before finalizing payment for the program, seconded by Campbell. Public Works Director Brandt said that slurry seal was one of the best seal coating processes for temporary covering of an asphalt street. Unfortunately, temperatures had been extreme following completion of the slurry seal program. He felt Public Works should wait for cooler weather and a better cure to sweep up rocks and materials. The road surface was no more irregular, rough, than other slurry seals. He felt the contractor had done an excellent job and the City should make final payment. He felt that the quality of the materials used was proper. The motion and second were withdrawn.

Councilmember LaHue moved to make the final payment, and refer the slurry seal process, in particular the Greenbrier complaints, to the Public Works Committee for review with concerned citizens. Motion seconded by Dunn and carried; Giblin opposed, all others in favor.

Public Works Committee report (minutes) of their July 7, 1995, meeting: Councilmember Patterson wanted to suggest additional specifications for the feasibility study (financed by KDOT) for the construction of a sidewalk on Lee Boulevard south of 103rd Street - for instance, the possibility of life for the trees if a sidewalk was installed. Public Works Director Brandt said the feasibility study

would not address that issue; it was more of a transportation-type study, the movement of people and bicycles and traffic, frequency of use of a sidewalk. An arborist would probably have to answer such questions. Mr. Brandt said he might be able to get some information from the Department of Agriculture. On motion of Dunn, seconded by LaHue, the report was accepted by Councilmembers, except for Mr. Rasmussen, who was not seated for the vote.

1026 **ORDINANCE ADOPTING THE 1995 MASTER DEVELOPMENT PLAN**: The text provided the background and supportive documentation for the future growth and development of Leawood. It addressed the City's history, environment, demographics, projected growth, existing conditions, and the adopted goals and policies. The policies were the main focus of the text, since the policies would direct the Plan's implementation. The Mayor reminded the Council that the 1995 text coincided with the 1993 Master Plan Map adopted in 1993. Planning Director McKay said that the 1993 Master Development Plan Map had changed K-150 to a planned business district land use which allowed retail, office, a variety of high tech office parks, a mixture of uses. He said the Council was being asked to consider the 1995 text (text had not been changed since 1988) and amendments to the 1993 Master Plan Map.

Councilmembers Giblin and Rasmussen wanted a work session to review the material, and then consider adoption the first meeting in September.

Councilmember LaHue said there was a lot of resident concern about allowing retail usage at K-150 and Mission Rd.; office usage was preferred. Mr. McKay explained that by keeping a planned business land use for K-150, the Council would be open to consider a development that could be a mixture of retail and office, or either one. Even if the Council decided to change K-150 & Mission Rd. area to office land use, that would not preclude someone from requesting a master plan change and new zoning district classification.

1730 Several residents of the Leawood Meadows subdivision just south of K-150 between Mission and Roe spoke against extending Fontana north to 137th Street. They wanted the master plan modified to dead-end Fontana at the northern boundary of Leawood Meadows to protect their subdivision from increased traffic and to prevent potential safety hazards in the area. They also wanted some minimum criteria for a buffer between Leawood Meadows and any development to the north. They expressed concern about recent density increases in residential developments to the south and west of their subdivision, and preserving the character and quality of their subdivision as development continued to occur around them. Mr. McKay said that if a developer came to the City and rearranged streets in the area and provided a traffic study indicating streets not needed, then that would be the time the City would look at dead-ending streets. To remove streets from the master plan map would be a mistake, in his opinion.

Residents from Longwood Forest subdivision northwest of the corner of College Boulevard and Tomahawk Creek Parkway were concerned about the proposed change in the 15-acre tract on the southwest corner of College and the Parkway from Medium Density Single Family Attached to Planned Business. Mr. McKay said that increased traffic would impact that corner considerably, and planned business would be appropriate.

One resident felt a commercial use would be inconsistent with the surrounding neighborhood which was all residential; the current land use with stipulations would be consistent.

A work session was scheduled for August 28th.

2844 **RESOLUTION NO. 1247 APPROVING THE PRELIMINARY PLAT FOR HILLS OF IRONHORSE, APPROXIMATELY 153RD AND MISSION ROAD**: The Plan Commission's stipulation #8 of approval stated that a 25-foot clear unobstructed open space easement would be established on all Ironhorse golf course lots, and that the easement would prohibit all structures, including play structures, dog houses, fences, etc. Planning Director McKay explained that staff had changed that stipulation in the resolution before the Council to state that the same easement would be established on Lots 1-12 (deep lots with considerable elevation) abutting the golf course, and that it would prohibit all structures except swimming pools and associated retaining walls and fences; and furthermore, all pools, pool deck areas, and retaining walls that could be viewed from the golf course would be subject to design criteria.

Planning consultant Andy Schlagel gave a presentation on behalf of the developers.

Councilmember LaHue felt that if the City had to go onto the easement to correct problems such as drainage, then the developer, rather than the City, should accept liability for any reconstruction of pools, etc., on private property. Mr. McKay said that the site plan for each of the 12 lots would be reviewed to know where the drainage would go.

Councilmember Campbell felt that design criteria #6 should read, "Additional landscaping plantings shall be installed on Lots 1 through 7 any time pools, patios, decks, etc., extend <u>within</u> (not to within) the <u>25</u>-foot (not 10-foot) rear setback and result in a retaining wall". Mr. Schlagel agreed with that.

Councilmember Rasmussen was opposed to permitting variation from the 25-foot clear unobstructed open space; much thought had gone into the decision to require the open space - discussions of the stability of the banks, erosion characteristics, aesthetics, and safety of people in the area. If there was a case where the stipulation was an undue burden, the Board of Zoning Appeals could consider the situation.

City Attorney Wetzler said that the Board of Zoning Appeals could grant an exception to a City ordinance which established a certain setback. The 25-foot setback for other properties abutting the golf course was established by agreement, not by ordinance. He felt there was a question as to whether the Board could consider exceptions to the setback established by agreement.

Councilmember LaHue was concerned about the City's potential liability if someone was injured if the Council approved the variation of the 25-foot easement for Lots 1-12. Mr. Schlagel said the developer would hold the City harmless in writing.

4190 Councilmember Clawson moved to convene in executive session under attorney-client privilege for 10 minutes, seconded by Campbell. Councilmember Patterson objected to Council convening in executive session once discussion had started; it might be conceived that Council would discuss the subject matter and its merits, rather than discussing the legal aspect. Mr. Rasmussen felt the same. Mrs. Clawson said she wanted to discuss the City's ability to require the 25-foot easement.

Motion carried; Patterson opposed, all others in favor.

4267 9:45 P.M. Council (same members) left for the main conference room for the executive session, and returned to regular session at 9:55 P.M., same members present.

Councilmember Patterson moved to adopt the resolution with the following:

1. Stipulation #8 to read, "A twenty-five (25) foot open space easement shall be established on Lots 1-12 abutting the golf course. This easement shall prohibit all structures, including play structures, dog houses, pool houses and perimeter fences, etc., excepting swimming pools and associated retaining walls and fences. Furthermore, on Lots 1-12 all pools, pool deck areas and retaining walls that can be viewed from the Ironhorse Golf Course are subject to the Design Criteria as dated 7/11/95 and attached. Any deviations from this criteria or amendments to said criteria are subject to approval of the Leawood Plan Commission. This stipulation will be incorporated into the Deed Restrictions."

2. The first line of design criteria #6 to read, "Additional landscaping plantings shall be installed on Lots 1 through 7 any time pools, patios, decks, etc., extend within the 25-foot rear setback and result in a retaining wall."

3. An indemnification agreement relating to golf ball safety issues would be submitted by the developer to the City Attorney. (Note: Dr. LaHue reiterated his desire that the developer assume responsibility for any liability that might occur if the City had to go onto the 25-foot easement to correct problems (drainage for instance), and he wanted that in writing.)

4. Lots 1-12 would be subject to review on a case-by-case basis by the Golf Course Review Committee to ensure compliance with the design criteria hereby adopted regarding swimming pools.

Motion seconded by Clawson. Mr. Campbell expressed his concern about silt and erosion control during construction of the subdivision because of the elevations of the lots. Mr. Schlagel said that would be addressed. Motion carried unanimously. Resolution attached as part of the record.

4882 <u>DISCUSSION OF PROPOSED ANNEXATION/DE-ANNEXATION RELATING TO HILLS OF IRONHORSE SUBDIVISION</u>: There were 38.5 acres located in Leawood and 13 acres in Overland Park, resulting in 10 lots split between the two cities. Property owners requested municipal boundary adjustments - Overland Park to Leawood, 2.28 acres; Leawood to Overland Park, 1.08 acres. Council concurred with the proposal. The necessary legal documents would be considered in the near future.

4953 <u>RESOLUTION NO. 1248 APPROVING A REQUEST FOR APPROVAL OF A MASTER PLAN DESIGNATION AMENDMENT, REZONING FROM AG TO RP-1, PRELIMINARY PLAT, AND PRELIMINARY PLAN, FOR IRONHORSE ESTATES, 2ND PLAT, 151ST AND LINDEN</u>: Councilmember Dunn said that the Public Works Committee was working on a new landscaping policy to be adopted by Council in the near future which would protect the City from future homeowners wanting to be buffered with landscaping; there would be a dollar amount approved on a per-foot basis; landscape design would not be part of the policy. City

Attorney Wetzler said if the policy was adopted prior to the final plat approval, there was a possibility that the policy could be applied to the plat. The Mayor said that the policy should be considered by the Council as soon as possible in order to apply it to future developments, but it was probably not fair or appropriate to apply it to this plat.

On motion of LaHue, seconded by Campbell, Council unanimously adopted the resolution, attached as part of the record.

5309 **RESOLUTION NO. 1249 APPROVING A REQUEST FOR APPROVAL OF A MASTER PLAN DESIGNATION AMENDMENT, REZONING FROM AG TO RP-4, PRELIMINARY PLAT, AND PRELIMINARY PLAN, FOR VILLAS OF IRONHORSE, 2ND PLAT, 151ST AND LINDEN**: Adopted unanimously on motion of LaHue, seconded by Campbell. Attached as part of the record.

5329 **ORDINANCE NO. 1506 ADOPTING AN AMENDMENT TO THE 1993 MASTER DEVELOPMENT PLAN MAP** - amendment modified the Plan Map by redesignating a tract, approximately 22.77 acres in size, located at 151st and Linden, commonly referred to as Ironhorse Estates and Villas, Second Plat, from Office to Medium Density Residential-Single Family Detached: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

5348 **ORDINANCE NO. 1507 REZONING PROPERTY (IRONHORSE ESTATES, SECOND PLAT) LOCATED AT APPROXIMATELY 151ST STREET AND LINDEN FROM AG TO RP-1**: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

5366 **ORDINANCE NO. 1508 REZONING PROPERTY (VILLAS OF IRONHORSE, SECOND PLAT) LOCATED AT APPROXIMATELY 151ST STREET AND LINDEN FROM AG TO RP-4**: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

5384 **MAYOR'S REPORT**: The Mayor reported that the American Revolution Tricentennial Fund had a balance of $4,359.96 as of June 30, 1995. The original Certificate of Deposit of July 1, 1976, was $1,000.

5449 **PUBLIC WORKS COMMITTEE REPORT ON DRAINAGE PROBLEMS IN THE CLOISTERS SUBDIVISION**: Jeff Jones, 3007 W. 84th Terrace, had requested that the City extend a storm sewer that had an outlet in his backyard. That would eliminate steep side slopes on the open channel which were difficult to maintain, and would make his backyard useable. The Committee wanted to seek SMAC funding. Fred White, 3011 W. 84th Terrace, had difficulty maintaining and growing grass in an area along his rear property line. The area was lined on two sides by tall privacy fences. The Committee felt that the problem was the responsibility of the homeowner. Councilmember Dunn moved that the entire channel to which the Jones property was adjacent be referred to SMAC for possible funding, seconded by Peppes. Mr. Jones was willing to grant easements. If SMAC refused the project, the matter would be reviewed again by the

Committee. There would be no expenditure at this time. Motion carried unanimously.

5577 **PUBLIC WORKS COMMITTEE REPORT ON 89TH STREET DRAINAGE CONCERNS** (in particular at 2524 W. 89th St.): The Committee recommended that 89th St. between Lee Boulevard and Mohawk Road be rehabilitated, a pay-as-you-go project over 3 years, probably starting in 1996, instead of including it in the capital improvements program after the year 2000. There were many drainage problems along 89th Street similar to the one at 2524 W. 89th St. The Public Works Department requested authorization to begin in-house design of the street.

Councilmember LaHue felt it was more appropriate to include the project in the CIP and bond it, rather than expending a large amount of money annually from the budget-residential street rehabilitation funds. City Administrator Garofano said the CIP would be discussed in the fall, so the project could be added before the year 2000.

Councilmember Rasmussen moved to approve the recommendation of the Public Works Committee to begin design of 89th Street with construction over a 3-year period, seconded by Campbell. Mrs. Dunn moved to amend the motion to state that Council authorize the Public Works Department to begin design, but defer the funding issue until review of the CIP in September or October, seconded by Giblin. Motion to amend carried; Rasmussen opposed, all others in favor. Mr. Rasmussen's main motion as amended carried unanimously.

6045 **PUBLIC WORKS COMMITTEE REPORT ON LEAWOOD SOUTH PETITION FOR ROAD REPAIR/SURFACING**: The Public Works Committee had reviewed the road conditions in Leawood South subdivision and considered advancing major repairs into 1995 as requested by residents. The Committee recommended continuing the current street evaluation system and construction plan. Funds of the Residential Street Rehabilitation Program were already committed for 1995. One section of Overbrook was scheduled for 1996 with remaining sections to 123rd Street in 1997. The Committee also recommended that ten percent of all monies budgeted for overlays be used to improve cul-de-sacs.

Councilmember LaHue thought that if Leawood South residents felt street improvements in their subdivision should be moved ahead to 1995, then a benefit district could be formed to fund the improvements.

Councilmember Dunn moved to continue the current street rating system for Leawood South streets, improvement of Leawood South streets to be done over the 2-year period, and to use 10% of all monies budgeted to improve cul-de-sacs throughout the City. Motion seconded by Rasmussen and carried; LaHue opposed (felt it was difficult to earmark a percentage for cul-de-sacs), all others in favor.

6331 **AUTHORIZE INTERLOCAL AGREEMENT WITH OVERLAND PARK AND OLATHE FOR A DRAINAGE BASIN STUDY OF TOMAHAWK CREEK**: The study, funded 75% by SMAC, would provide the peak flows in the basin as if it was fully developed. Cost to Leawood - $17,484.00 (6.573% of the total cost). The study would show ultimate (upstream) development, establish actual elevation for a 100-year flood, indicate impact on Leawood's floodplain.

Councilmember Dunn moved to approve the agreement, seconded by Campbell, and carried unanimously.

6526 **ORDINANCE GRANTING A NATURAL GAS FRANCHISE TO WESTERN RESOURCES, INC. - SECOND READING**: City Attorney Wetzler said that ordinance changes would be incorporated in the third and final reading at the next Council meeting. Councilmember Rasmussen moved to place the ordinance on second reading, seconded by Dunn. Mr. Wetzler expected the final ordinance version would charge large commercial users the same franchise fee rate as residential users; industrial users might remain at the 1% rate level. Councilmember Rasmussen wanted staff to be sure that the franchise fee was applicable to the transmission of the gas; if the ultimate gas delivery point was in Leawood and the fact that Western Resources was not the biller, but was just receiving a transmittal fee, then the City should receive a part of that transmittal fee. Motion to place on second reading carried unanimously.

6906 **DISCUSSION OF CHANGE IN POLICY FOR FUNDING DRUG-FREE, AFTER-PROM PARTIES**: A recommendation had been distributed to the Council - Blue Valley and Shawnee Mission Senior Highs, $250.00; Kansas Private and Parochial Senior Highs, $200.00; Missouri Private and Parochial Senior Highs, $150.00; funding only for schools requesting help and which could document Leawood children attending. Councilmember LaHue mentioned that there were many military schools with Leawood children that might also contact the City for funding, and he didn't feel that was appropriate. Councilmember Giblin didn't want to cross state line. Councilmember Dunn suggested adding "metropolitan area" after "senior highs" on the second and third schools of the recommendation. Councilmember Campbell suggested there be a minimum of 6 Leawood children in the graduating classes in the metropolitan area.

Mrs. Dunn moved to approve and Mr. Rasmussen seconded the following policy: Policy for requesting funding for either after-prom or after-graduation parties. (For only those schools in Johnson and Jackson counties which had documentation of a minimum of 6 Leawood students.) Blue Valley & Shawnee Mission Senior Highs - allow $250.00; Kansas Private & Parochial Senior Highs - allow $200.00; and Missouri Private & Parochial Senior Highs - allow $150.00.

Dr. LaHue felt it wasn't fair to give $250.00 to (for instance) Blue Valley North High with a large number of Leawood students and give $200.00 to a school with only 6 Leawood students.

7331 11:00 P.M. On motion of Dunn, seconded by Clawson, Council voted unanimously to extend the meeting for 30 minutes.

Mrs. Dunn's motion failed; Dunn, Campbell, Rasmussen in favor; all others (5) opposed. The monies would continue to go to public schools.

7451 **AUTHORIZE PROPOSAL FOR CONSTRUCTION (INSPECTION) OBSERVATION AND TESTING SERVICES FOR 8435 CHEROKEE LANE STORMWATER PROJECT**: On motion of LaHue, seconded by Dunn, Council authorized a proposal from Kaw Valley Engineering in the amount of $12,158.00; Rasmussen opposed, all others in favor.

7580 **REQUEST BY KANSAS CITY CHIEFS REDCOAT CLUB FOR A SPECIAL SOLICITATION PERMIT**: The Club wanted to sell special edition newspapers at the intersections of 103rd and State Line and 119th and State Line on Friday,

September 8th, a charitable fund-raising effort similar to the Rotary Club event on Royals' opening day in April. Police Chief Cox believed that allowing use of the streets in this manner was no longer advisable, even though a new state law allowed charitable groups to use streets to solicit in roadways with the permission of the Governing Body. He recommended denial of the request, and that the City suggest the Club secure permission to use private parking lots.

Councilmember Rasmussen moved to approve a permit, seconded by Patterson.

END OF TAPE

Tape No. 333

Councilmember Campbell said the Council needed to be consistent with all groups. Motion to approve failed; Rasmussen, Giblin, Patterson, Peppes in favor; LaHue, Campbell, Clawson, Dunn opposed; Mayor opposed.

73 **AUTHORIZE CONTRACT FOR CONSTRUCTION OF K-150 IMPROVEMENTS, STATE LINE ROAD TO NALL AVENUE**: On motion of Giblin, seconded by Clawson, Council unanimously authorized a contract with the low bidder Reno Construction Co. in the amount of $7,473,811.64.

96 **APPROVAL OF APPROPRIATION ORDINANCE NO. 762**: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

110 **OTHER BUSINESS**: The Council had received a report from the Leawood Historic Commission about the relocation of the Oxford Schoolhouse located at K-150 and Mission Rd. The Mayor, City Administrator, Planning Director, and Historic Commission chairman Jody Craig had met with Stuart and Diane Sharp of the Sharp Farm at 131st & Mission Rd. The meeting resulted in a preliminary agreement to investigate the Farm as a temporary short-term solution to the relocation problem to save the building from destruction during K-150 improvements. City Attorney Wetzler would look into an agreement for a 3 to 5 year lease of a small piece of property on the southern section of the Farm where the school could be warehoused until final decisions were made about a permanent location. The Mayor said that the Sharps would like to discuss what long-term possibilities there might be for their property. The Mayor said that the Historic Commission wanted to keep the building fairly close to its original location for historic reasons. The new south park in the area of 147th and Mission Rd. was not appropriate because no plan (layout) for the park had been established and there was no security to protect against vandalism. A move to ground behind Fire Station No. 1 at 9609 Lee Boulevard would be expensive, and it would probably be permanent location if moving the building that far. Parking would also be a problem. There would be a security problem at Leawood Park at 106th and Lee Boulevard. Councilmember Clawson moved to accept the Sharps' offer and authorize the City Attorney to work out necessary agreements, seconded by Dunn. Motion carried unanimously.

At the July 3rd Council meeting, Councilmember Clawson had mentioned a letter from Robert Karnes, 10400 Cherokee Lane, about a drainage problem in the street in front of his house. She moved that the matter be referred to the Public Works Committee for review, seconded by Campbell, and carried unanimously.

450 Councilmember Dunn moved to refer the slurry seal policies/process to the Public Works Committee for review, seconded by Clawson, and carried unanimously.

470 11:25 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
SPECIAL COUNCIL MEETING

Tape No. 334

42 The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 4800 Town Center Drive, at 5:40 P.M., Tuesday, July 25, 1995. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, and Louis Rasmussen, to consider 1) a contract for construction of improvements for Town Center Plaza improvement district; 2) a contract for the relocation of gas distribution facilities, Mission Rd. north of 151st St.; 3) allocation of funds for sodding of practice facility at Ironhorse Golf Club; and 4) to consider any other business that might come before the Council. Councilmember Ronald LaHue arrived at 5:50 P.M. Councilmembers Peggy J. Dunn and Doug Patterson were absent.

Staff present: Richard J. Garofano, City Administrator; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Deidre Rae Markley, Economic Development/Special Projects Coordinator; and Richard S. Wetzler, City Attorney. The City Clerk was absent.

On motion of Rasmussen, seconded by Clawson, the agenda was approved unanimously.

64 <u>AUTHORIZE CONTRACT FOR CONSTRUCTION OF IMPROVEMENTS FOR TOWN CENTER PLAZA IMPROVEMENT DISTRICT</u>: Councilmember Rasmussen moved to approve a contract with Walton Construction Company in the amount of $3,563,623.00, seconded by Clawson.

City Attorney Wetzler said an engineer's estimate was required in order to approve the contract. As work under the contract was completed and costs incurred, an engineer would need to certify to the City that the work was done in compliance with plans and specifications for the individual components of the project. Mr. Rasmussen moved to amend his motion to state that no payments would be authorized under the contract, nor would the contract become effective, until the City had received an engineer's estimate that was equal to or greater than the cost of the contract for the improvements, and that no payments would be made until the City received certification from a qualified engineer stating that the construction had been accomplished in accordance with the plans and specifications and the contract. Motion to amend seconded by Clawson, and carried unanimously.

Mr. Rasmussen's main motion as amended carried unanimously.

450 <u>AUTHORIZE CONTRACT FOR RELOCATION OF GAS DISTRIBUTION FACILITIES, MISSION ROAD NORTH OF 151ST STREET</u> - City to pay KPL (a Western Resources Company) $11,000.00 for the relocation: On motion of Rasmussen, seconded by Campbell, Council unanimously approved the contract.

465 <u>AUTHORIZE ALLOCATION OF FUNDS FOR SODDING OF PRACTICE FACILITY AT IRONHORSE GOLF CLUB</u>: On motion of Rasmussen, seconded by Campbell, Council unanimously approved allocation up to $50,000.

878 **OTHER BUSINESS**: Councilmember Rasmussen had drafted a document regarding disbursement of alcohol funds for after-prom/after-graduation parties, and it would be mailed to Councilmembers for review.

918 6:10 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk

MINUTES
PUBLIC HEARING

Tape No. 334

956 Minutes of a hearing for public comment on a proposed amendment to the 1995 Budget, and for comment on the proposed 1996 Budget, held Monday, August 7, 1995, at 7:00 P.M., in the Council Chamber, 4800 Town Center Drive, Leawood, Kansas.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson. Councilmembers John R. Campbell, Jr., Gregory J. Peppes, and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; and Martha Heizer, City Clerk.

Mayor Marcia Rinehart opened the hearing.

Finance Director Malnicof explained the amendment to the 1995 Budget - necessary to reflect a new expenditure authority of $58,000 (formerly $36,891) in the Public Building Fund, a result of carryover and interest accumulated.

City Administrator Garofano summarized the proposed 1996 Budget, touching on community profile (including current and potential commercial development), recent growth trends (population, average household income, building activity), 1996 Budget highlights and their impacts in dollars (no new programs or employees). The mill levy would remain the same as it was in 1994 and 1995 - 25.447 mill levy - with expenditures totaling $25,486,423.00 (including fund transfers).

The Mayor stated reasons for leaving the mill levy at 25.447 - 1) much of the revenue was based on projected sales tax revenue, and it seemed risky to reduce the mill levy in case sales tax revenues did not come in as projected; and 2) it was necessary to keep the street rehabilitation program whole.

Patty Miller, Leawood resident and board member of United Community Services of Johnson County, expressed appreciation for the City's support of the human services grant fund which United Community Services coordinated for the County and County municipalities, and for an anticipated 5% increase in the line item grant from the City to the human services fund.

In response to a question from resident G. Gordon Thomas, Mr. Garofano explained how much greater the 1996 Budget was over the 1995 Budget. Mr. Thomas had the impression that the City obligated more money than actually taking in, and felt that when money was earmarked for specific projects, transfers shouldn't be made in order to pay for them. Mr. Malnicof said the City didn't have the authority to arbitrarily transfer funds, and stated that the City didn't obligate more than it took in - the City budgeted $700,000 carryover in 1995, but ended up with a carryover in excess of $1,000,000.

1955 The hearing was closed at 7:35 P.M.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 334

#1970 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, August 7, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson. Councilmembers John R. Campbell, Jr., Gregory J. Peppes, and Louis Rasmussen, were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Attorney David Wetzler in the absence of the City Attorney.

1980 On motion of Clawson, seconded by Dunn, the agenda was approved unanimously, after the addition of a discussion of the green conditions at the Ironhorse Golf Club, and a discussion of the August 28th work session regarding the 1995 Master Development Plan.

2021 **CITIZEN COMMENTS**: G. Gordon Thomas, 10516 Mohawk Lane, said he understood that Parks & Recreation was going to spend $60,000 on a survey regarding the pool and pool amenities at Leawood Park. He questioned another citizen survey and the expenditure for it. He suggested that the City turn the pool operations/financing over to a private company on a lease basis. He also suggested a $10,000 cash bonus for a hole-in-one at the Ironhorse Golf Club as a financing mechanism. The Mayor told Mr. Thomas that the $60,000 was for a pool design contract, not a citizen survey.

2170 **CONSENT AGENDA**: The following were approved unanimously on motion of Dunn, seconded by Patterson:

1. Minutes of the July 17, 1995, Council meeting;
2. Minutes of the July 25, 1995, Special Council meeting;
3. Application for renewal of a retail liquor occupation license - Faust Retail Liquor, 11841 Roe Ave., Camelot Court Shopping Center;
4. Pay Request No. 1 (FINAL) by the City of Overland Park in the amount of $473,138.00 for Nall Ave. improvements, 119th to 135th;
5. **Resolution No. 1250**, attached as part of the record, approving the final plat of Iron Horse Estates, 2nd Plat, west of Mission Rd. at Bell Drive.

2180 **RESOLUTION RELATING TO A REVISED PRELIMINARY SITE PLAN FOR CAMELOT COURT LOT 9, LOCATED ON 119TH STREET EAST OF HALLMARK**: Withdrawn from the agenda.

2193 **MAYOR'S REPORT**: The Mayor had received a fax from the mayor of Sister City I-Lan, Taiwan, indicating that a delegation wanted to visit Leawood in the fall. The Sister City Committee had met and decided in June that it was appropriate to issue an invitation for fall 1996. The Mayor sent a fax to Mayor Lin advising him of the Committee's decision.

2244 **ORDINANCE NO. 1509C GRANTING A NATURAL GAS FRANCHISE TO WESTERN RESOURCES, INC. - THIRD AND FINAL READING**: Al Walker, Division Manager for KPL (a Western Resources Company), and Kent Weatherby, Western Resources legal counsel, answered questions. Mr. Weatherby explained that the company's ordinary reduced franchise tax of 1% for large industrial and large commercial customers had been removed from Section 2 because the City wanted to treat residents and businesses in the City uniformly. He also explained the new definition of gross receipts in the same section. Gross receipts would mean all cash and credit extended other than that pursuant to the Kansas Corporation Commission's Cold Weather Rule which provided that when temperatures dropped below 35 degrees and stayed there for 48 hours, and when customers were in arrears in paying gas bills and showed good faith in trying to make payments, the company was obligated to extend credit. In that situation where the company did not voluntarily extend credit, no franchise tax would be collected and paid to the City from the customers in arrears because the company had not received money to tax. The definition also included a provision whereby tax would be received from the company if they delivered gas to someone else who would ultimately deliver the gas to City customers, and if the company received a fee from another entity which used the company's lines within Leawood to merely transmit gas, the fee would be franchise taxable.

3143 Councilmember LaHue moved to pass the final version of the ordinance, seconded by Clawson. On roll call to pass the ordinance, the vote was: Yeas---LaHue, Clawson, Giblin, Dunn, Patterson. Nays---None.

3286 **AUTHORIZE EXCLUSION/ANNEXATION AGREEMENT WITH OVERLAND PARK (RELATIVE TO HILLS OF IRON HORSE SUBDIVISION AT APPROXIMATELY 153RD AND MISSION ROAD)**: On motion of LaHue, seconded by Patterson, Council unanimously approved the agreement.

3316 **AUTHORIZE PROPOSAL FOR GEOTECHNICAL ENGINEERING SERVICES FOR POOL IMPROVEMENTS AT LEAWOOD PARK**: Councilmember LaHue moved to approve a proposal from Terracon Consultants, Inc., in the amount of $2,300, for testing around the pool area for the pool renovation and improvement project. Motion seconded by Clawson and carried; Giblin opposed, all others in favor.

3457 **AUTHORIZE CONTRACT FOR 1995 STREET REHABILITATION PROGRAM** - included rehabilitation of the street and storm sewer on 99th Street, intersection improvements at 124th and Fairway, and reconstruction of 18 curb inlets in Leawood Heritage subdivision: On motion of Clawson, seconded by Dunn, Council unanimously authorized a contract with the low bidder Seal-O-Matic Paving Co. of Riverside, Missouri, in the amount of $260,898.28.

3502 **ORDINANCE NO. 1510C ADOPTING THE 1995 PROPERTY MAINTENANCE CODE, MINIMUM HOUSING CODE, AND RENTAL INSPECTION PROGRAM**: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Dunn, Patterson. Nays---None.

3826 **AUTHORIZE 9-1-1 ANSWER POINT SUB-AGREEMENT WITH SOUTHWESTERN BELL TELEPHONE COMPANY AND MID-AMERICA REGIONAL COUNCIL BOARD OF DIRECTORS**: On motion of LaHue, seconded by Dunn, Council unanimously authorized the Mayor to sign the agreement.

3839 **AUTHORIZE USE OF SPECIAL ALCOHOL TAX FUNDS FOR PARKS & RECREATION'S COACH CERTIFICATION**: Parks & Recreation Director Whitaker said that coaches clinics for youth volunteer coaches (certification program through the National Youth Sports Coaches Association) with strong emphasis on drug education were conducted in the evenings and on weekends by his staff. Mr. Whitaker requested that staff be paid from alcohol tax fund money spent for drug prevention programs. He requested $40 for a one-night clinic and $65 for a two-night or all-day clinic, not to exceed $2,000 each year. On motion of LaHue, seconded by Dunn, Council unanimously approved the request.

3918 **APPROVAL OF APPROPRIATION ORDINANCE NO. 763**: The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Dunn, Patterson. Nays---None.

3965 **OTHER BUSINESS**: Councilmember Dunn said she had received a phone call from a member of the Golf Course Committee to discuss the possibility of closing the Ironhorse golf course Monday through Friday. Parks & Recreation Director Whitaker clarified the issue - the back 9 holes would not be used Monday through Friday so the greens that had suffered stress problems from the rains in May, drought in July, and very heavy use, could grow. Golfers could play the front 9 (not stressed) twice. The entire golf course would be open on the weekends, and for tournaments and special events.

4186 A Council work session had been scheduled for August 28th to discuss the 1995 Master Development Plan. Two areas of concern - 135th at Mission Rd. and Tomahawk Creek Parkway at College Boulevard - would be discussed at the August 22nd Plan Commission meeting. Councilmember Dunn felt it would have been better if the Council was able to discuss the items prior to the Plan Commission meeting. The Plan Commission could approve the items, but then the Council might want to make some changes to the Master Development Plan. Planning Director McKay said that if Council wanted to make changes, they could send the Plan back to the Plan Commission for review. He also said that it might take the Plan Commission 2 meetings to consider the two items since there was so much information to review. Councilmember LaHue felt it was appropriate that the Plan Commission consider the 2 items before the Council, that the Commission should not be swayed by Council's thoughts or political aspects on the 2 items.

4523 8:50 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 335

50 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, August 21, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

PUBLIC HEARING ON PROPOSED EXCLUSION OF LAND IN THE VICINITY OF 153RD AND MISSION ROAD FROM THE CITY OF LEAWOOD (PART OF PROPOSED LAND EXCHANGE BETWEEN LEAWOOD AND OVERLAND PARK TO ALIGN CITY BOUNDARIES WITH THE HILLS OF IRON HORSE SUBDIVISION PLAT): The Mayor opened the hearing. There was no public comment nor comment by the Governing Body. The hearing was closed.

79 The agenda was approved unanimously on motion of Giblin, seconded by Dunn, after removal of a request by Longwood Forest subdivision that the City take over their street lights, and the addition of: 1) a discussion of Mission Road design, 95th to 103rd; 2) a discussion of the closing of Roe Avenue north and south of K-150; and 3) a discussion of hole #10 on the Ironhorse golf course.

122 **CITIZEN COMMENTS**: The City planned to close Roe Avenue north and south of K-150 for K-150 improvements. Several residents felt that the City should come up with a plan to keep the intersection of K-150 and Roe Avenue open, closing it for only short periods of time for construction work at the intersection, so residents would have access to Roe. Residents of Leawood Meadows south of K-150 were concerned that a lot of traffic would detour through their subdivision creating a safety hazard for children walking to school. The street closure would hamper a large congregation driving to and from the Church of the Resurrection south of K-150 on Roe. There would be traffic bottlenecks along the detours. Concern was expressed about public safety/emergency vehicles having good access into the area developments. Residents were upset that they were not notified of the street closing. Closing the street could create an economic hardship on area developments. K-150 would remain open to traffic during improvements and residents wondered why Roe couldn't also remain open, not be entirely closed. (See tape meter #1046.)

903 Dave Flaspohler, 15292 Sherwood, said that the 10th hole of the Ironhorse golf course was in his backyard. He presented a bucket of golf balls he had retrieved from his yard. He had a broken window, and said that he couldn't use his backyard, that there had been too many near misses with golf balls. He felt the 10th hole needed to be closed down and redesigned - it was too dangerous. Dan Foil, 15296 Sherwood,

had retrieved over 500 golf balls from his yard. Shingles had fallen off his house. The matter would be discussed at the end of the meeting (see tape meter #3202 and 5442).

1046 Regarding the Roe Avenue closing, Public Works Director Brandt said a graveled 137th St. to Nall would help the situation, but that was in Overland Park, and Leawood didn't have right-of-way or Overland Park's permission. Mr. Brandt felt that the period of time Roe would have to be closed could be reduced from 90 days to 30 days; he explained the reason for closing Roe. He was working on a solution to the problem, and the street would not be closed tomorrow as planned. He would look into improving the Mission Rd./K-150 intersection prior to the Roe/K-150 intersection, which might improve the traffic flow at Mission and reduce the impact of a closed Roe. Councilmember Patterson felt that the street closure should be stopped until Mr. Brandt and contractors had a chance to consider the residents' concerns and alternatives. Mr. Brandt said that K-150/Roe improvements could be done without closing Roe, but it would be expensive. Mr. Brandt said he would have cost figures and options ready by the Council's August 28th work session.

1494 **CONSENT AGENDA**: The following were approved unanimously on motion of Campbell, seconded by Dunn:

1. Minutes of the August 7, 1995 Public Hearing on a proposed amendment to the 1995 Budget, and on the proposed 1996 Budget;
2. Minutes of the August 7, 1995 Council meeting;
3. Departmental reports;
4. Declaration of surplus property - various Parks & Recreation equipment either replaced (and not taken in trade), or in poor condition and unusable, to be sold at an Olathe auction in September.

1502 **REQUEST BY TOWN CENTER PLAZA FOR A SPECIAL USE PERMIT FOR TWO OVERSIZED TEMPORARY SIGNS AT THE CORNERS OF 119TH AND ROE AVENUE AND 119TH AND NALL AVENUE TO ANNOUNCE THE OPENING OF THE SHOPPING CENTER AND ITS TENANTS** - permit limited to 12 months from the date of Council approval, signs to be outside right-of-way: On motion of LaHue, seconded by Patterson, Council unanimously approved the permit.

1535 **REQUEST BY EXCHANGE NATIONAL BANK FOR A SPECIAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A TEMPORARY BANK FACILITY AT 11305 NALL AVENUE DURING CONSTRUCTION OF THE PERMANENT FACILITY** - permit limited to one year from the date of Council approval: On motion of Clawson, seconded by LaHue, Council unanimously approved the permit.

1569 **REQUEST BY PAVILIONS OF LEAWOOD FOR A SPECIAL USE PERMIT FOR A TEMPORARY OFF-SITE SIGN AT THE SOUTHWEST CORNER OF K-150 AND MISSION ROAD TO DIRECT POTENTIAL HOMEOWNERS TO THE SUBDIVISION FURTHER SOUTH ON MISSION ROAD** - permit limited to 2 years from the date of Council approval and sign to be outside right-of-way and construction easements for both K-150 and Mission Road: On motion of LaHue, seconded by Clawson, Council unanimously approved the permit.

1584 **RESOLUTION NO. 1251 APPROVING THE REVISED PRELIMINARY SITE PLAN FOR CAMELOT COURT, LOT 9, LOCATED ON 119TH STREET EAST OF HALLMARK**:

Adopted unanimously on motion of Clawson, seconded by LaHue. Attached as part of the record.

1678 **AUTHORIZE TRAFFIC SIGNAL REMOVAL ORDER FOR REMOVAL OF SIGNAL AT 83RD AND LEE BOULEVARD**: At the May 15, 1995 Council meeting, staff had recommended that the Council approve a work order and authorize payment of $9,717.00 to KCPL for the signal removal. However, Council wanted more information on how KCPL arrived at the payment figure, probably in the lease arrangement with KCPL.

Staff had not yet received KCPL's calculations used to determine the $9,717.00 pay request. Public Works Director Brandt recommended that Council approve the signal removal order for the amount requested; the intersection was part of the 83rd Street improvement project.

On motion of LaHue, seconded by Dunn, Council unanimously approved the order for the amount requested.

1710 **APPROVAL OF AMENDED 1995 BUDGET** - amendment necessary to reflect a new expenditure authority of $58,000 (formerly $36,891) in the Public Building Fund, a result of carryover and interest accumulated: On motion of Campbell, seconded by Clawson, Council unanimously approved the amended 1995 Budget.

1750 **ADOPTION OF 1996 BUDGET**: Councilmember Clawson moved to adopt the 1996 Budget, seconded by Campbell. Councilmember LaHue moved to amend the motion to provide a $400 per month car allowance for the Mayor, seconded by Campbell. The Mayor left the meeting during discussion (she was not in favor of the allowance) and Councilmember Campbell presided in her absence. Motion to amend carried unanimously. The Mayor returned to preside. Motion as amended to adopt the 1996 Budget carried unanimously. 1996 Budget - 25.447 mill levy; $25,486,423.00 total expenditures.

2156 **ORDINANCE NO. 1511 EXCLUDING LAND IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 25 EAST, LOCATED EAST OF THE CENTERLINE OF MISSION ROAD, SOUTH OF 151ST STREET, AND NORTH OF THE HALF-SECTION LINE, FROM THE BOUNDARIES OF THE CITY OF LEAWOOD** - in the vicinity of 153rd and Mission Road: The ordinance was considered and passed on motion of Dunn, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2180 **ORDINANCE NO. 1512 ANNEXING LAND IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 25 EAST, LOCATED EAST OF THE CENTERLINE OF MISSION ROAD, SOUTH OF 151ST STREET, AND NORTH OF THE HALF-SECTION LINE, INTO THE BOUNDARIES OF THE CITY OF LEAWOOD** - in the vicinity of 153rd and Mission Road: The ordinance was considered and passed on motion of Campbell, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2196 **ORDINANCE NO. 1513 CONVEYING TRACTS OF LAND TO THE CITY OF OVERLAND PARK, KANSAS, BY QUIT-CLAIM DEED, IN ACCORDANCE WITH AN EXCLUSION/ANNEXATION AGREEMENT BETWEEN LEAWOOD AND OVERLAND PARK DATED**

AUGUST 7, 1995: The ordinance was considered and passed on motion of Clawson, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2211 RESOLUTION NO. 1252 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY AND AUTHORIZING A SURVEY AND DESCRIPTION OF LAND AND INTEREST TO BE CONDEMNED FOR IMPROVEMENTS TO 83RD STREET: Adopted unanimously on motion of LaHue, seconded by Peppes. Attached as part of the record.

2287 ORDINANCE NO. 1514 AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY AND AUTHORIZING SURVEY AND DESCRIPTION OF LAND AND INTEREST TO BE CONDEMNED FOR IMPROVEMENTS TO 83RD STREET: The ordinance was considered and passed on motion of Clawson, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2303 RESOLUTION NO. 1253 AUTHORIZING KDOT TO AWARD CONTRACT TO THE LOW BIDDER JRF CONSTRUCTION AND COMMITTING LOCAL FUNDS IN THE AMOUNT OF $1,805.88 FOR SUPPLEMENTAL SIGNS ("CITY LIMITS" AND "CITY DIRECTION" RAMP SIGNS) ALONG I-435 AS IT RUNS THROUGH THE CITY: Adopted unanimously on motion of Dunn, seconded by Campbell. Attached as part of the record. Councilmember LaHue asked about the status of his request for study of City entrance markers or signs or landscaping for I-435 and State Line. Public Works Director Brandt thought it had been assigned to the Public Works Committee. The City Clerk was directed to find out if it had been so assigned.

2387 AUTHORIZE UTILITY (RELOCATION) AGREEMENT WITH KANSAS CITY POWER & LIGHT FOR K-150 IMPROVEMENTS BETWEEN NALL AVENUE AND STATE LINE ROAD, THE CITY TO PAY KCPL $76,852.00: On motion of LaHue, seconded by Giblin, Council unanimously approved the agreement.

2542 AUTHORIZE CONTRACT FOR SURVEYING SERVICES FOR 89TH STREET IMPROVEMENTS, LEE BOULEVARD TO MOHAWK ROAD: On motion of LaHue, seconded by Peppes, Council unanimously approved a contract with Larkin Associates in the amount of $16,500.00.

2591 ORDINANCE NO. 1515 ACCEPTING A ROADWAY EASEMENT AND A PERMANENT DRAINAGE EASEMENT FROM JULIUS D. SPEARS FOR CONSTRUCTION OF 115TH STREET BETWEEN ROE AVENUE AND TOMAHAWK CREEK PARKWAY: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2613 ORDINANCE NO. 1516 GRANTING A PERMANENT SEWER EASEMENT TO JOHNSON COUNTY WASTEWATER DISTRICT FOR SANITARY SEWER RELOCATION FOR THE CONSTRUCTION OF COLLEGE BOULEVARD, PHASE II, IMPROVEMENTS (DUE TO A CONFLICT WITH THE WEST ABUTMENT OF THE COLLEGE BOULEVARD BRIDGE OVER TOMAHAWK CREEK): The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2628 **ORDINANCE NO. 1517C ADOPTING THE 1995 EDITION OF THE "STANDARD TRAFFIC ORDINANCE"**: The ordinance was considered and passed on motion of Clawson, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2654 **ORDINANCE NO. 1518C AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR VIOLATIONS OF LOCAL TRAFFIC REGULATIONS**: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2690 **ORDINANCE NO. 1519C ADOPTING THE 1995 EDITION OF THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES"**: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2704 **ORDINANCE NO. 1520C AMENDING SECTION 11-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR LOCAL PUBLIC OFFENSE VIOLATIONS**: The ordinance was considered and passed on motion of Campbell, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2719 **ORDINANCE NO. 1521C AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR DRUG OFFENSES**: The ordinance was considered and passed on motion of Peppes, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2732 **ORDINANCE NO. 1522 ESTABLISHING THE 1996 ANNUAL ASSESSMENT FOR THE LEAWOOD SEWER SYSTEM**: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2794 **APPROVAL OF APPROPRIATION ORDINANCE NO. 764**: The ordinance was considered and passed on motion of Clawson, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson. Nays---None.

2955 **OTHER BUSINESS**: Regarding Mission Rd. improvements, 95th St. to 103rd St., Councilmember Dunn said a newspaper article had indicated that Johnson Brickell & Mulcahy engineers, Overland Park, and Leawood would share the cost of design errors. She did not understand why Leawood would have to pay anything. Public Works Director Brandt said the article was misleading. He said there was a design error and survey error at the north end of the project, all in Overland Park, and JBM would pay 100% of the cost of those errors. Some Overland Park residents were unhappy with steep grading, and as a consequence, Overland Park would be paying for the construction of retaining walls. Leawood only had 1 retaining wall previously approved, and would pay for that one. It was Mr. Brandt's opinion that Leawood would not share in the construction of the retaining walls in Overland Park since that

was a right-of-way negotiation matter rather than one of design, and he would seek confirmation of that from Overland Park.

3202 Regarding the safety issue of the 10th hole on the Ironhorse golf course, Councilmember LaHue felt the Council should discuss the matter in executive session at the end of the meeting.

The Mayor suggested a work session September 11th to discuss the Ironhorse golf course finances. Planning Director McKay said that the Price Chopper zoning matter at K-150 & Mission Rd. (part of the Master Development Plan issue the Council had been scheduled to discuss at the August 28th work session) had been postponed from the August 22nd Plan Commission meeting to their September 26th meeting. Councilmember Campbell felt it was more appropriate for the Council to consider the Master Development Plan after the Plan Commission had considered the Price Chopper application. The Mayor reminded Council that there were two other Master Development Plan issues that residents were concerned about - Tomahawk Creek Parkway at College Blvd., and the extension of Fontana to the north in Leawood Meadows subdivision south of K-150 & Mission - not just the Price Chopper matter. Mr. McKay said he expected the Tomahawk Creek Parkway at College Blvd. matter would also be postponed at the August 22nd Plan Commission meeting. Mr. McKay was anxious for the Council to consider the Master Development Plan text which merely mirrored the Master Plan Map adopted in 1993, and not consider individual zoning matters such as Tomahawk Creek Parkway at College Blvd. in conjunction with the Master Development Plan text.

4265 Councilmember LaHue moved to postpone discussion of the Master Development Plan text until after the Plan Commission had met and decided the K-150 & Mission Rd. project (Price Chopper) issue, seconded by Campbell. Motion to postpone failed; LaHue, Clawson, Campbell in favor; Giblin, Peppes, Dunn, Patterson opposed. The Council would meet August 28th to discuss the Master Development Plan.

There was discussion about allowing resident input at a work session. Councilmember Clawson felt that a citizen presentation at the August 28th work session on the zoning issue at K-150 & Mission Rd. would totally circumvent the Council's discussion of the Master Plan. There would not be an unbiased presentation with regard to the Master Plan. She said it had been made clear to her that the intent of the citizen group was to get the Council to override the Plan Commission's decisions.

4985 Councilmember Giblin moved to reconsider the issue, seconded by LaHue. Motion to reconsider carried; LaHue, Clawson, Campbell, Giblin in favor; Peppes, Dunn, Patterson opposed.

Councilmember LaHue moved to postpone Council discussion of the Master Development Plan text until after the Plan Commission and Council had made a decision on the K-150 & Mission Rd. (Price Chopper) zoning issue, seconded by Clawson. Motion to postpone carried; LaHue, Campbell, Clawson, Giblin in favor; Peppes, Dunn, Patterson opposed. The Mayor said it probably wouldn't be fair for the Council to consider a master plan text in the middle of a zoning process, so Council's consideration of the 1995 Master Development Plan text should be deferred until after all zoning processes had been completed.

A work session would be held August 28th at 7:30 P.M. to discuss

Public Works' alternatives to closing Roe Ave. north and south of K-150 and suggestions for improving traffic flow, and to discuss the Ironhorse golf course finances.

5442 **EXECUTIVE SESSION**: 10:20 P.M. Councilmember Clawson moved to convene in executive session for a period of 15 minutes to discuss the golf course under attorney-client privilege, seconded by LaHue, and carried unanimously. Council convened in executive session, same members present, and returned to regular session at 10:35 P.M., same members present. Parks & Recreation Director Whitaker stated actions that had been taken concerning the 10th hole of the Ironhorse golf course. He had received Mr. Flaspohler's letter and distributed it to the Golf Course Committee and made the golf course manager aware of the situation. He notified the course designer, and was expecting his written report. Play was no longer allowed from the second tee, play moved back to the back 2 tees, to lengthen the distance from the homes. Some trees had been cut on the left side of the fairway to make it appear there was more space on the left side. Signs had been ordered which would be placed at the tee boxes to make players aware that there were houses on the right side. The 10th hole was being monitored.

5985 10:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 336

51 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., Tuesday, September 5, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. * Graham G. Giblin, Sr., arrived at 7:40 P.M. Doug Patterson was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

59 On motion of Rasmussen, seconded by Dunn, the agenda was approved unanimously after the addition of 1) a discussion of a letter concerning trees planted in the median on K-150 and hole markers on the Ironhorse golf course; 2) a discussion of the lack of a sidewalk on Mission Rd., 95th to 95th Terr.; 3) a discussion of the progress, or lack thereof, of arriving at a policy for aesthetic requirements on road construction; 4) a discussion of the possibility of writing a letter of commendation regarding McDonald's restaurant operations in the City; and 5) an update on the 83rd St. improvement project.

122 **CITIZEN COMMENTS**: John Michaels, 4252 W. 124th Terr. (Berkshire subdivision), expressed his concerns about the City's sports court ordinance, part of the "Leawood Development Ordinance". The Plan Commission had approved a sports court in his neighborhood. He requested that the Council consider amending the ordinance in two respects - 1) to require that written notification be given to all adjoining property owners when an application for a sports court was received, and 2) to require that adjoining or affected property owners unanimously consent to any lighting that the Plan Commission might approve.

* 7:40 P.M. Councilmember Giblin arrived.

Roy Jackson (4047 W. 124th Terr.) and Gary Surbaugh (3909 W. 124th St.) also spoke in favor of amending the ordinance, especially in terms of notifying neighbors when a request for a sports court was received by the City, and regulating noise and lighting. (See tape meter #6807.)

361 **CONSENT AGENDA**: Consideration of the Leawood Arts Committee Mission Statement, a final pay request for Mission Rd. improvements south of 151st St., and a resolution regarding disbursement of Special Alcohol Funds to schools for drug/alcohol-free school events, were removed for further discussion. The following were approved unanimously on motion of LaHue, seconded by Clawson:

1. Minutes of the August 21, 1995, Council meeting;
2. Pay Request No. 9 (FINAL) by O'Donnell & Sons Construction in the amount of $98,069.61 for the construction of Bell Drive.

Approval of Leawood Arts Committee Mission Statement - "The Leawood Arts Committee is dedicated to establishing a unique artistic program that will enhance the cultural life for the City of Leawood and the citizens which it serves": Jeri Riley, co-chairman of the Arts Committee, presented the Mission Statement. She said the Committee had decided to have a reception/art show at the Church of the Nativity at 119th and Mission Rd. on October 25th, and wanted to use some of their art funds as seed money for the art show. Councilmember Clawson, the Committee's Council liaison, said there was a long-standing trust fund of approximately $7,000, not a line item in the budget, but held by the City for several years. She moved that the Council accept the Mission Statement and approve an expenditure from the trust fund not to exceed $1,500 for seed money to draw out Leawood artists and residents who might be interested in participating in Committee programs and attending the art show. Motion seconded by Dunn and carried unanimously.

519 Pay Request No. 14 (FINAL) by O'Donnell & Sons Construction in the amount of $186,852.72 for Mission Rd. improvements south of 151st St.: Councilmember Campbell said there appeared to be a discrepancy in the total amount paid for construction noted in staff's fact sheet. The request would be considered at the next Council meeting. (Reconsidered at the end of the meeting; tape meter #6986.)

580 **Resolution No. 1254**, attached as part of the record, regarding the disbursement of Special Alcohol Funds for the purpose of supporting the efforts of various schools in providing a safe (alcohol/drug-free) environment for Leawood students on after-Prom and after-Graduation nights: Councilmember Giblin felt the funds could be put to better use by donating the money designated in the resolution to the D.A.R.E. program aimed at younger children. The Mayor reminded Council that a task force had previously recommended that some money be set aside annually to support drug/alcohol-free after-prom or after-graduation events. Some schools had both an after-prom and after-graduation event. The Council discussed giving the $500 maximum to both an after-prom and after-graduation event, which meant a school could receive $1,000 in one year. That possibility didn't bother Councilmember Rasmussen, given the intent of the resolution to reduce the alcohol intake of Leawood high school students.

Councilmember Rasmussen moved to adopt the resolution, seconded by Dunn. If the resolution was adopted, the high schools should be made aware of it. Councilmember LaHue reminded Council that they had previously discussed in a work session only a $500 maximum/$50 minimum for each qualifying school per year. Councilmember Rasmussen suggested adding the phrase "but in no case shall any such (qualifying) school receive more than $1,000 per year."

1050 Councilmember Clawson moved to amend the motion to change Section 4 A to read "The certified number of students multiplied by $5.00 (rather than $10.00)", seconded by LaHue. This would be a fairer ratio between schools with a large number of Leawood students and schools with a smaller number of Leawood students. Motion to amend carried; Giblin opposed, all others in favor.

Mr. Rasmussen's motion as amended to adopt the resolution with his suggested wording change re $1,000 per year carried; Giblin, LaHue op-

posed; all others in favor.

1200 **MAYOR'S REPORT**: The Mayor reminded Council that they were awaiting a report from the ad-hoc committee studying the possibility of the City having an in-house attorney.

The Mayor reminded Council that she would appoint more members of the ad-hoc stormwater management committee in the near future. They would be residents; Councilmembers Patterson, LaHue, Rasmussen, and Campbell had been appointed earlier. She requested that the names of potential members be given to her in the next two weeks.

WORK SESSION: To be held September 11th at 7:30 P.M. to discuss the draft of the 5-year (1996-2000) capital improvements program.

1345 **DISCUSSION OF THE CLOSING OF ROE AVENUE SOUTH OF K-150 FOR K-150 IMPROVEMENT PROJECT**: Public Works Director Brandt had talked to a property owner who planned to develop his property which was just west of Leawood's city limits, southeast corner of K-150 and Nall (and perhaps be annexed into Leawood); the City might be able to expedite a temporary road across that property from K-150 down to 137th Street, to help alleviate traffic problems if Roe was closed.

Howard Needles Tammen & Bergendoff architects/engineers had investigated the feasibility of constructing a shoo-fly detour along the east side of Roe Avenue just south of K-150. The shoo-fly would be constructed to accommodate traffic during the closure and reconstruction of Roe Avenue south. The detour would initially be constructed during the initial 15-day closure of Roe Avenue due to the differential in grade at the K-150 and Roe intersection. If it was necessary to reduce the initial 15-day closure, an additional temporary connection to the K-150 shoo-fly detour in conjunction with the Roe shoo-fly would have to be constructed to reduce the closure to 2 days. The total additional cost to reduce the closure to 2 days would be $134,500. HNTB felt that immediate closure of Roe Avenue (south) was critical to proceeding forward with construction in a cost effective and timely manner. Staff did not recommend constructing the shoo-fly from K-150 south on Roe.

Council discussed the costs of delays in the project, including additional costs requested by the contractor for delays.

Councilmember Rasmussen said that when a governmental agency, for whatever reasons, inadequately planned a facility, it should "pay the piper" and, in this case, build the shoo-fly. The City was serving the residents, and residents were going to be inconvenienced to a great extent.

Police Chief Cox said staff had investigated signage that would discourage construction traffic from using Mission Rd., except when absolutely necessary, and encourage them to use Nall or Kenneth Rd. He said a temporary 4-way stop would probably be installed at 138th Terr. and Fontana even though it was not justified by engineering standard. When the sign was installed, there would be considerable inconvenience for everyone, especially the people attending the Church of the Resurrection south of K-150 off of Roe. There probably would be a degree of noncompliance, and enforcement would be sporadic, but there would be as

great a police presence as possible.

Staff would explore the possibility of extending 137th Street (the K-150 frontage road) to Nall.

Councilmember LaHue suggested talking with the Church of the Resurrection about different hours of services which might alleviate some traffic problems and congestion.

2076 Several area residents addressed the Council. They were concerned about construction traffic going through Leawood Meadows subdivision to reach Worthington and Quail Crest developments creating wear and tear on streets and a safety hazard for children. Some felt construction of the shoo-fly road would reduce traffic in Leawood Meadows and improve safety for children, and alleviate many traffic problems at K-150 and Mission Rd.

2565 Attorney Larry Winn III represented Worthington subdivision. He preferred extending 137th Street over to Nall on a temporary basis. His second preference was for the property owner west of Leawood's City limits to allow a temporary road across his property from K-150 to 137th Street. He urged the Council to consider options and not rush a solution.

2699 Councilmember Giblin moved to keep the K-150/Roe intersection open until a 137th Street access to Nall was constructed or a shoo-fly road constructed, seconded by Rasmussen. Councilmember LaHue hoped the Council was committed to building the shoo-fly and spending approximately $134,000, in the event too many problems developed in the next few weeks.

Councilmember Clawson moved to amend the motion to state that Roe would not be closed until staff had explored the option of constructing 137th Street to Nall to its conclusion, and if that proved to be a less costly solution than the shoo-fly road, then the City would proceed with that option. Motion to amend seconded by Campbell. Public Works Director Brandt said that if Roe was not closed, then the shoo-fly would have to be built. He said if the City had to bite the bullet and spend approximately $134,000 for the shoo-fly road to keep Roe open, then the Council should be up front and vote to build the shoo-fly. Both motion and second were withdrawn.

2871 The Mayor said an alternative to Mr. Giblin's motion would be that staff would be directed to do it as they had proposed - encourage construction traffic to use Nall instead of Mission; direct the placement of stop signs within the neighborhoods; have as much police presence as possible; explore extending 137th Street to Nall, or explore having a road through the property presently in Overland Park. City Administrator Garofano said there was no way the City could build a road or have the power of eminent domain over the property in Overland Park, southeast corner of K-150 and Nall, until the property was annexed into Leawood. Even if the property owner agreed to a temporary road tomorrow, it would be many weeks before a road could be built over to Nall, and the City would need an agreement towards annexation.

Councilmember LaHue preferred to close Roe and enforce regulations, and if problems arose within 2-3 weeks, return the issue to the Council. And by that time, staff should have more information on extending 137th Street.

Mr. Giblin's motion to keep Roe open failed; Giblin, Dunn, Rasmussen in favor; LaHue, Campbell, Clawson, Peppes opposed.

Staff was directed to: 1) place stop signs in the neighborhoods; 2) direct construction traffic as much as possible to use Nall instead of Mission; 3) have as much police presence as possible; 4) explore extending 137th Street to Nall or explore the temporary road across property in Overland Park to 137th St.; 5) notify residents of the projected date of the closing of Roe; 6) discuss with the Church of the Resurrection the possibility of changing the hours of services to help alleviate traffic problems (even if there had to be police presence to direct traffic); 7) during the winter, put an emphasis on the intersection of K-150 and Mission Rd. for snow removal, salt and sanding; 8) lowering of the speed limit in the residential areas would be left to the judgement of the Police Chief. Jim McNair, President of the Leawood Meadows Homes Association, would distribute a letter to construction workers in the area requesting that they observe speed limits and traffic laws, not drink and drive, not pass a stopped school bus from either direction.

3371 **DISCUSSION OF POOL IMPROVEMENTS AT LEAWOOD PARK, 106TH AND LEE BOULEVARD**: Alan Marstall of the Parks and Recreation Department compared the existing facility with the design of the proposed family aquatic facility. The basic cost to upgrade the existing facility was $827,883.00, and approximately $370,000 additional to add the aquatic center portion (amenities).

4418 Councilmember Clawson moved to go out for bids for the construction of the improvements with the amenities, seconded by Peppes. Motion carried; Giblin opposed (money could be put to better use elsewhere).

4486 **AUTHORIZE CONTRACT WITH WESTERN RESOURCES, INC., FOR THE RELOCATION OF GAS DISTRIBUTION FACILITIES ORIGINALLY LAID IN EASEMENTS ON MISSION ROAD AT K-150** - for K-150 improvement project, State Line Rd. to Nall Ave.: On motion of Rasmussen, seconded by Dunn, Council unanimously approved the contract. The City would pay Kansas Power & Light (KPL) (Western Resources) an estimated $36,910.41 to relocate their facilities.

4502 **AUTHORIZE AGREEMENT WITH WATER DISTRICT NO. 1 OF JOHNSON COUNTY FOR THE RELOCATION OF WATER MAINS FOR THE K-150 IMPROVEMENT PROJECT, STATE LINE RD. TO NALL AVE.**: On motion of Rasmussen, seconded by Clawson, Council unanimously approved the agreement. The City would pay the District an estimated $277,850.41 to relocate the mains.

4517 **RESOLUTION NO. 1255 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, TOMAHAWK CREEK TO EL MONTE, AND AUTHORIZING A SURVEY AND DESCRIPTION OF LAND AND INTEREST TO BE CONDEMNED**: Adopted unanimously on motion of Dunn, seconded by Rasmussen. Attached as part of the record.

4605 **ORDINANCE NO. 1523 AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, TOMAHAWK CREEK TO EL MONTE**: The ordinance was considered and passed on motion of Clawson, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen. Nays---None.

4621 **AUTHORIZE PROPOSAL FOR RIGHT-OF-WAY NEGOTIATIONS FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, TOMAHAWK CREEK TO EL MONTE**: On motion of LaHue, seconded by Rasmussen, Council unanimously approved a proposal from Land and Title Service in the amount of $4,080.00.

4659 **AUTHORIZE AGREEMENT WITH WATER DISTRICT NO. 1 OF JOHNSON COUNTY FOR THE RELOCATION OF WATER MAINS FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2, TOMAHAWK CREEK TO EL MONTE**: On motion of Dunn, seconded by Clawson, Council unanimously approved the agreement. The City would pay the District an estimated $61,915.00 to relocate the mains.

4780 **AUTHORIZE PROPOSAL FOR SUPPLEMENTAL ENGINEERING SERVICES FOR STORMWATER MANAGEMENT PROJECT, DYKES BRANCH TRIBUTARY BEGINNING AT OVERHILL ROAD AND ENDING AT DYKES BRANCH NEAR 86TH STREET** - DB-04-17: Stormwater project DB-04-18 (Dykes Branch between State Line Road and 86th Street) was under design by Boyd, Brown, Stude, and Cambern Consulting Engineers. Since DB-04-17 (a smaller project) was in the same area as DB-04-18, staff felt it proper to continue the same design concepts, and had requested a proposal from the engineers. The cost of design of DB-04-17 would be $45,500.00.

The Mayor said residents in the area appeared to be concerned about the original project being done in their neighborhood, let alone adding another project to the original. And the Mayor wondered how the City would pay for it. The Mayor suggested the Council might consider assigning the project to the (new) stormwater committee (4 Councilmembers and 5 residents) that would be studying overall financing mechanisms for stormwater projects.

Councilmember Rasmussen was concerned that the stormwater projects that had already been approved by the Council hadn't yet been constructed. He felt the committee needed to look at the projects approved for engineering, and the ones approved for construction, to see where the City stood expenditure-wise, before approving anymore engineering.

Councilmember LaHue said that DB-04-17 had a better SMAC cost benefit ratio than DB-04-18, and had been approved by SMAC for design more than a year ago. He said that Public Works Director Brandt thought it made more sense to have design on the larger project (DB-04-18) and coordinate the tributary (DB-04-17) with it. But they were basically two different projects. Dr. LaHue felt the Council should proceed and fund the design of DB-04-17 which had been approved by SMAC more than a year ago.

Mr. Rasmussen felt the Council should concentrate on constructing the projects they had approved, getting contracts, to be sure the City had not violated any laws (cash basis), and get the projects completed. The stormwater committee should review the financing for the approved projects, and if money was available, put the projects in order of priority.

5505 Councilmember LaHue moved that the design of DB-04-17 be authorized in the amount of $45,500, seconded by Clawson. Councilmember Dunn wanted the matter referred to the stormwater committee. Motion failed; LaHue, Campbell, Clawson in favor; Giblin, Dunn, Peppes, Rasmussen opposed. The new stormwater committee would consider this stormwater project and others by the end of October.

5837 **AUTHORIZE RELOCATION AND ENCROACHMENT AGREEMENT WITH WILLIAMS NATURAL GAS CO. FOR 115TH STREET IMPROVEMENTS BETWEEN ROE AVENUE AND TOMAHAWK CREEK PARKWAY** - agreement would allow the developers of the Lakes of Leawood apartment complex on Tomahawk Creek Parkway to build 115th Street, and outlined what could and could not be constructed on the gas company's easement: On motion of Rasmussen, seconded by Dunn, Council unanimously approved the agreement.

5908 **AUTHORIZE PROPOSAL FOR 1995 STREET STRIPING**: On motion of Rasmussen, seconded by Campbell, Council unanimously approved a proposal from the only vendor to respond, Twin Traffic Marking Corporation, in the amount of $14,512.39.

5964 **ORDINANCE NO. 1524 GRANTING A UTILITY EASEMENT AT THE IRONHORSE GOLF COURSE TO SOUTHWESTERN BELL TELEPHONE COMPANY** - to serve the golf course clubhouse: The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen. Nays---None.

5984 **DESIGNATION OF VOTING AND ALTERNATE VOTING DELEGATES TO THE ANNUAL CONGRESS OF CITIES** - in Phoenix, Arizona; November 29-December 2, 1995: On motion of Clawson, seconded by Dunn, Council unanimously selected Councilmember Rasmussen as the voting delegate, and Mayor Rinehart and City Administrator Garofano as alternate voting delegates.

6075 **DESIGNATION OF VOTING AND ALTERNATE VOTING DELEGATES TO THE LEAGUE OF KANSAS MUNICIPALITIES ANNUAL CONFERENCE** - in Wichita, Kansas, beginning of October 1995: On motion of Clawson, seconded by Dunn, Council voted unanimously that those officials attending the conference would be the delegates. There was a possibility that City Attorney Wetzler and City Administrator Garofano would attend. The City could have 4 voting delegates and 4 alternate voting delegates.

6180 **APPROVAL OF APPROPRIATION ORDINANCE NO. 765**: The ordinance was considered and passed on motion of Rasmussen, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen. Nays---None.

6195 **EXECUTIVE SESSION**: On motion of Rasmussen, seconded by Clawson, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 20 minutes to discuss a matter under attorney-client privilege.

6228 **OTHER BUSINESS**: Public Works Director Brandt gave an update on 83rd Street improvements. All utilities were to be relocated in 2-3 weeks. The improvements would be completed approximately May 1996 rather than the end of this year because of poor cooperation on the part of the utilities. Weather permitting, 83rd Street construction from the west City limits to approximately Ensley Lane would be completed before the end of the year and open through the winter. Access for local traffic only to the uncompleted portion would be provided through the winter.

6315 Mr. Brandt had received a letter from Galen Bird of Grandview, Missouri, in which he expressed concerns about trees being planted in

the median on K-150; trees could be deadly if struck by vehicles even at low speeds. He was also concerned about the heavy stone hole markers at the Ironhorse golf course, felt they were not properly installed and could injure or kill someone. Mr. Brandt said that Parks & Recreation Director Whitaker had indicated to him that staff was in the process of setting the markers in concrete. Mr. Brandt said that all of the K-150 medians had high-backed curbs which would help deflect and slow vehicles down. Federal guidelines indicated only that there had to be a clear space of 6 feet behind the curb.

6451 Councilmember Rasmussen was still concerned about the lack of a sidewalk between 95th Street and 95th Terrace. Public Works Director Brandt thought the design had been completed, but negotiations with the Ranch Mart Shopping Center for right-of-way had broken down. There were no 1995 funds available for sidewalks, but completion of the sidewalk could be a priority in 1996.

6636 Councilmember Rasmussen asked for a status report on the formation of a policy concerning aesthetics on new road construction. Mr. Brandt said the Public Works Committee would try to finalize the matter at their next meeting.

6690 Councilmember Rasmussen felt that McDonald's restaurant at the Ranch Mart Shopping Center at 95th and Mission Rd. and McDonald's at 119th and Roe Avenue should be commended for their landscaping and maintenance thereof. The Mayor would write a letter of commendation to both locations.

6807 Earlier in the meeting, residents had requested that the Council consider amending the sports court zoning ordinance. Staff was in the process of reviewing the Leawood Development Ordinance, so the Plan Commission would review staff's suggestions first, and Council would consider an amended Leawood Development Ordinance by the end of the year.

6986 Councilmember LaHue requested reconsideration of Pay Request No. 14 for Mission Rd. improvements south of 151st Street. He felt that 2 weeks was a long time to hold up payment. He moved to pay $186,852.72 based on the actual revised contract amount to be verified by the Public Works Director, seconded by Rasmussen. Motion carried unanimously.

7162 10:50 P.M. Council convened in executive session, same members present, and returned to regular session at 11:00 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 337

50 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, September 18, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Doug Patterson. * Ronald LaHue and Louis Rasmussen arrived at 7:35 P.M. Marnie S. Clawson was absent. Staff present: J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

57 The agenda was approved unanimously on motion of Giblin, seconded by Peppes, after the addition of 1) an ordinance amending a section of the Code of the City of Leawood to provide for additional fines and penalties in the "Standard Traffic Ordinance" when traffic violations occurred in road construction zones, and 2) a discussion of a letter from a resident requesting a left turn signal at 119th and Mission Rd. for vehicles eastbound on 119th St. wanting to turn left onto Mission to go to the Nativity School.

80 **PROCLAMATIONS**: The Mayor proclaimed:

1. October 10, 1995, as "Double Ten Day", in honor of Leawood's sister city I-Lan, Taiwan, and to recognize the 84th anniversary of the Republic of China on Taiwan; and
2. October 1-7, 1995, as "National 4-H Week"; she presented the proclamation to several 4-H children.

* 7:35 P.M. Councilmembers LaHue and Rasmussen arrived during the proclamations.

CITIZEN COMMENTS: None.

153 **CONSENT AGENDA**: The Police Department's August 1995 report was removed for further discussion. The following were approved unanimously on motion of Campbell, seconded by Dunn:

1. Minutes of the September 5, 1995 Council meeting;
2. Public Works Committee report (minutes) of their September 7, 1995 meeting;
3. Departmental reports;
4. Engagement letter from KPMG Peat Marwick to conduct the audit of the City's 1995 financial statements and to produce a Comprehensive Annual Financial Report (CAFR) for submission to the Government Finance Officers Association (GFOA) for the purpose of obtaining their Certificate of Achievement for Financial Reporting; the fee would be $17,250.00.

Police Department's August 1995 report: Councilmember Rasmussen said that August 31st was the end of the grace period for residents to register their alarm systems. He said that the August report indicated there had been 1,945 alarm calls to which the police had responded in

August, but there was no indication of the number of alarm systems in the City. In order to monitor the costs associated with the nuisance alarm program, the Council should know the number of systems, and he requested that the number of residential and commercial alarm system permits be added to the monthly reports. On motion of Campbell, seconded by Rasmussen, Council unanimously accepted the August report.

257 **MAYOR'S REPORT**: A draft letter from the Mayor to the Kansas Legislature's Special Committee on Assessment & Taxation expressing Leawood's support for expanding the use of the Kansas Tax Increment Financing (TIF) statute as suggested by the Development and Retention Council of Northeast Johnson County (DRC) had been distributed to the Council. Amendments to existing Kansas law proposed by the DRC could stimulate new interest in the aging portions of Kansas cities; resulting development/redevelopment would significantly enhance commercial activity in such areas. If adopted, the recommendations, which would broaden the applicability and use of tax increment financing, would provide Leawood and other Kansas cities with a much improved strategy for accomplishing economic development and redevelopment goals.

Councilmember Rasmussen said he could not support the issue, felt the amendments were worded too broadly, and that the pledging of local sales taxes to essentially justify the issuance of bonds was a dangerous way of financing, sales tax revenue being fundamentally subject to the economy. On motion of Campbell, seconded by Patterson, Council voted to approve the letter of support; Rasmussen opposed, all others in favor.

552 **PUBLIC WORKS REPORT ON A LANDSCAPE POLICY FOR PUBLIC IMPROVEMENTS ON ARTERIAL AND COLLECTOR STREETS**: The Governing Body had assigned the development of the policy to the Public Works Committee because they wanted to control the amount of City funds spent on landscaping for street improvement projects, wanted to give direction to the City Engineer on the amount of City funds that could be budgeted for project landscaping purposes, and wanted to establish a fee to be assessed to developers for landscaping purposes.

Public Works Director Brandt clarified landscaping fees outlined in the policy. If the City wasn't ready to build a street, but a developer was ready to build a subdivision or commercial area, the City would collect $10.00 per front foot of adjacent property (in the case of a collector street) from the developer to be set aside for landscaping purposes, along with a street assessment outlined in the City's annual fee resolution. If the City was ready to improve a street, already subdivided on both sides, the City would collect 5.28% of construction costs for landscaping, along with the street assessment. Councilmember Campbell felt any clarifications needed to be written into the policy. Mr. Brandt repeated that when the City built a street, 5.28% of construction costs of the project would be set aside for landscaping. If the City was not ready to construct a street, but a developer was ready to build a subdivision adjacent to the street, the City would assess him the $10.00 per front foot for landscaping costs.

Councilmember Campbell suggested additional wording in paragraphs 4 and 5 of the policy - "....or in the event that at the time of the

assessment actual construction costs can not be ascertained, then $15.00 (or $10.00)...." - so people would understand when the City would use a percentage or actual dollar amount for landscaping fees.

Councilmember Rasmussen was concerned about a statement in staff's memorandum distributed with the proposed policy which said that when a resident or homes association felt the policy was too restrictive or was not sufficient to cover their needs, a written appeal could be made to the City Council. He felt the basis for an appeal should be limited to the policy being too restrictive, that there was an undue burden. Otherwise, the policy would be useless. Mr. Campbell suggested that the statement in the policy about waiving requirements of the policy could read, "The Governing Body may waive the requirements of this policy in the event that it is deemed to be unreasonable under the circumstances and creates an undue hardship."

Councilmember LaHue said that in the past, Council had handled project landscaping requests on individual bases, and that seemed to have worked well. He felt that landscaping requests still needed to be heard on individual bases. To tell a homeowner that the City would just spend $15.00 per front foot on landscaping seemed too restrictive to him. He didn't see any particular advantage to the policy.

City Attorney Wetzler said that if the City planned to build a street through an existing neighborhood, staff would operate under the proposed policy, setting aside 5.28% of construction costs for landscaping. On the other hand, if the Planning Department was dealing with a developer and a future development which would have a landscape plan to be considered by the Plan Commission, the developer would be required to deposit monies ($15.00 or $10.00 per front foot) under the proposed policy, which essentially would add to the cost of the development. If a developer planned to do something unique on his property, that could be a situation where a cost adjustment might be necessary. The proposed policy would act as a guideline for a developer if a street was being constructed. In the case where the City requested that a developer deposit funds for the future construction of a street, and the developer felt he could justify that he planned to do something on his property that would warrant a deviation from the policy (not have to deposit funds), the Council would have to make the decision as to whether there had been adequate provision for landscaping, provision at least equal to that in the policy.

Mr. Campbell liked the policy because it was a written formal commitment by the City to provide something besides basic infrastructure, it was like a beautification plan, and because it was a guideline with some flexibility for possible deviation.

Mr. Patterson did not like the policy. He thought the assignment to the Public Works Committee had been to focus on landscaping for major improvement projects, not for new construction. He felt that the time to think about the imposition of requirements for a developer on a future street construction was at the time and within the Planning Department's landscape plan requirement, and not require a deposit of funds in addition to that plan, which would increase the costs of construction of future streets.

Councilmember Dunn noted that the policy stated that the Governing Body could request a recommendation from the Public Works Committee and/or the Plan Commission before a waiver was granted. She said the

waiver could allow the Governing Body to disallow the entire policy for one reason or another. The Governing Body would not spend more money than it deemed appropriate.

The Mayor felt it was the Committee's intent that the policy address areas already developed or almost ready to be developed, but not be punitive towards developers, not to add an additional cost to them. Mr. Wetzler felt it was the Committee's intent to see that every arterial and collector street constructed in the City had adequate landscaping. It was not the Committee's intent to charge a developer the additional deposit of $15.00 or $10.00 per front foot if he presented a landscape plan to the Planning Department that had adequate landscaping along an arterial or collector street. The policy was meant to be a directive to staff to make certain that all streets had adequate landscaping.

Mr. Campbell suggested 3 changes to the policy. The fourth paragraph of the policy would read, "The current actual cost for an Arterial Street is $285.00 per front foot; an additional amount equal to either 5.28% of construction cost or, in the event that the actual cost of construction has not been determined, then $15.00 per front foot of adjacent property shall be set aside for landscaping purposes at the time a plat is filed." The fifth paragraph would read, "The current actual cost for a Collector Street is $190.00 per front foot; an additional amount equal to either 5.28% of construction cost or, in the event that the actual cost of construction has not been determined, then $10.00 per front foot of adjacent property shall be set aside for landscaping purposes at the time a plat is filed." The seventh paragraph would read, "The Governing Body may waive the requirements of this policy from time to time, in the event that the policy is determined or deemed to be unreasonable under the circumstances or it causes undue hardship." Mrs. Dunn said that Plan Commission should be capitalized in the first paragraph.

Mr. Patterson suggested a new paragraph be inserted after paragraph number 5 to read, "The fee for landscape purposes shall not be charged in the case of a new development plan approved with accompanying landscape plan." The Council would be in control of the landscape plan and what in contained, and if the Council felt it needed to be improved upon, it could make that decision at the time of development plan approval, and require the developer to deposit a greater or lesser fee for landscaping.

Planning Director McKay felt the policy was aimed at improvement projects in areas of existing homes where the City wanted to control the amount of City funds spent on landscaping, and not aimed at new construction. If it was meant to include new construction, he felt that wording to instruct him to collect the additional deposit from developers at development plan approval needed to be added.

Mr. Wetzler suggested inserting a phrase in paragraphs 4 and 5 which would read, "....or where funds are required to be deposited with the City in advance of construction, $15.00 (or $10.00) per front foot...." Mr. Campbell suggested the phrase read, "....or where funds are required to be deposited with the City in advance of construction, an additional sum of $15.00 (or $10.00) per front foot of adjacent property shall also be collected and set aside for landscaping purposes", to be sure it was understood that the $15.00 or $10.00 was not

included in the street assessment developers were required to pay.

2225 Mr. Campbell moved to approve the policy with the following changes:

1. Paragraph 4 to read, "The current actual cost for an Arterial Street is $285.00 per front foot; an additional amount equal to either 5.28% of construction cost or, where funds are required to be deposited with the City in advance of construction, an additional fee equal to $15.00 per front foot of adjacent property shall be collected and set aside for landscaping purposes."

2. Paragraph 5 to read, "The current actual cost for a Collector Street is $190.00 per front foot; an additional amount equal to either 5.28% of construction cost or, where funds are required.to be deposited with the City in advance of construction, an additional fee equal to $10.00 per front foot of adjacent property shall be collected and set aside for landscaping purposes."

3. Paragraph 7 to read, "The Governing Body may waive the requirements of this policy from time to time in the event that the policy is determined to be unreasonable under the circumstances or it causes undue hardship."

Motion seconded by Rasmussen. Mr. Campbell amended his motion to add a new paragraph to follow Paragraph 5 which would read, "In the event that the Planning Department determines that the landscaping provided by the developer's landscaping plan is adequate, then the additional fee shall be waived." Motion to amend seconded by Rasmussen and carried unanimously.

Mr. Campbell's motion as amended to approve the policy carried; LaHue opposed, all others in favor.

2460 **PUBLIC WORKS REPORT ON OXFORD HILLS SUBDIVISION DRAINAGE CONCERNS**: The Governing Body had assigned the Public Works Committee to research the drainage problems associated with the Oxford Hills storm sewer system. Holes had appeared in the rear yards of property adjacent to the storm sewer in the vicinity of 3201 W. 119th St. There were 3 options to repair the line - 1) total replacement; 2) Insituform Liner; and 3) internal joint repairs. The Committee recommended replacing the line with reinforced concrete pipe at a cost of $323,883.00. Since the project could not be included in the capital improvements program, staff looked at a phased project which would take care of the immediate problem of holes forming in the yards. Phase 1 would cost $100,000, with the remaining phase to be budgeted in a future budget. No funds had been allocated for this project in 1995 or 1996.

Councilmember Rasmussen moved to approve staff's recommendation and proceed with Phase 1, seconded by Dunn. Mrs. Dunn moved to amend the motion to state that the $100,000 come from the 1996 general contingency fund with the provision that temporary construction easements (for Phase 1) be dedicated by the residents, seconded by Campbell.

Mr. Rasmussen moved to amend the motion to state that funds for the project be budgeted in 1997, seconded by Patterson.

Councilmember LaHue moved to amend the motion to state that the City would pursue legal means to obtain construction easements if they were not dedicated by the residents, seconded by Patterson. Motion to amend carried; Dunn opposed, all others in favor.

Mr. Ramussen's motion to amend failed; all opposed.

Mrs. Dunn's motion to amend carried; LaHue, Campbell opposed; all others in favor.

Mr. Rasmussen's main motion as amended twice carried unanimously.

3713 **AUTHORIZE ENCROACHMENT AGREEMENT WITH RESIDENTS IN DORSET MANOR SUBDIVISION AT 103RD AND MISSION RD. FOR MISSION ROAD IMPROVEMENTS, 103RD ST. TO I-435**: William and Betty George, 10320 Howe Lane, had requested that the City grant them permission to continue to encroach into the Mission Rd. right-of-way adjacent to their property. They had constructed a swimming pool and patio in their rear yard, a portion of which extended into the right-of-way. Staff said that the encroachment would not interfere with the proposed construction of Mission Rd. south of 103rd Street. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the agreement.

3726 **ORDINANCE NO. 1525 GRANTING A UTILITY EASEMENT TO THE HALL FAMILY ACROSS LAND AT LEAWOOD CITY PARK** - required for the construction of an electrical service to their pumping station on Indian Creek, southeast corner of Leawood Park, 106th & Lee Blvd.: Councilmember Dunn moved to pass the ordinance, seconded by Campbell.

Councilmember Rasmussen moved to amend the motion to add wording to the easement document stating that in the event the City determined that the overhead power line interfered with Park activities, the easement holder would bear the expense of burying the line. Motion seconded by Dunn. Councilmember LaHue didn't think the problem of overhead lines in the area needed to be compounded by adding another overhead line; kite flying was a Park activity; power lines in a public space should be underground service. Motion to amend carried; LaHue opposed, all others in favor.

On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

3962 **APPROVAL OF APPROPRIATION ORDINANCE NO. 766**: The ordinance was considered and passed on motion of Campbell, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

3976 **ORDINANCE NO. 1526C AMENDING SECTION 14-105 OF THE CODE OF THE CITY OF LEAWOOD TO PROVIDE FOR ADDITIONAL FINES AND PENALTIES IN THE "STANDARD TRAFFIC ORDINANCE" WHEN TRAFFIC VIOLATIONS OCCUR IN ROAD CONSTRUCTION ZONES**: The ordinance was considered and passed on motion of Campbell, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

3997 **OTHER BUSINESS**: Public Works Director Brandt, and Councilmembers Dunn and Rasmussen, had received a letter from Marsha Voran, 4100 W. 110th Terr., requesting a left turn signal at 119th and Mission Rd. for vehicles eastbound on 119th St. and wanting to turn left onto Mission to go to the Nativity School. Mrs. Dunn asked the status of the request. Mr. Brandt, said the best thing to do would be to ask the Church to start school 15 minutes earlier at 7:45 a.m. rather than 8:00 a.m. It was a difficult intersection because there was no dedicated left turn lane. School enrollment had increased greatly over last year. Another

traffic study could be done for approximately $1200-1500. Mr. Brandt would give the Council more information at the next Council meeting (without hiring a consultant).

4172 Mr. Brandt presented an update on the intersection of K-150 and Roe and the closure of Roe south of K-150. One route for construction of a temporary access road from K-150 to Roe would be a north-south road from K-150 to 137th St. for an estimated cost of $27,000 (not including the cost for Reno Construction to construct 135th Street around the access road). A second route would extend 137th Street from the western City limit over to Nall Ave. for approximately $36,000. Mr. Brandt would recommend the extension of 137th St. because of Reno's unknown cost. He hoped to have a solution from either of the two property owners involved within the next two weeks.

4345 9:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 338

62 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, October 2, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

70 The agenda was approved unanimously on motion of Peppes, seconded by Clawson, after the addition of 1) a 5th appointment to the new ad hoc stormwater management review committee under the consent agenda, 2) a discussion of a letter from a resident regarding an in-ground pool with inflatable bubble behind his house, 3) a discussion of a letter from a resident regarding an attempt to save trees on his property which might be destroyed by the 83rd St. improvement project, and 4) a discussion of the Mayor's memo to Council regarding a recent "tour" of some public works projects.

108 **PROCLAMATIONS**: The Mayor proclaimed September 17-23, 1995, as "Constitution Week".

She also officially designated by proclamation the structure at 2405 W. 103rd St. (the Herman J. and Ella B. Voigts house) as a Leawood Historic Structure, and instructed Jody Craig, Chairman of the Leawood Historic Commission, to record as appropriate the designation on the Leawood Register of Historic Places. She presented the proclamation and a special Historic Designation Certificate to the owners of the house, Barry and Renee Grissom. Mrs. Craig would deliver another Certificate to Busch Voigts, 10232 Lee Boulevard, who was unable to attend the meeting.

213 **CITIZEN COMMENTS**: Jennie Bennett, 12507 Delmar, felt City staff had been irresponsible in allowing an "NFL (National Football League) experience" to take place in Leawood Park the past weekend. The Park was not large enough to accommodate such a large event. (See Other Business at the end of the meeting for Parks & Recreation Director Whitaker's remarks.)

G. Gordon Thomas, 10516 Mohawk Lane, wanted to know how the amenities of the pool improvements would be funded, and if user fees would fund the amenities, would the fees be higher for non-residents. He also wanted information on the cost of the City's liability in the event people were injured while using new pool equipment.

390 **CONSENT AGENDA**: A resolution to approve the final plat of Hills of Iron Horse 1st Plat, Change Order No. 1 to the contract for the 83rd Street improvement project, and appointments to the ad hoc stormwater

management review committee, were removed for further discussion. The following were approved unanimously on motion of Campbell, seconded by Rasmussen:

1. Minutes of the September 18, 1995 Council meeting;
2. **Resolution No. 1256**, attached as part of the record, approving the final plat of Tomahawk Creek Apartments (formerly called Lakes of Leawood) located at approximately 117th and Tomahawk Creek Parkway;
3. Landscaping at #10 fairway, Ironhorse golf course - Frey and Frey Landscaping to provide 45 trees for the area to lessen the impact of errant golf balls on adjacent residential properties, at a cost of $10,078.

Resolution No. 1257 approving the final plat of Hills of Iron Horse, 1st Plat, located at approximately 153rd and Mission Road: In response to Councilmember Dunn's question about adding a landscaping fee, Planning Director McKay recommended not adding a fee since the subdivision had been started prior to the adoption of the new landscaping policy (adopted by Council September 18, 1995). Mrs. Dunn moved to adopt the resolution, seconded by Clawson. Mr. McKay told Councilmember Peppes that the issue of rear lot requirements for lots adjacent to the Ironhorse golf course had been resolved and made part of the preliminary plat, and the Golf Course Committee had also reviewed the plat. Mrs. Dunn's motion carried unanimously. Resolution attached as part of the record.

Change Order No. 1 to the contract for 83rd Street improvements: Because improvements would not be completed before the end of the current construction season, Public Works Director Brandt had requested that the contractor provide an estimate to fly ash stabilize the subgrade which would provide a solid, hard driving surface, easily maintained throughout the winter. The estimated cost was $66,651.

Councilmember Dunn wanted to know the reason for the delay in completion of the project. Mr. Brandt said the utility companies were responsible for the delay. Black & Veatch engineering did the construction inspections and monitoring, and had been dealing with the utilities for about a year with poor results. It was difficult working with the utilities on most projects. Mrs. Dunn said it seemed appropriate for Black & Veatch and the contractor to jointly pay for the change order. Mr. Brandt said that the utilities worked under franchises and staff had no control over their work.

On motion of LaHue, seconded by Peppes, Council approved the change order; Rasmussen opposed, all others in favor.

Appointments to the ad hoc stormwater management review committee: In her memorandum to the Council, the Mayor had indicated that she and the City Administrator had compiled a list of issues to be discussed by the ad hoc committee. If the Council or the committee wanted to add items for discussion, that could be done if acknowledged by a Council assignment to the committee. Councilmember Rasmussen felt that when a committee was formed, the Council shouldn't limit items for their discussion. He would not vote for formation of a committee when their ability to request information to allow them to come to a conclusion was so circumspect. The Mayor explained that her memo was not an at-

tempt to preclude the committee's work; she merely wanted to keep the Council apprised of the committee's work. Mr. Rasmussen suggested the particular paragraph in the memo read, "Dick Garofano and I (the Mayor) have compiled a list of some of the issues to be considered by the ad hoc committee. If the Council or the committee wishes to add items for discussion, they may do so." Councilmember Peppes urged that residents' concerns about stormwater be addressed at an early stage in the committee.

On motion of Dunn, seconded by Patterson, Council unanimously approved their general recommendations of discussion and the following citizen committee members: Bill Bowden, 11005 Alhambra; John Jenks, 2333 W. 98th St.; Cal Spradley, 12649 Overbrook; Janice Auvinen, 12501 Sagamore; and Bill Fagan, 2818 W. 91st Terr.

1013 **MAYOR'S REPORT**: The Mayor congratulated City Clerk Martha Heizer for receiving the Greater Kansas City Chapter of ARMA (Association of Records Managers and Administrators) first annual Board of Directors Award for 1994-1995, for her service as Chapter Treasurer, 1993-1994 and 1994-1995.

The Mayor thanked staff and Councilmember Clawson for the Orange Barrel Hot Line card mailed to residents regarding 83rd St. and K-150 improvements. Residents would be able to receive updates on the improvements through the City's voice mail system.

1145 **AUTHORIZE INCENTIVES AGREEMENT FOR COMPLETION OF K-150 AND ROE AVENUE INTERSECTION**: Because of the closure of the K-150/Roe Ave. intersection, Public Works Director Brandt negotiated an incentives agreement with Reno Construction to encourage the contractor to have the intersection open by November 30th. If the contractor could do so, he would receive an additional $15,000 bonus. If Roe Ave. was completed before that date, the contractor would receive an additional $1,000 per day. For every day after November 30th, $1,000 would be deducted from the incentive amount. The $15,000 included the $11,400 the contractor had requested for the cost of the one week delay while the City investigated alternatives to keep Roe Avenue south of K-150 open during construction.

On motion of Rasmussen, seconded by Giblin, Council unanimously approved the agreement.

1194 **REQUEST TO REJECT BIDS FOR SANITARY SEWER RELOCATION WORK FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 2**: The lowest bid was $186,964.00; the engineer's estimate was $97,600.00. Staff recommended that the bid be rejected. All utilities had to be relocated prior to the mid-January bid letting for College Boulevard Phase 2 improvements. It would take 75 days to manufacture the sanitary sewer pipe. To ensure that the sanitary sewer line was relocated prior to mid-January, staff recommended that the City purchase the pipe from Hydro Conduit Corp. at a cost of $35,640, and re-bid the relocation project with the City providing the pipe.

Councilmember Rasmussen moved to accept staff's recommendation, seconded by Dunn. Motion carried unanimously.

1406 **RESOLUTION NO. 1258, ATTACHED AS PART OF THE RECORD, DIRECTING THE CITY**

CLERK TO PUBLISH NOTICE OF PROPOSED ASSESSMENTS FOR THE STATE LINE ROAD IMPROVEMENT PROJECT, PHASE 2: Adopted unanimously on motion of Rasmussen, seconded by LaHue.

1433 **RESOLUTION NO. 1259, ATTACHED AS PART OF THE RECORD, DIRECTING THE CITY CLERK TO PUBLISH NOTICE OF PROPOSED ASSESSMENTS FOR THE 143RD STREET IMPROVEMENT PROJECT**: Adopted unanimously on motion of Dunn, seconded by LaHue.

1459 **ORDINANCE NO. 1527 AUTHORIZING THE IMPROVEMENT OF THE MUNICIPAL POOL COMPLEX AT LEAWOOD PARK, 10601 LEE BOULEVARD**: Councilmember LaHue moved to pass the ordinance, seconded by Clawson. Councilmember Rasmussen had received input from his constituents in Ward 2, expressing concerns about the extent of the project, and perhaps a change in the character of the park. He would not vote to authorize the improvements until he knew the outcome of the bids for construction of the improvements and what parts of the bids Council wanted to approve.

Parks & Recreation Director Whitaker described work that needed to be done in 1995 - removal of existing concrete and decking, and some work within the bathhouse - necessary to be done prior to February 1996 in order to open the pool on time in the spring.

On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Clawson, Peppes, Dunn, Patterson. Nays---Giblin, Rasmussen.

1743 **ORDINANCE NO. 1528 AUTHORIZING THE ISSUANCE OF TEMPORARY NOTES; SERIES 115-95-27; MISSION ROAD, COLLEGE BOULEVARD - I-435; $900,000**: Councilmember Rasmussen asked the status of landscaping requests by Saddle & Sirloin Club and Dorset Manor subdivision along Mission Road south of 103rd St. Public Works Director Brandt said that since the new landscaping policy had been adopted (September 18, 1995), both groups would be invited to a Public Works Committee meeting in the near future to discuss the landscaping issues. Mr. Rasmussen asked if there was any understanding regarding the trees along Mission from the south end of Dorset Manor to approximately Saddle & Sirloin's shot gun range. Mr. Brandt said that the engineers would provide a landscape plan for the project which was at least a year away. In response to Mr. Rasmussen's question about Overland Park having a landscape plan on their side of Mission from 103rd St. to 500 feet south for their part of the project, Mr. Brandt said he was not aware of any, and there was no plan on the Leawood side to date.

Councilmember Clawson moved to pass the ordinance, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

2000 **ORDINANCE NO. 1529 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 124-95-28; 135TH STREET [K-150], STATE LINE-NALL AVENUE; $1,400,000**: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1530 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 126-95-29; MISSION ROAD, 95TH STREET-103RD STREET; $100,000: The ordinance was considered and passed on motion of Campbell, seconded by

Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1531 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 129-95-30; 143RD STREET, MISSION-1320 FEET EAST; $400,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1532 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 131-95-31; NALL AVENUE, 119TH-135TH STREET; $500,000: The ordinance was considered and passed on motion of Patterson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1533 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 134-95-32; STATE LINE ROAD, PHASE II; $300,000: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1534 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 136-95-33; STATE LINE ROAD, PHASE III; $800,000: The ordinance was considered and passed on motion of Dunn, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1535 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 137-95-34; STATE LINE ROAD, PHASE IV; $100,000: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1536 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 140-95-35; 83RD STREET; $500,000: The ordinance was considered and passed on motion of Peppes, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1537 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 142-95-36; BELL DRIVE AND IRON HORSE DRIVE; $500,000: The ordinance was considered and passed on motion of Campbell, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1538 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 160-95-37; MUNICIPAL POOL COMPLEX IMPROVEMENTS; $200,000: The ordinance was considered and passed on motion of Clawson, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Peppes, Dunn, Patterson. Nays---Giblin, Rasmussen.

2153 APPROVAL OF APPROPRIATION ORDINANCE NO. 767: The ordinance was considered and passed on motion of Patterson, seconded by Peppes. On roll

call, the vote was: Yeas---LaHue, Campbell, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

2330 **OTHER BUSINESS**: Planning Director McKay gave an update on the private streets issue (private streets to be taken back by the City). Request forms had been sent to subdivisions with private streets that had requested the forms; 7 packets had been sent out, 4 submissions returned (Pembroke Court, Normandy Place, Brittany Court, Berkshire Villas). Public Works was in the process of reviewing the submissions, and staff expected to make recommendations to the Council at the next Council meeting.

The Mayor had received a letter from Tom Gonterman, 8620 Sagamore, regarding an in-ground pool with inflatable bubble which he had installed behind his house so his wife could exercise during the winter months to help her rheumatoid arthritis. Subsequently, the Planning Department informed him that the structure was considered a detached structure which was prohibited by City ordinance. The Board of Zoning Appeals denied his request for a variance. Councilmember Dunn said City ordinance seemed rather intolerable. Planning Director McKay said the bubble for the tennis courts at Hallbrook Country Club had been handled as a special use application which required a public hearing with neighbors notified. Mr. McKay said that for several years backyard accessory uses had been a big issue with residents; no one wanted to see them. Planning staff was in the process of reviewing zoning ordinances for possible amendments, including some which might address this particular situation.

The Mayor had received a letter from Mr. and Mrs. C.J. Hoffman, 8201 Cherokee Circle, regarding damage to their property (including the loss of old trees) due to 83rd Street being lowered near its intersection with Cherokee Circle. Public Works Director Brandt explained the 83rd Street improvement project at that location and described some options to save one tree. Mr. Brandt said that if Mr. Hoffman agreed to discontinue the use of the south driveway of their circle drive, then a tree well might be built around the tree. Mr. Brandt was waiting on Mr. Hoffman's decision, and of course, Mr. Hoffman would have to give the City an easement which he had not done to date; condemnation proceedings had already begun.

The Mayor had written a memorandum to Council regarding a recent "tour" of some public works projects she had taken with City Administrator Garofano, Public Works Director Brandt, and Public Works Committee Chairman and Councilmember Dunn. In the memo, she had requested that all future Public Works Committee considerations of residents' concerns be visited on site before Committee discussion and before subsequent recommendations to the City Council for action. Councilmember Giblin felt the Mayor should have sent the memo to the Public Works Committee Chairman rather than the Council. Mrs. Dunn said she planned to take the memo to the next Public Works Committee meeting.

Resident Jennie Bennett had complained earlier in the meeting under citizen comments about the "NFL experience" that had been held at

Leawood Park the past weekend. Parks & Recreation Director Whitaker described the simulated National Football League's activities. Some Kansas City Chiefs players were at the park to sign autographs. The NFL experience was designed for families to participate. The Parks & Recreation Advisory Board had approved the event, which was potentially good public relations for the Recreation Department and the City. The City was paid for the use of the fields, and received monies from concessions. The NFL had agreed to reimburse the City for any damages at the park. Parks & Recreation, Police Department, and the Parks & Recreation Advisory Board planned to evaluate the event.

Councilmember Clawson said that the Arts Committee was sponsoring a reception open to the public on October 25th at The Church of the Nativity, 119th & Mission Rd. The Committee was compiling a list of artists and patrons of the arts in Leawood. Names to be added to the list could be called in to City Hall within the next couple of weeks.

Public Works Director Brandt reported on the status of a possible left turn signal at 119th & Mission Rd. He was waiting on a traffic study from Johnson, Brickell & Mulcahy engineers.

Mr. Brandt reported that he had received KDOT's study regarding a possible sidewalk on Lee Boulevard south of 103rd Street. It would probably be considered at the next Public Works Committee meeting.

3510 9:25 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
PUBLIC HEARING

Tape No. 339

50 Minutes of a public hearing held Monday, October 16, 1995, at 7:00 P.M., in the Council Chamber, 4800 Town Center Drive, Leawood, Kansas.

The purpose of the hearing was to hear public comment on: 1) proposed assessments to pay the costs of the improvements of State Line Road, Phase II, from approximately 119th Street to approximately 112th Terrace; and 2) proposed assessments to pay the costs of the improvements of 143rd Street from Mission Road to 1,320 feet east.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Captain Sid Mitchell, Police Department; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

STATE LINE ROAD, PHASE II: Attorney Tom Busch represented residents Fern Stultz, 11420 State Line, and William Davis, 11316 State Line, who were participants with Hallbrook subdivision in a benefit district, although they had not signed the petition to form the district. They opposed the assessments to their properties, feeling the assessments were unjust and unreasonable. Mr. Busch said that before assessments could be levied, the Council would have to determine if the improvements benefited the Stultz and Davis properties; the Council should make a special benefit analysis of the road improvement. He said that many times, cities did not do so, but instead, made 2 assumptions - 1) that the street improvement project did specially assess, and benefit, the adjoining property owners by its very nature, conclusion and completion; and 2) that the cost of the improvement equalled the amount of special benefits conferred on the properties. He said that both of the assumptions, in general, were not true, and in the particular case of Stultz and Davis, were not true. Before the improvements, his clients had had safe, easy and direct access to their properties, no drainage problems, aesthetics were good. After the improvements of five paved lanes were completed, traffic (especially truck traffic) increased significantly day and night, environmental pollution (noise, light from a greater number of street lights due to lack of tree buffer, vehicle exhaust) increased. Access to the properties was made more difficult by additional lanes to cross. Mr. Davis' driveway was more hazardous due to a steeper slope, especially during the winter. Aesthetics decreased due to a very high retaining wall and lack of trees. All of the conditions were burdens, not benefits, on his clients' properties, outweighing any assumed special benefits conferred by the project. Mr. Busch said that if general or special benefits did not exist, then the properties should not be assessed; if the benefits did not exceed the burdens identified, then the properties should not be assessed. Mr. Busch said that Stultz and Davis were the only property owners on State Line

Road from I-435 to K-150 who would be assessed for the widening of State Line Road; no other homeowners abutting State Line Road were going to be assessed for the widening. Stultz and Davis were forced into the improvement district, being surrounded by Hallbrook subdivision. Mr. Busch said that even if it were proven that special benefits did exist which would justify a special assessment, he felt that assessing by the front foot method was not a just method. City Resolution No. 694 addressed the issue - if the front foot method resulted in an unjust or harsh burden on a property owner, Council had the authority to shift to a square foot method, thereby reducing the assessment as made by 68-84%. He asked that the Council do that if, in fact, they found that special benefits existed.

Robert Stultz spoke on behalf of his mother Fern Stultz. He said that his mother's property and Davis' property were the only properties along State Line with entrances off of State Line; backyards of homes in Hallbrook were adjacent to the roadway and were bermed to isolate them. He felt that reduced his mother's possible benefit. He asked that no assessment be made on his mother's property.

William Davis felt it was unjust to apply the same formula for assessment to a 700-acre subdivision like Hallbrook to his 3-acre lot. Unlike residents in Hallbrook, there was no way he would be able to recover the cost of the assessment. He saw no benefit to his property whatsoever. The mess he had to bear during the construction of State Line Road for two years was enough to outweigh any benefit.

City Attorney Wetzler asked that Mr. Busch clarify for the record whether or not his clients were asking the Council to consider applying the assessment policy in Resolution No. 694 which permitted residential property owners to ask that their properties included in improvement districts be assessed on a residential basis, to pay the cost of essentially one-half of a residential street. Mr. Busch said his clients' properties should not be specially assessed any costs. If the Council disagreed, his clients requested that the Council apply Resolution No. 694, which in his opinion didn't necessarily say one-half of a residential street; in his clients' cases, it would be much less than one-half.

841 **143RD STREET IMPROVEMENTS**: No public comment.

866 7:35 P.M. Councilmember Rasmussen moved to close the hearing, seconded by Dunn. Motion carried unanimously.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 339

891 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, October 16, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Captain Sid Mitchell, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Peppes, after the addition of a discussion of Mission Rd. improvements, 97th Place to 103rd Street.

926 **PRESENTATION OF AWARD TO THE CITY FOR ULTRA-THIN WHITETOPPING ON 119TH STREET**: Edward Moses, Executive Director of the Kansas Ready Mix Concrete Association, presented a plaque to Public Works Director Brandt to recognize the City's innovative and good work in the concrete construction of 119th Street.

1014 **CITIZEN COMMENTS**: Charles Hoffman, 8201 Cherokee Circle, spoke about his problems during the 83rd Street improvement project, the damage it had done to his property. He mentioned a petition signed by residents of Cherokee Circle that had been sent to the City. He said residents did not understand how the ideas of one engineering firm hired by the City could destroy residents' private properties. He described the damage done to his property. Residents of Cherokee Circle were faced with a very steep and dangerous descent onto 83rd Street because of the lowering of the street to achieve better sight distance for traffic; Mr. Hoffman did not recall any accidents at the intersection of 83rd St. and Cherokee Circle. Residents were told there were water problems that had to be resolved on 83rd Street, but Mr. Hoffman didn't know of any. He expected traffic flow to increase, making it more difficult for vehicles to get onto 83rd Street from the side streets. He requested that the Council require Black & Veatch engineers to review their proposed design to lessen the radical impact on Cherokee Circle and on private properties and property owners which adjoined it. (See Other Business at the end of the meeting.)

1185 **CONSENT AGENDA**: Change Order No. 1 to the contract for Town Center Plaza improvements was removed for further discussion. The following were approved unanimously on motion of Peppes, seconded by Campbell:

1. Minutes of the October 2, 1995 Council meeting;
2. Departmental reports;
3. Pay Request No. 2 (FINAL) by Total Electric Construction in the amount of $47,903.02 for traffic signal improvements at the intersection of Town Center Drive and Roe Avenue;

4. Change Order No. 1 to the contract for the 1995 Curb Rehabilitation Project in the amount of $8,579.00 to replace 4 stormwater inlets with new concrete box inlets;

5. Repair of Police Department HVAC by Neal Harris Heating and Airconditioning in the amount of $9,406.00.

Change Order No. 1 to the contract for Town Center Plaza improvements between Roe Avenue and Nall Avenue and Town Center Drive and 119th Street: The contract with Walton Construction Co. for the Plaza improvements had included the cost of construction of a traffic signal at the intersection of Town Center Drive and Roe Avenue. However, the City had previously contracted with Total Electric Construction Co. outside the Walton contract for the signal installation in order to get the signal operational sooner than the road work which had to be done. The change order removed the signal from the Walton contract, reducing that contract amount by $95,550. On motion of Clawson, seconded by Giblin, Council unanimously approved the change order.

1260 **MAYOR'S REPORT**: The Mayor had received a request that the City become a Tree City U.S.A. Staff was in the process of seeing if the City could accommodate the request. About half the cities in Johnson County were already members of Tree City U.S.A. If all the cities in Johnson County became members, Johnson County would be the first Tree County U.S.A. in the nation.

A topic of discussion at a County Council of Mayors meeting was the spending lid proposed by the Governor and many legislators which, in the Mayor's opinion, would adversely affect Leawood's ability for home rule. The Council of Mayors wanted to know cities' opinions by their next meeting so they could express their opinion as a group. Councilmembers agreed with the Mayor, that the state should leave local policy decisions where they belonged - with the people who lived in a community and the officials they chose to represent them. The Mayor said that she would go to the Council of Mayors and oppose any attempt to pass a spending lid or tax lid.

1586 **ORDINANCE LEVYING ASSESSMENTS TO PAY THE COSTS OF IMPROVING STATE LINE ROAD, PHASE II, FROM APPROXIMATELY 119TH STREET TO APPROXIMATELY 112TH TERRACE**: (See Public Hearing held at 7:00 P.M. before the Council meeting.) Councilmember LaHue said there were approximately 460 residential lots in Hallbrook, and the assessment to Hallbrook for Phase II was $626,855 or approximately $1,360 per lot. Dr. LaHue felt more appropriate assessments for the Stultz and Davis properties would be the number of Hallbrook-sized homes (3 or 4) that could be built on those properties, multiplied by $1,360. (The proposed assessment for Stultz was $59,573, and for Davis $68,522.)

By Resolution No. 694, a resident benefitted by a street improvement simply by living next to that street, and that benefit to a residential property was the cost of construction of a residential street. The Council recognized when they adopted the resolution that tracts of land which were suitable for more intense development should pay a greater cost if they changed from single family residential to commercial property. The Council enacted a mechanism to defer assessments. The Council could assess the Stultz and Davis properties for

the cost of construction of a residential street. (The assessment for Stultz would be $31,760, and for Davis $36,531.) If either tract developed as commercial within 5 years of the original assessment, then there would be a reassessment to pay as a commercial development.

City Attorney Wetzler felt a strong argument could be made that a home in Hallbrook did not benefit to the same extent as the Stultz and Davis homes did because they directly abutted State Line Road, and at least one of the properties at some time in the past had been used for commercial purposes.

Mr. Wetzler said that attorney Tom Busch and his clients Stultz and Davis had made statements regarding the inconvenience and problems that had occurred as a result of the construction, but Mr. Wetzler did not feel those were appropriate considerations because both properties went through condemnation and were awarded substantial sums of money for both permanent and temporary devaluations of their properties as a result of the construction.

Councilmember Rasmussen wanted to know what action would trigger a reassessment. The resolution indicated reassessment could occur when a property was "sold for development". Mr. Wetzler said that would become clear to the City when an application was made to the Planning Department for such a development. Councilmember Clawson felt that any motion made on this issue should include language which would define that trigger.

Mr. Wetzler preferred that Council would give staff a directive to prepare an ordinance based on Council's decision on the assessments, the ordinance to be considered at another Council meeting.

Councilmember Rasmussen suggested that Resolution No. 694 be followed for the Stultz and Davis assessments, with the clarification that if there was a transfer of title within 5 years of the initial assessment, the property would be assessed the remaining amount plus interest. Councilmember Campbell suggested that if there was a transfer to any individual within the 5 years who would not reside on the property, then that would trigger the reassessment; that would take into consideration the possibility that the property might be transferred to a family member or to someone else who would reside on the property, exempting that situation from reassessment.

Mr. Wetzler said that the Council had to determine whether properties that were similarly situated were benefitted similarly, and therefore should be similarly assessed. He pointed out that the Stultz and Davis properties abutted State Line Rd. (a benefit), Hallbrook homes did not. Hallbrook residents had paid for the residential streets in front of their homes as part of the development costs which were passed on to them. Also, some Hallbrook residents had paid for the cost of construction of 119th Street, and some would pay for College Boulevard improvements. Council could look at the impact of an arterial street on residential properties interior-wise versus properties that abutted a street to be improved.

Mr. Wetzler would prepare alternative ordinances based on Council's discussions for Council consideration at the November 6th Council meeting. Action officially deferred until November 6th.

3047 **ORDINANCE NO. 1539 LEVYING ASSESSMENTS TO PAY THE COSTS OF IMPROVING 143RD STREET FROM MISSION ROAD TO 1,320 FEET EAST**: The ordinance was

considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

3094 **REQUEST BY PEMBROKE COURT HOMES ASSOCIATION THAT THEIR PRIVATE STREETS BECOME PUBLIC**: Staff indicated that the private streets were in an acceptable condition and would not require unusual maintenance by the Public Works Department. The cost to bring the pavement surface condition into compliance was minor. No sidewalks or street lights existed; residents could petition the City in the future for the installation of both. Public Works Director Brandt recommended that Council accept the private streets as public after the homes association completed the following: 1) provide deeds for the platted tracts that would become public streets, 2) provide a certified statement that 75% of the property owners were in agreement with the conversion of private streets to public streets, 3) make the necessary street and storm sewer repairs (estimated cost to the homes association of $12,456), and 4) correct turning sight distance problems by trimming trees.

Mr. Brandt said that if residents petitioned the City for street lights and sidewalks, he expected the City to pay for the street lights, and sidewalk construction costs assessed back to abutting property owners. City Administrator Garofano clarified that under the City's subdivision regulations, it was the responsibility of the developer to install street lights within a development, not the City-at-large. Since Pembroke Court was an established subdivision, Council would have to decide who would pay for the street lights - the homes association or the City-at-large. Councilmember Clawson wanted an additional stipulation that the homes association would have to follow the City's normal petition process for street lights.

Councilmember Rasmussen said that it was important that the homes association understood that they were expected to remove trees, etc., from drainage channels (trees above the swale did not need to be removed per Mr. Brandt) before the City would take over their streets. He felt that snow removal needed to be clarified. It was difficult for City trucks/plows to maneuver on some of the streets. He wondered if a condition to the City taking over the streets might be that snow removal remain with the homes association. The Mayor noted that snow removal in Pembroke Court probably would not be done as fast as the residents were used to with a private contractor because their streets would be on the City's list for snow removal and worked on in the order that the City placed them. Councilmember Rasmussen said that many private streets had customized street light units, and he wanted to make it clear that the City should not take them over - the City should not have to take on the responsibility of replacing them, and of course, the City had a standard for street lights to follow.

City Administrator Garofano clarified that it was intended that contractors with proper bonds/insurance do the required improvements, not City crews. Pembroke Court hoped that the City would administer the contracting (hiring and overseeing the work) for the homes association.

City Attorney Wetzler said that to his knowledge the only improvement districts the City had formed were K.S.A. 12-6a01 districts under which the City could initiate improvements or improvements could be

initiated by petition. City-initiated improvements were subject to protest for any type of project except a sewer project. The City could initiate a sidewalk improvement, and as long as there was not a protest by more than 50% of the residents, the improvement could take place over those who objected. Also, the City could have property owners (more than 50% resident signatures required) sign consents to the formation of an improvement district without the right of protest.

Mr. Wetzler said that since the streets in Pembroke Court were still private, the City should not expend funds or staff time to administer the necessary improvements; the homes association would have to administer the work. Mr. Rasmussen suggested the homes association contact Shafer, Kline & Warren consulting engineers to help with the improvements.

Mr. Wetzler said that Pembroke Court's request that their private streets be accepted as public could be approved by simple motion of the Council with a majority of the quorum in favor, but before the streets could become public, they would have to be accepted by ordinance.

Councilmember Patterson moved that the engineer's report from Shafer, Kline & Warren engineers be accepted; that staff be directed to continue to work with Pembroke Court Homes Association toward the satisfaction of the 4 conditions in staff's memorandum (see first paragraph of this discussion); that the current lighting system be maintained by the association or property owners, not by the City; and that it was Council's intent to accept the streets as public by ordinance after the 5 conditions had been met. Motion seconded by Giblin. (It was understood that snow removal would be done on the City's schedule.)

4025 Councilmember LaHue moved to amend the motion to state that prior to acceptance of the streets, the City would receive a statement from the homes association indicating their commitment not to oppose the formation of a benefit district in the future (for street light, sidewalk, roadway, other improvements) to provide for the safety and well-being of the residents, if the improvements were deemed necessary by this or future Councils. Motion to amend seconded by Rasmussen. The Mayor asked why, once the streets were public, would the Council make it more onerous for Pembroke Court to get street lights than in the existing part of the City with public streets. She felt the amendment was an additional stipulation that was not included in original discussions with Pembroke Court about the criteria for accepting their private streets as public. City Administrator Garofano addressed subdivisions with private streets not built to City standards and not having street lighting or sidewalks in many cases. Streets, sidewalks, and street lighting should be reflected in the total development cost of subdivisions, as they were in new subdivisions, hence divide the cost of any requested street lighting or sidewalks up between residents of Pembroke Court. Mr. Rasmussen felt the matter had been discussed in original discussions. He cited part of the public street policy regarding street lighting - optimal criteria would include City standard luminaires and poles in place; alternatively, the subdivision could provide private maintenance if agreeable with the City; however, in any case, acceptable City luminaire requirements would have to be met. Mr. Rasmussen was willing to accept the current lighting system in Pembroke Court, but if in the future something happened (as Dr. LaHue was concerned about), then the Council could require Pembroke Court to have

the optimal street lighting. City Attorney Wetzler reiterated that if more than 50% of Pembroke Court residents opposed the City-initiated optimal street lighting construction, the lighting could not be constructed, could not be forced. Dr. LaHue's motion to amend failed; LaHue, Peppes, Rasmussen in favor; Campbell, Clawson, Giblin, Dunn, Patterson opposed.

Mr. Wetzler said the Council would have to approve a written agreement with Pembroke Court, and at least one ordinance accepting the streets as public. There might be another ordinance accepting easements and right-of-way.

Mr. Patterson's main motion carried; LaHue opposed (the City would be giving up its authority to protect citizens), all others in favor.

4861 **REQUEST BY NORMANDY PLACE HOMES ASSOCIATION THAT THEIR PRIVATE STREETS BECOME PUBLIC**: Staff indicated that the private streets were in an acceptable condition and would not require unusual maintenance by the Public Works Department. The cost to bring the pavement surface condition into compliance was $25,007.06. No street lights existed. The residents could petition the City in the future for installation of street lights. The box culvert under 128th Street would require a structural review, and could require extensive repairs. The banks and the bottom of the open channel drainage way that flowed through the subdivision had eroded extensively. Minor repairs and adjustments to the existing storm sewer would be required. The estimated cost of the repairs was $126,500. Public Works Director Brandt recommended that the Council require that the homes association do the additional structural study on the box culvert which was not addressed in the study done by Shafer, Kline & Warren. He recommended acceptance of the streets as public upon completion of the recommended street and storm sewer system repairs, other than the box culvert.

Councilmember Clawson moved to defer consideration of the request until a study had been done and a cost determined for remediating the problems highlighted in staff's report, seconded by LaHue.

Resident Bob Wayne said Normandy Place Homes Association had not received a staff report as Pembroke Court had. They did have Shafer, Kline & Warren's study for which they had paid; it made no mention of the extent of the repairs or of the estimated cost of the repairs. Councilmember Dunn said that she had given Pembroke Court (her constituents) the information in the staff report on their private streets when she received her Council packet. Mr. Wayne said that a big problem for his subdivision would be created by water draining into Normandy Place from subdivisions to the south; he felt it was the City's problem as well as that of the homes association.

Mrs. Clawson's motion to defer carried unanimously.

5455 **REQUEST BY BERKSHIRE VILLAS HOMES ASSOCIATION THAT THEIR PRIVATE STREETS BECOME PUBLIC**: Staff indicated that the private streets were in an acceptable condition and would not require unusual maintenance by the Public Works Department. The cost to bring the pavement surface condition into compliance was minor. No sidewalks or street lights existed. Residents could petition the City in the future for the installation of both. The turning sight distance onto 124th Street could be corrected by the homes association immediately by trimming a tree and

relandscaping the intersection. Public Works Director Brandt recommended that the Council accept the streets as public after the homes association completed the following: 1) replat Berkshire 4th Plat to dedicate the streets to the City (the property lines extended into the roadway), 2) furnish the City with a certified statement that 100% of the property owners were in agreement with the conversion of private streets to public streets, and 3) make the necessary street repairs (estimated at $5,377.58) and storm sewer repairs (estimated at $2,500) outlined in Shafer, Kline & Warren's report and staff's report.

Councilmember Rasmussen was concerned about snow removal. Mr. Brandt said he would like to be able to contract with a contractor similar to the one Berkshire Villas had used, a contractor with small truck plows. The Mayor said that Berkshire Villas' residents could possibly get faster and better snow removal service than the rest of Leawood - was it fair that all Leawood residents would be paying for faster, better service in a few parts of the City? Mr. Brandt said he might recommend private snow removal in other parts of the City because of Public Works' heavy work load in a rapidly developing Leawood.

5740 Councilmember Rasmussen moved to approve the request with staff's 3 conditions, seconded by Giblin. Resident John Hanrahan addressed snow removal. Residents had the responsibility of cleaning their own driveways and parking bays. He didn't think big trucks would be a problem because cars were not allowed to park on the streets or in the parking bays. Mr. Rasmussen's motion carried unanimously.

5842 **REQUEST BY BRITTANY COURT HOMES ASSOCIATION THAT THEIR PRIVATE STREETS BECOME PUBLIC**: Staff indicated that the private streets in Brittany Court were not in good condition; the roadway base had failed. The surface condition had been well maintained. Storm sewers would require cleaning and maintenance of the outlet structures. The growth of brush and small trees had blocked the flow of water at the outlet. The large amount of on-street parking would be a problem for snow removal. Snow removal equipment was too large to maneuver around parked cars. A private snow removal operation would be recommended for the subdivision. The subdivision had no sidewalks or street lights. Residents could petition the City in the future for both. Public Works Director Brandt recommended that the Council not accept the streets as public. Funding of the excessive costs to make the necessary repairs should be settled prior to acceptance. The subdivision would have to replat to establish right-of-way boundaries. Pavement repairs would cost approximately $307,731.55, curb repairs approximately $3,000, and storm drainage repairs approximately $1,500.

Councilmember Rasmussen moved to defer consideration, seconded by Giblin, so the homes association could review staff's report, and consider the costs and implications of the costs for the association, and determine a way to address the costs. Motion carried unanimously.

6065 **REQUEST BY MERCHANTS IN THE 103RD AND STATE LINE AREA TO INSTALL A MONUMENT SIGN (LISTING OF BUSINESSES) AT 103RD TERRACE AND STATE LINE**: Merchants were concerned about identification and visibility of their businesses without State Line Road frontage. The requested sign was larger than what the City would allow other shopping centers, however, considering the age of the area and the way in which it had developed,

the sign needed to be larger to allow for all the tenants' names at a size that was readable from State Line Road. The sign would be placed in City right-of-way. On motion of Clawson, seconded by Campbell, Council unanimously approved the concept of the sign. An encroachment agreement or easement would be prepared for future Council approval.

6314 **APPROVAL OF APPROPRIATION ORDINANCE NO. 768**: The ordinance was considered and passed on motion of LaHue, seconded by Peppes. On roll all, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

6630 **SCHEDULE EXECUTIVE SESSION**: On motion of Dunn, seconded by Campbell, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 15 minutes to discuss a matter under attorney-client privilege.

6655 **OTHER BUSINESS**: **83rd Street improvements**. Public Works Director Brandt gave an update on staff's negotiations with Charles Hoffman, 8201 Cherokee Circle. Staff had considered: 1) building a tree well (more of a retaining wall structure within 4 feet of the street) to save one tree in Mr. Hoffman's front yard, but to do that, the south drive would have to be eliminated; the estimated cost was $6,600; the City would remove as much of Mr. Hoffman's driveway as he wanted, replacing it with topsoil and sod; 2) relocating the stormwater inlet, but decided not to do so because it had already been constructed; 3) the steepness of the grade on the east leg of Cherokee Circle was originally set at 9% going down to the intersection with 83rd Street with a 40-foot flat area of about 1.5% on which to stop before entering 83rd Street; a revised profile increased the 1.5% to 3% (the maximum standard for a residential street intersecting with a thoroughfare) and decreased the 9% to 7.32%. Staff and Black & Veatch engineers proposed the 3 considerations.

The City had received a petition signed by residents of Cherokee Circle requesting that the Governing Body 1) review and revise the proposed plans for the reconstruction of 83rd St., and more particularly the eastern intersection of Cherokee Circle with 83rd St.; plans called for lowering 83rd St. and Cherokee Circle by nearly 3.5 feet at the intersection; additionally, the regrading of 83rd St. would destroy several 30-year old trees and would greatly (and dangerously) increase the grade of front yards, driveways, walks, and of Cherokee Circle as it met 83rd St., making stopping at 83rd St. in rain, snow, or icy conditions much more difficult; 2) order Black & Veatch engineers to re-engineer the intersection to eliminate the unnecessary and dangerous conditions; and 3) to the extent that topsoil was removed during work on all yards along 83rd St. or intersecting streets, it would be replaced with an equivalent amount when the project was completed.

Black & Veatch engineer Paul Petrich explained that 83rd St. had to be lowered to improve sight distance at both legs of Cherokee Circle.

END OF TAPE

15 The Mayor said that the City had started condemnation proceedings and Mr. Hoffman was involved in that. He would receive a condemnation award for the land taken by the City. She said it was not customary to give condemnation money and to also do remediation work.

Councilmember Peppes felt that if there was a way to lessen the grade of Cherokee Circle to make it safer, the City and residents wouldn't be in court over the situation; so perhaps the Council should compare the money spent in condemnation and awards with spending a little more money on gradient of the street if possible. Public Works Director Brandt said that further grading would make the approach to 83rd St. safer and smoother, but would hurt Mr. Hoffman's property and another property across the street, and the City would have to obtain more easements from other property owners and more trees might be in jeopardy. Mr. Petrich said that the sight distances were minimums for the design speed on 83rd St. The engineer's design would have an impact on fewer properties than grading in a different way (and raising 83rd St.) further west on 83rd St. The engineers had designed the proposed profile of 83rd St. to most closely match the existing profile of 83rd St. to minimize the impact on properties directly adjoining 83rd St.

Staff and engineers might want to talk to Mr. Hoffman about a retaining wall around his property and a solution to his driveway problem, and look at the costs of grading Cherokee Circle down farther to the north for a safer grade to 83rd St. and talk with the residents in the neighborhood to see if they would be willing to be intruded upon further.

Mr. Brandt said that the contractor was ready to start paving. If anything was done with the design of 83rd St. (changes made), nothing would be done to the street until good weather next year. He felt it was a good design.

Councilmember Rasmussen expected staff and engineers to meet with Mr. Hoffman, discuss with Mr. Hoffman and other residents in the neighborhood the option of further reducing the slope of Cherokee Circle going north from 83rd St. (Mr. Hoffman being most adversely affected), listen to what Mr. Hoffman felt would be necessary to reduce the damage to his property - perhaps a retaining wall or tree well.

986 11:00 P.M. On motion of Clawson, seconded by Dunn, Council voted to extend the meeting until 11:30 P.M.; Giblin opposed, all others in favor.

1071 **Mission Road improvements, 97th Place to 103rd Street**: Councilmember Dunn had received a letter from Anthony V. Manzo, 10209 Mission Rd., with questions about landscaping for Saddlewood subdivision at the northeast corner of 103rd and Mission Rd. as part of the Mission Rd. improvement project. Councilmember Rasmussen wanted the Council to know that the Saddlewood Homes Association expected what was promised them - that the City would replace removed entrance monuments, gazebos, Saddlewood sign, and landscaping that had existed. Staff would look for a written agreement or letter between the homes association and the City. Mr. Rasmussen would contact Mr. Manzo about his specific requests.

1240 11:10 P.M. Council convened in executive session, same members present, and returned to regular session at 11:15 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 341

45 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, November 6, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. * Ronald LaHue arrived 7:45 P.M. ** John R. Campbell, Jr. arrived 7:35 P.M. *** Doug Patterson arrived 8:40 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

53 The agenda was approved unanimously on motion of Rasmussen, seconded by Dunn, after the addition of: 1) a proclamation for National Diabetes Month; 2) the scheduling of a special Council meeting to evaluate the City Administrator's job performance; 3) an update on the sidewalk improvements on 103rd Street across from Brookwood Elementary School; 4) a discussion of the confidentiality of City records; 5) an update on the improvement of K-150 at Roe Ave.; and 6) an update on the pedestrian crossing at 119th Street and Aberdeen.

** 7:35 P.M. Councilmember Campbell arrived.

112 <u>RECOGNITION OF LEAWOOD POLICE CHIEF J. STEPHEN COX AS THE 1995 "CLARENCE M. KELLY" LAW ENFORCEMENT ADMINISTRATOR OF THE YEAR SELECTED BY THE KANSAS CITY CHAPTER OF THE AMERICAN SOCIETY FOR INDUSTRIAL SECURITY</u>.

283 <u>CITIZEN COMMENTS</u>: None.

286 <u>PROCLAMATIONS</u>: The Mayor proclaimed:

1. March 29, 1996, as "Arbor Day", and presented the proclamation to Parks & Recreation Director Whitaker as a step in becoming a "Tree City U.S.A.";
2. November 1995 as "National Diabetes Month".

299 <u>CONSENT AGENDA</u>: The following were approved unanimously on motion of Clawson, seconded by Peppes:

1. Minutes of the October 16, 1995 Public Hearings on proposed assessments to pay the costs of the improvement of 143rd St., Mission Rd. to 1,320 feet east, and the improvement of State Line Road, Phase II;
2. Minutes of the October 16, 1995 Council meeting;
3. Parks & Recreation Advisory Board report (minutes) of their October 30, 1995 meeting;
4. Purchase of 6 1996 Ford Crown Victoria police patrol cars in the total amount of $118,536.00 through the Kansas City area cooperative purchasing arrangement;

5. Approval of the recommended distribution of 1996 Human Services Funds by United Community Services of Johnson County - $3,500 total funds from Leawood;

6. Pay Request No. 14 (FINAL) by Eshenroder Construction Co. in the amount of $6,090.00 for construction of the Ironhorse golf course maintenance facility, rest stations, pump house;

7. Change Order No. 1 to the contract for the 1995 Sanitary Sewer Rehabilitation Project in the amount of $56,422.96 for field changes during the construction period;

8. Pay Request No. 3 (FINAL) by Miles Excavating, Inc., in the amount of $91,606.28 for the 1995 Sanitary Sewer Rehabilitation Project;

9. Pay Request No. 2 (FINAL) by Eshenroder Construction Co. in the amount of $9,666.82 for installation of water lines and parking lot lighting at the Ironhorse Golf Club clubhouse;

10. Approval of 1996 benefit package renewal for employees - health and life insurance, long-term disability insurance, employee assistance program, and a 125 (IRS Section) cafeteria program allowing employees to pay certain medical and dependent care expenses with pretax dollars - no increase in rates/premiums, with an anticipated premium refund (unknown at this time) from Blue Cross/Blue Shield in the spring;

11. Approval of Ironhorse golf fees for 1996, attached as part of the record, to be included in the annual fee schedule resolution for 1996.

314 <u>RESOLUTION NO. 1260 APPROVING THE PRELIMINARY SITE PLAN FOR HEREFORD HOUSE RESTAURANT AT APPROXIMATELY TOWN CENTER DRIVE AND 117TH STREET, TOWN CENTER PLAZA LOT 6</u>: Councilmember Rasmussen moved to adopt the resolution, seconded by Clawson.

* 7:45 P.M. Councilmember LaHue arrived.

Planning Director McKay said that 1 Plan Commission stipulation of approval had been omitted and would be added as #12 to read, "Staff is to work with the developer to eliminate the parking that backs onto the main drive aisle at the north end of the shopping center."

Councilmember Rasmussen expressed his concern about fire exits on the second floor. Council reviewed the plans.

The resolution, attached as part of the record, was adopted unanimously.

Mr. McKay said that the outdoor music systems would be allowed only when there was outdoor dining. Holiday music would not be played on the north side of the shopping center prior to 9:00 a.m. or after 10:00 p.m., so basically there was a curfew of 10:00 p.m. for music outside.

945 <u>ORDINANCE NO. 1540 LEVYING ASSESSMENTS TO PAY THE COST OF IMPROVING STATE LINE ROAD, PHASE II, APPROXIMATELY 119TH STREET TO 112TH TERRACE</u>: Deferred from the October 16th Council meeting. Councilmember Clawson moved to pass the proposed ordinance, seconded by Dunn. Staff indicated that the cost of the improvement which would be assessed had to be based upon a special benefit received. The resulting assessment would impose substantially equal burdens or shares of the cost upon properties similarly benefitted. The Council would have to consider

IRONHORSE MEMORANDUM

DATE: October 31, 1995

TO: Scott Whitaker, City of Leawood

FROM: Shane Gardner, IRONHORSE Golf Club

RE: 1996 Fees

CC: Mike Jansen, Mike Lohner, Gary Heward

On the 26th of October the Golf Course Advisory Committee approved the following fees for the 1996 season.

Category	95	96
Non-Prime Non-Resident	24	28
Prime Non-Resident	30	34
Non-Prime Resident	20	24
Prime Resident	28	32
Non-Prime Twi-light (NR)	14	17
Prime Twi-light (NR)	18	20
Non-Prime Twi-light (Res)	12	14
Prime Twi-light (Res)	16	18
Junior / Senior (NR)	18	19
Junior /Senior (Res)	15	16
18 Hole Golf Car	11	12
Twi-light Golf Car	6.50	7
Senior Golf Car	N/A	11

Non-Prime - Monday through Thursday

Prime - Friday through Sunday

NR - Non-Resident of Leawood

Res - Resident of Leawood

Twi-light - After 4:00pm rate

whether the Stultz/Davis properties were benefitted by the improvement, and not whether the improvement benefitted the present use of the properties. It was staff's opinion that the Stultz, Davis and Hallbrook properties abutting the improvement were similarly benefitted, but to compare "internal" Hallbrook properties with the Stultz/Davis properties abutting the improvement was not reasonable. The Stultz/Davis properties had direct access to State Line Road; no residential property in Hallbrook had direct access. It was considered appropriate to assess the improvement based upon the cost of constructing one-half of a residential collector or $130 per front foot, but to offer the Stultz/Davis properties the residential reduction, as outlined in City Resolution No. 694. Implementing the residential reduction would not indicate that the benefit was any less than that of other properties, but it would consider the current use of the properties. Staff recommended that the Stultz and Davis properties be assessed at the rate of $110 per front foot abutting the improvement, and further recommended that the properties be subject to the residential rate with the condition that if a change in zoning was approved within 5 years of the publication of the assessment ordinance, then the properties would be subject to reassessment at the development rate of $130 per front foot abutting the improvement. The amounts of the collector assessments would be $37,534.90 for Stultz and $43,173.00 for Davis. The amounts of the residential exemption assessments would be $31,760 for Stultz and $36,531 for Davis. Based upon the recommendation, the City-at-large would pick up $59,804 under the residential assessment.

Councilmember Rasmussen pointed out that one part of the proposed ordinance stated that the Governing Body had found that the Stultz and Davis properties were zoned for use as agricultural, not residential, and wondered if it was proper or justifiable to apply Resolution No. 694 (with a residential use reduction). City Attorney Wetzler felt that the assessment ordinance really considered how the properties were used but not particularly zoned. Mr. Rasmussen said that the benefit would go to the property, not to the use of the property, yet Resolution No. 694 related to the use of the property as residential while the ordinance stated that the properties were not residential, but were agricultural. Mr. Wetzler said the properties were zoned agricultural, but the current use was residential, and felt that the situation was a proper application of Resolution No. 694.

Councilmember Clawson referred to the part of the ordinance which indicated that the assessment would revert to $130 per lineal abutting front foot if the properties were sold for development within 5 years of the adoption of the assessment ordinance. She asked how the City would know when a sale for development had occurred. Mr. Wetzler said that Resolution No. 694 needed a clearer definition of "sale for development purposes". He said that for the purposes of Resolution No. 694, the properties would be subject to reassessment following final approval of any rezoning for development.

Councilmember LaHue asked how State Line Road was any different from 95th Street (improvements) where no one was assessed $130 per lineal abutting front foot. He felt that the widening of (existing) State Line was no different for Stultz and Davis (not being permitted to be commercial) than the widening of (existing) 95th Street was for residents abutting 95th, and therefore, Stultz and Davis should not be

assessed. City Attorney Wetzler explained improvements financed by a petition process involving assessments (State Line Road) versus improvements financed as a "main trafficway" involving no assessments (95th Street), both lawful and appropriate to use under state statute.

On roll call to pass the ordinance, the vote was: Yeas---Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen. Nays---LaHue.

1633 **AUTHORIZE SETTLEMENT WITH CHARLES HOFFMAN, 8201 CHEROKEE CIRCLE, FOR TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR 83RD STREET IMPROVEMENT PROJECT**: At the October 16th Council meeting, residents of Cherokee Circle had requested that the grade of Cherokee Circle approaching 83rd Street not be changed. A review of the project indicated that was not feasible because the extent of reconstruction would impact many additional residents and the Hoffmans. A meeting was held at the Hoffman's residence on October 20th to try and resolve the dispute over the grade and a temporary construction easement. An agreement was reached to build a mortared limestone retaining wall on the Hoffman property at a cost of $18,122. The Hoffmans would have to abandon their south drive. The Hoffmans would receive $3,540 to construct a concrete paver drive themselves. The 83rd Street contractor would have replaced the concrete drive for that cost. The cost of additional sod to cover the abandoned driveway area was $72.00. The total increase to the contract was $18,174.00. The Public Works Department had previously negotiated an agreement for landscape and tree replacement at a cost of $3,817.73. The Hoffmans were included in condemnation proceedings for 83rd Street improvements. They would be removed from that action if a settlement was reached. Public Works staff recommended that the Council approve the change of work.

On motion of Rasmussen, seconded by Dunn, Council unanimously approved staff's recommendation.

1677 **APPROVE LOW BID FOR INDIAN CREEK SANITARY SEWER CONTRACT NO. 18 RELOCATION PROJECT FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE II** - a re-bid to remove and relocate 132 linear feet of 72" sanitary sewer line which conflicted with the bridge to be constructed with College Boulevard, Phase 2. The lowest bid received was from Industrial Excavating and Equipment in the amount of $124,250.00. The engineer's estimate was $170,200.00. On motion of LaHue, seconded by Dunn, Council unanimously approved the low bid.

1718 **RESOLUTION NO. 1261 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT - to provide service to Hills of Iron Horse 1st Plat (east side of Mission Rd. at 153rd St.)**: Adopted unanimously on motion of Rasmussen, seconded by Dunn. Attached as part of the record.

1730 **ORDINANCE NO. 1541C AMENDING SECTION 13-402 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO STREET TREES**: The City was in the process of applying for the "Tree City USA" designation. The City's tree ordinance had to be submitted to a state committee for review and approval. The current ordinance was outdated and limiting. Staff suggested using the list recommended by the Kansas State Extension Forestry which had been

compiled in cooperation with the USDA Forest Service. The ordinance was considered and passed on motion of Peppes, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1770 **ORDINANCE NO. 1542C AMENDING SECTION 12-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PARK HOURS** - slight change in hours due to daylight savings time: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Peppes, Dunn, Rasmussen, Patterson. Nays---Giblin (felt it was a waste of time to consider daylight savings time, just state the hours).

1843 **APPROVAL OF APPROPRIATION ORDINANCE NO. 769**: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll all, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1908 **REQUEST TO REJECT POOL RENOVATION BIDS**: All bids received on October 27th exceeded the engineer's estimate, cost of the project in excess of the engineer's estimate. Staff requested that the Council reject all bids. Staff wanted to meet with pool designers Bohl and Associates and 3 of the lowest bidders to discuss possible negotiations to bring the bids below the engineer's estimate.

*** 8:40 P.M. Councilmember Patterson arrived.

Councilmember Dunn thought the estimated cost of the renovation was $1.1-1.2 million, but the engineer's estimate was $1,325,00. Parks and Recreation Director Whitaker explained that some items had been added which he knew could be deleted without having to rebid if the cost of the project exceeded the $1.1-1.2 million. Those caused the engineer's estimate and the bids to increase. Councilmember Rasmussen noted that the lowest bid was approximately $1.5 million, too expensive, and he felt the Council should take a good look at the project to see what could be done for $1.1-1.2 million. Mr. Whitaker said that there was an unfortunate trend everywhere of projects coming in over budget. Mr. Whitaker said that the Parks & Recreation Advisory Board did not want to separate the renovation and amenities and do the project over a 2-year period. If they decided to do that, he felt the project would have to be rebid, could not negotiate just a part of the contract for which staff took bids. City Attorney Wetzler said that if staff made a substantial change in the project, that might alter the economics of the project. Mr. Wetzler said that Mr. Whitaker and the Advisory Board felt there might still be a possibility of negotiating changes in the project that would permit them to come back with a negotiated contract that would be more palatable in terms of costs and what it would accomplish. Bids had to be rejected, however, before negotiations could begin.

Councilmembers LaHue and Campbell did not want to separate the renovation and the amenities, wanted to give staff an opportunity to negotiate. Mr. Campbell moved to reject all bids, seconded by LaHue, carried unanimously. Mr. Campbell moved to direct staff to negotiate

with bidders they would like to negotiate with to see if the cost of the project could be reduced, seconded by Peppes. Negotiations could be based on the original engineer's estimate as well as on the amended estimate for two options; timing of the project could be considered; additional user fees could be considered to cover any additional project costs. Mr. Campbell's motion carried unanimously.

3423 **OTHER BUSINESS**: A special Council meeting was scheduled for Monday, November 13th, at 5:30 P.M., to evaluate the City Administrator's job performance.

3544 Update on 103rd Street sidewalk "barricade" across from Brookwood Elementary School and on the south side next to the school: Public Works Director Brandt said that most of the north side of the street was done, and staff was waiting for a while to evaluate it before completing the rest of the north side and the south side of the street.

3664 Clarification of the confidentiality of City records: Councilmember Rasmussen had received some complaints about the accessibility of City records. City Administrator Garofano said that records were not subject to the Open Records Act (were not public) until they became part of a meeting agenda (including engineering reports), introduced at a meeting. City Attorney Wetzler said that the idea behind the Open (public) Records Act was to avoid disruption of the function of government. Mr. Rasmussen felt that if an item was on an agenda for public discussion, then materials that were available to be presented by staff to a committee should be available to the public attending that meeting. Mr. Wetzler would review the Act and report back to the Council.

4037 Update on K-150 & Roe Ave. improvements (Reno Construction's incentive program): Public Works Director Brandt expected Roe Ave. south of K-150 to be open in 2-3 weeks, hopefully before Thanksgiving, depending on the weather. The City would pay Reno a $15,000 bonus if the intersection was open by November 30th.

Update on pedestrian crossing at 119th & Aberdeen: Public Works Director Brandt said his department would do the necessary crossing marks and install signs.

4277 9:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
SPECIAL COUNCIL MEETING

Tape No.

The City Council of the City of Leawood, Kansas, met in special session in the main conference room at City Hall, 4800 Town Center Drive, at 5:30 P.M., Monday, November 13, 1995. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, Louis Rasmussen, and Doug Patterson, for the purpose of convening an executive session to discuss a personnel matter. Councilmember Gregory J. Peppes arrived at 6:15 P.M. Councilmember John R. Campbell, Jr., was absent.

Staff present: Richard J. Garofano, City Administrator. The City Clerk was absent.

On motion of LaHue, seconded by Dunn, Council voted unanimously to convene in executive session until 10:00 P.M. to discuss a personnel matter.

10:00 P.M. Council returned to special session, same members present. On motion of Clawson, seconded by Dunn, Council unanimously approved an employment agreement with City Administrator Garofano. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 342

50 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, November 20, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. * Doug Patterson arrived 7:45 P.M. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

58 The agenda was approved unanimously on motion of Campbell, seconded by LaHue, after the addition of an executive session to discuss a personnel matter, and a report from the City Attorney on the accessibility of public records to citizens.

CITIZEN COMMENTS: See tape meter #167.

106 **CONSENT AGENDA**: Pay request No. 8 (FINAL) for Mission Road improvements, College Boulevard to I-435 (and a discussion of the continuation of the project, I-435 to 103rd St.), was removed for further discussion. The following were approved unanimously on motion of Campbell, seconded by Clawson:

1. Minutes of the November 6, 1995 Council meeting;
2. Minutes of the November 13, 1995 special Council meeting;
3. Public Works Committee report (minutes) of their November 2, 1995 meeting;
4. Departmental reports;
5. **Resolution No. 1262**, attached as part of the record, affirming an agreement between the Johnson County Police Chiefs Association and the Johnson County Community College pertaining to the use and expenditure of funds received from the Kansas Law Enforcement Training Fund;
6. Application (renewal) for Cereal Malt Beverage License - Hy-Vee Food Stores, 12200 State Line Rd.;
7. Allocation of 1996 alcohol tax funds as recommended by the Drug and Alcoholism Council of Johnson County - $30,000 in Leawood's 1996 budget for distribution to agencies;
8. "Letter of Understanding" (agreement) with the Johnson County Department of Human Services and Aging for 1996 utility assistance - Leawood to contribute $750.00 in 1996;
9. "Letter of Agreement" with the Board of County Commissioners for 1996 minor home repair program - Leawood to provide the County with funding in an amount up to $1,500.00;
10. Pay Request No. 2 (FINAL) by Pyramid Excavation and Construction Co. in the amount of $13,085.73 for Lee Boulevard drainage improvements, 97th St./98th St.;
11. Pay Request No. 16 (FINAL) by Landscapes Unlimited in the amount

of $269,866.44 for construction of the Ironhorse golf course.

Consent agenda continued after citizen comments.

167 **CITIZEN COMMENTS**: Terry Levine, 13217 Pawnee, Waterford subdivision, requested that public input be allowed at the Council work session on the Master Development Plan text, specifically regarding previous visions and future visions in plans, and also requested notification of the date, time, and place of the work session.

264 **CONSENT AGENDA** (continued): Pay Request No. 8 (FINAL) by Industrial Excavating and Equipment Co. in the amount of $55,563.34 for Mission Road improvements, College Boulevard to I-435: Councilmember Rasmussen said there were some places along the project where it appeared that landscaping had deteriorated since installation or didn't appear to be proper. He wanted to know if his observation was accurate, and if it was, perhaps the final pay requested should not be approved.

Mr. Rasmussen said he had always been concerned about the division of the Mission Road projects. KDOT had requested that the funding of improvements from 103rd St. to I-435 be delayed one year (to 1997) because of the bridge construction at I-435 and Mission. They felt it would be best not to have both locations torn up at the same time. Mr. Rasmussen said that the minutes of the November 2nd Public Works Committee meeting indicated that unfortunately, ISTEA funds, originally secured for the Mission Road project, might not be available in 1997. Mr. Rasmussen said that originally there was to have been sharing of funds from I-435 to College Boulevard; that sharing disappeared, with the citizens of Leawood paying all of the costs. He didn't want to see that happen from I-435 to 103rd St. He reminded Council that the City had decided to accommodate KDOT's request for funding delay, and felt that when the City decided to cooperate with KDOT to its (the City's) disadvantage, KDOT's integrity was questionable. He said that the City relied on its "fellow" governmental agencies (when the City prepared its capital improvements program) to contribute funds they said they would contribute.

City Administrator Garofano said that the availability of ISTEA funds depended on congressional action to extend the current funding act. He said staff had already talked about contacting KDOT about the possibility of advancing state funds in the event that ISTEA funds did not become available for the project due to congress' inability to extend federal funding. It was premature to know KDOT's reaction; Public Works Director Brandt would try to work something out with KDOT because the City did delay the project at their request.

Councilmember Rasmussen moved to approve the pay request subject to input from the Public Works Department that landscaping and sodding complied with the contract, and that there be communication from the Mayor's office to KDOT if it was deemed appropriate. Motion seconded by Clawson. Mr. Brandt said that he had noted the deficiencies in the landscaping and they would be addressed. Motion carried unanimously.

* 7:45 P.M. Councilmember Patterson arrived.

414 **REQUEST BY BRIDGEWOOD SUBDIVISION (132ND AND ROE AVE.) FOR A SPECIAL**

USE PERMIT FOR A TEMPORARY SALES TRAILER TO BE LOCATED AT 4741 W. 132ND TERR.: On motion of Rasmussen, seconded by Giblin, Council unanimously approved a permit for 1 year starting on the date of issuance of a building permit.

433 **RESOLUTION NO. 1263 APPROVING REQUEST FOR REZONING FROM AG TO CP-0, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, FOR MADDEN-MCFARLAND AT 128TH AND STATE LINE ROAD** - involved the relocation of an existing building from K-150 and State Line Road to 128th and State Line Road (shown as office area on the Master Development Plan map): Adopted unanimously on motion of Clawson, seconded by Rasmussen. Attached as part of the record.

779 **ORDINANCE NO. 1543 REZONING PROPERTY (MADDEN-MCFARLAND) LOCATED AT 128TH AND STATE LINE ROAD FROM AG TO CP-0**: The ordinance was considered and passed on motion of Patterson, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

792 **RESOLUTION NO. 1264 APPROVING REQUEST FOR REZONING FROM CP-0 TO CP-2 AND REVISED FINAL SITE PLAN APPROVAL, FOR TUTERA AND ASSOCIATES LOCATED AT 8015 STATE LINE ROAD**: The property was a strip of land on the east side of State Line Road abutting a retail-zoned tract in Kansas City, Missouri. The final site plan consisted of a landscaping strip and parking area along State Line Road approximately 40 feet wide. On motion of Clawson, seconded by Peppes, Council unanimously adopted the resolution, attached as part of the record.

ORDINANCE NO. 1544 REZONING PROPERTY LOCATED AT 8015 STATE LINE ROAD FROM CP-0 TO CP-2: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

868 **ORDINANCE NO. 1545 PROVIDING FOR THE USE OF CERTAIN ROOFING MATERIALS IN THE CITY OF LEAWOOD** - approving the use of the Gerard Tile and other tile with the same characteristics under certain conditions relating to manufacturer's specifications for installation and use, limited colors, and building code requirements and standards: Councilmember Rasmussen was concerned about permitting a 4-foot long "metal" type shingle without proper overlap which would not reflect the affluent character of Leawood. Unless suitable overlap was provided for to reflect pictures shown in a brochure shown to the Council, Mr. Rasmussen would not be able to support the ordinance. Planning Director McKay felt that the manufacturer's specifications for installation would eliminate Mr. Rasmussen's concern.

Councilmember Patterson moved to pass the ordinance with the manufacturer's specifications as presented to the Council to be followed in connection with the installation and use in the City, including photographs of the material as applied, attached to the original ordinance on file in the City Clerk's office. Motion seconded by Rasmussen. On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Patterson.

Nays---Rasmussen. See tape meter #1541 for a point of order.

1485 **MAYOR'S REPORT**: The Mayor commended Councilmember Dunn, Council liaison to the Leawood Foundation, and Foundation committee members on their successful paver brick program to pave the plaza of the new City Hall without using tax dollars.

1541 Councilmember Rasmussen called for a point of order on Ordinance No. 1545, tape meter #868. Councilmembers agreed that the matter of the manufacturer's specifications and photographs was part of Mr. Patterson's motion, and not a separate amendment to the motion to be voted on.

1604 **DISCUSSION OF LEE BOULEVARD SIDEWALKS SOUTH OF 103RD STREET**: A pedestrian sidewalk study by Bucher, Willis & Ratliff engineers indicated that if a sidewalk was to be continued south of 103rd Street, an estimated 3 feet of additional right-of-way would need to be acquired in order to preserve the existing trees. The sidewalk would need to meander either in front of or behind the trees, depending upon the tree offset from the back of curb. The sidewalk could be constructed on either side of the street under these parameters. The cost of adding a 5-foot sidewalk from 103rd Street to the Leawood Park entrance along one side would be approximately $50,000 plus the cost of acquiring right-of-way. Considering the number of pedestrians walking to the Park, the number of pedestrians observed along Lee Boulevard during field investigations, and the volume of traffic on Lee Boulevard, the project would enhance community safety, and appeared to be physically feasible.

Councilmember Dunn, Chairman of the Public Works Committee, reported on the Committee's discussion of the matter at their November 2nd meeting (minutes approved under consent agenda). The Committee had voted 5-2 in favor of a meandering sidewalk.

Councilmember LaHue moved to refer the matter back to the Public Works Committee for more information prior to a Council decision, seconded by Campbell. Dr. LaHue wanted an arborist appointed by the Public Works Committee to study the situation to determine what latitude the City had with the trees. He wanted a comparison of materials (perhaps asphalt or paver brick) that could be used for the sidewalk, not just concrete. He wanted more information about utilizing a high back curb along the west side of the street to allow additional space for a sidewalk abutting the street. He wanted more specific cost information, not just an estimate, including any costs for work on the sidewalk constructed on the new Lee Boulevard bridge. He wanted additional traffic information for weekends, the high peak use hours, at Leawood Park.

Councilmember Giblin said he had not heard one citizen say that they wanted a sidewalk.

Councilmember Clawson did not want to build the sidewalk as proposed by the Public Works Committee, but tie consideration of the sidewalk to the rehabilitation of Lee Boulevard which would take place in the next 2 to 3 years. It would be more appropriate to look at the project at that time expensewise and in the interest of the citizens living along Lee Boulevard in that neighborhood. In that period of time, Council and staff would have a better feel for the impact of

traffic along Lee Boulevard with the opening of the new (second) access road off of Mission into Leawood Park and renovation and remodeling of the pool area; there would be a much truer picture of what was needed, if anything, along Lee Boulevard.

Mrs. Clawson was concerned that residents felt that the issue would ride along just underneath the surface and suddenly there would be a sidewalk, that they would not be aware of the project being approved. Tying sidewalk construction to the street rehabilitation would definitely pin further consideration to a certain point in time, with formal consideration and residents being involved. And additional information would be available at that time.

Councilmember Rasmussen wondered who had expressed a need for a sidewalk. No citizen had talked to him in the last 6 years about the need for a sidewalk. There seemed to be a drive to concrete every ditch, street in Leawood. His ward, Ward 2, over the past 20 years, had tried to maintain the country lane look and a historic look. He felt the City should try, unless there was an urgent safety need, to maintain the character of the City. He was not in favor of a sidewalk, there was no need for one.

Dr. LaHue felt there was a potential safety problem without a sidewalk. Cars and children on the same narrow street didn't mix. The issue was more than a sidewalk that affected the neighborhood; people from outside the neighborhood would use the sidewalk to Leawood Park. He said that if the Council based its decisions on how residents of an area saw themselves and their neighborhood, then several positive, constructive projects would never have been done. Because of its location and connection between Leawood Park and other wards, a sidewalk would be an appropriate pedestrian thoroughfare and needed to be addressed.

The Mayor was concerned about the sidewalk constructed on the bridge over I-435 into Leawood Park; there was no access from the north or the south to that sidewalk. Councilmember Dunn requested that the installation of fencing be considered at the ends of the sidewalk to protect residents from the slope leading onto I-435 below. Public Works Director Brandt said that the state still had some work to do on the embankments. He would review the situation.

Lee Boulevard resident Charles Russ had distributed a report to the Governing Body prepared by him and other area residents which addressed their concerns. The Mayor disagreed with a statement in the report that perhaps someone had directed or dictated the responses of the engineers Bucher, Willis & Ratliff. She could not imagine any Councilmember or staff member doing that. She also said that some residents apparently perceived that Lee Boulevard would be widened to 4 lanes. To the Mayor's knowledge, that had never been considered by any governing body, Lee Boulevard being a residential street, not a secondary collector street. A statement in the report indicated that some homeowners had experienced drainage problems. If so, the property owners needed to address those problems and bring them to the attention of the City.

2594 Charles Russ, 10330 Lee Boulevard, spoke on behalf of the area residents, in opposition to the proposed sidewalk. The matter needed to be resolved immediately, not after obtaining further information as Councilmember LaHue requested, nor waiting 2 to 3 years and tying the sidewalk issue to street rehabilitation as proposed by Councilmember

Clawson, causing the residents the same headaches all over again.

3191 Dr. LaHue's motion to refer the matter back to the Public Works Committee failed; LaHue, Campbell, Peppes in favor; all others (5) opposed.

Councilmember Clawson moved not to build the sidewalk as proposed by the Public Works Committee and that further consideration of a sidewalk be tied to future Lee Boulevard rehabilitation, seconded by LaHue. Councilmember Patterson saw the sidewalk issue in connection with Lee Boulevard rehabilitation as no different than any other street rehabilitation where sidewalks would be considered. It seemed to him that the Council was setting Lee Boulevard apart, up and above considerations that would have to be raised on any street being rehabilitated.

3323 Councilmember Rasmussen said there was no way the Council could commit or obligate any future Council. He felt that to vote for a motion that said that the Council wanted some future Council to take into consideration how they would rebuild Lee Boulevard was beyond the authority of the present Council. The Council should just say that they didn't want to build a sidewalk at this time south of 103rd Street.

The Mayor said she had told Mr. Russ that a sidewalk was considered possibly because there was a major public facility, Leawood Park, at the south end of Lee Boulevard. Mrs. Clawson said it was her intent in tying sidewalk design to the future rehabilitation project of Lee Boulevard to ease the fears of residents on Lee Boulevard that a sidewalk would suddenly be constructed without their being able to give input, and that the City needed to be open to traffic changes that would occur due to the opening of the second access into Leawood Park from Mission Road and the enhancements to the pool. She felt the City needed the 2 to 3 year period to rehabilitation to assess the traffic changes properly.

Councilmember Campbell said he would vote against Mrs. Clawson's motion because there might be different Councilmembers in the future considering different factors with additional information. He felt that future Councilmembers, because of increased traffic flow, might want to obtain additional information to see if a sidewalk would be appropriate. If Council voted against a sidewalk today, it would not bind any future Council and would not tell a future staff that there would never be a sidewalk.

3656 Mrs. Clawson's motion to tie a sidewalk to the future rehabilitation of Lee Boulevard failed; LaHue, Clawson, Peppes in favor; all others (5) opposed.

Councilmember Dunn requested that staff look at the sidewalk constructed on the Lee Boulevard bridge over I-435 with a consideration for fencing and possible striping for safety purposes that was brought up earlier in the discussion, and see what could be done to correct the north and south access points. Council concurred.

3809 Councilmember Campbell moved not to build a sidewalk at this time, seconded by Giblin. Motion carried; LaHue, Peppes opposed; all others (6) in favor.

3961 Dr. LaHue moved to submit the issue to the voters at the April 1996 City General Election as other construction projects had been submitted in the past, to basically allow citizens to determine if an expenditure for a sidewalk was appropriate or inappropriate. Motion died for lack of a second.

4030 **DISCUSSION OF PRIVACY WALL AT 128TH AND STATE LINE ROAD**: The design of a 350 foot long, 6 foot high, 8 inches thick concrete block wall with stucco finish was authorized by Council in May 1994, wall estimated to cost $30,000. George Butler and Associates engineers designed the wall; their estimate was $97,985 (for a 12 inch thick, 360 foot long wall). Due to that estimate, an alternate wall was proposed - a wooden slat wall with concrete block columns at an estimated cost of $27,700. Staff felt that Butler's estimate was about 40% too high. Staff's estimate was closer to $45,000. The Leawood South Villas homes association preferred the concrete block wall with stucco finish.

Councilmember Clawson moved to send to bid the alternative to build the wall with wooden slats and concrete block columns estimated to cost $27,700, seconded by Campbell. Public Works Director Brandt said that the 8 inch thickness wasn't sufficient to withstand wind pressure. Councilmember Dunn moved to amend the motion to ask that the design engineers bring back cost figures on the alternate wall with wooden slats and on a 6 and 8 inch solid concrete wall with a finish, preferably stucco, with various caps, to bring the costs within budget, seconded by Campbell.

Councilmember Rasmussen said he was willing to spend $30,000, but if the homes association was not happy with the wall selected, then they could come up with the rest of the money for a more expensive wall.

Larry Staniforth, 12720 Cambridge Lane, responded to Mr. Rasmussen's comment - the homes association had not created the problem, and wanted an effective sound barrier. They felt a concrete block with stucco wall as originally promised would be superior to one of wood.

Mrs. Dunn's motion to amend carried unanimously. Mrs. Clawson's main motion as amended carried unanimously.

5272 **AUTHORIZE ENCROACHMENT AGREEMENT FOR SIGN LOCATION AT 103RD TERRACE AND STATE LINE ROAD**: Councilmember Dunn moved to approve the agreement which would allow the placement of an internally illuminated sign in City right-of-way at business property owners' expense, seconded by Patterson. Councilmember Campbell moved to amend the motion to add a new paragraph #3 (renumbering the existing paragraphs) to state that there would be no material modifications to the sign in the future without prior written approval of the City, seconded by Dunn. Motion to amend carried unanimously. Main motion as amended carried unanimously.

The Mayor commended Deidre Markley, Economic Development/Special Projects Coordinator, on her work with the property owners in the business district, and thanked the property owners for their cooperation. The Mayor had seen improvements in the appearance of the buildings, and looked forward to further cooperation.

5622 **RECOMMENDATION TO DELAY LEAWOOD PARK SWIMMING POOL RENOVATION/REMODELING PROJECT**: The uncertainty of getting the project completed on time and concerns over cost were too significant. Staff felt it was in the best interest of the City to rebid the project in 1996 with a start date in September 1996 and a projected completion of May 1997. Councilmember Dunn moved to accept staff's recommendation to

delay, seconded by Clawson and carried unanimously.

6081 **AUTHORIZE SETTLEMENT RELATING TO DOEPKE HOLLIDAY SUPERFUND (LANDFILL) SITE**: (In the 1960's the City had hauled several loads of unknown trash to the landfill near Lake Quivira.) The Council had previously authorized the Mayor to execute the Holliday Remediation Task Force Site Participation Agreement which called for the Council to participate as a de minimis party. The original agreement was never accepted because it was changed by the Task Force and the EPA. The most significant change was that the cost of participation was established at $25,000 instead of the original $10,000. Even at that level, under the terms of the agreement, there was a possibility that the City would be required to pay additional sums. Additional payments would be required in the event the cost of the project increased above the current estimate. The additional costs would be a pro-rata increase. The $25,000 was based on the current estimated cost of the remediation, and assuming the cost remained the same, would represent the total contribution by the City. Staff recommended approval of the settlement because the cost of litigation in this type of matter could easily exceed the amount of the participation and there was also the risk of paying a higher percentage and penalties. The agreement had the effect of imposing a limit on the City's exposure. On motion of Clawson, seconded by Campbell, Council unanimously authorized the Mayor to sign the agreement.

6271 **APPROVE LOW BID FOR 1995 SANITARY SEWER REHABILITATION PROJECT**: On motion of Rasmussen, seconded by Dunn, Council unanimously authorized the Mayor to sign a contract with the low bidder Insituform Missouri, Inc., in the amount of $447,510.00.

6295 **RESOLUTION NO. 1265 DECLARING THE CITY'S ELIGIBILITY TO SUBMIT AN APPLICATION TO KDOT FOR USE OF TRANSPORTATION ENHANCEMENT FUNDS FOR THE LEAWOOD PEDESTRIAN AND BICYBLE PATH EXTENSION FROM LEAWOOD CITY PARK TO THE MISSOURI STATE LINE, AND AUTHORIZING THE MAYOR TO SIGN THE APPLICATION**: Funding for the project, to be constructed in 1998, would come from the reauthorization of the Federal Transportation Act, administered by the Kansas Department of Transportation for historic, scenic, environmental, and pedestrian and bicycle projects. Leawood would be required to pay at least 20 percent of the total project costs, approximately $55,000. On motion of Dunn, seconded by Campbell, Council adopted the resolution, attached as part of the record; Giblin opposed, all others in favor.

6579 **APPROVAL OF APPROPRIATION ORDINANCE NO. 770**: The ordinance was considered and passed on motion of LaHue, seconded by Peppes. On roll all, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

6603 **WORK SESSION TO DISCUSS THE MASTER DEVELOPMENT PLAN TEXT**: The Plan Commission had voted 6 to 2 at their November 14th meeting to continue the Price Chopper case (135th and Mission Rd.) until the January 23, 1996 meeting. The Commission, with acceptance from the developer, agreed to a redesign of the development that would require reopening

the public hearing process at the January meeting. Because of the importance of the development issue and the fact that the Council would not see the proposal until February 1996, staff requested that the Council proceed with approval of the Master Development Plan text which included the K-150 Design Guidelines (for the area between K-150 and the frontage roads) even though the Council had earlier decided to defer any discussion of the text until after the zoning issue at 135th and Mission Rd. had been resolved.

Councilmember LaHue moved to have a work session January 8, 1996, seconded by Campbell. Dr. LaHue had attended the November 14th Plan Commission meeting, and it appeared to him that a majority of the Commissioners felt that the land use for the property at 135th and Mission Rd. was appropriate, so Dr. LaHue had no problem proceeding with text discussions. Councilmember Clawson felt that Council discussion of the text would no longer be construed by residents as being pertinent to discussions of the Price Chopper zoning issue, so she felt it was appropriate to discuss the text.

Because of some apparent problems with definitions of terms and residents' allegations of lack of consistency and definitiveness of language, Councilmember Rasmussen wanted to receive written comments from the public on the text before the work session (sent in Council packets), and specify a period of time at the work session in which to hear public comments on the text.

Public comments would be heard from 6-7 p.m. with the Council work session from 7-10 p.m.

Dr. LaHue's motion carried unanimously.

7670 **END OF TAPE**

Tape No. 343

14 **OTHER BUSINESS**: The Council planned to meet January 22nd to discuss goal setting.

30 Update on accessibility of open or public records: City Attorney Wetzler said that the policy of the Kansas Open Records Act was to open government up to the public and make most records available to the public under certain circumstances. There was a balancing act which generally swayed in favor of producing records whenever necessary, but also put the brakes on whenever record requests became unreasonably burdensome. The only way to look at record requests was on an item by item basis. The Kansas Open Records Act had about 38 exceptions to the Act of public records not subject to disclosure to the public except perhaps under certain limited circumstances.

Mr. Wetzler talked about records publicly sited or identified in an open meeting or on an agenda of an open meeting. He felt that if an agenda item was a "discussion of an issue" and didn't make a specific reference to a particular document, then that document was probably not subject to disclosure, not mandatorily anyway, until such time as it was actually presented to the City or appeared. He said there was another section of the Act which referred to records of a public agency having legislative powers - some of those records would become available when publicly sited or identified in an open meeting or on an

agenda of an open meeting, or if distributed to a majority of a quorum of a (legislative) body. A committee did not have any legislative authority.

190 11:00 P.M. On motion of Giblin, seconded by Clawson, Council voted to extend the meeting to 11:15 P.M.; LaHue opposed, all others in favor.

Mr. Wetzler felt the staff really tried to comply with requests for information, but they also tried to protect the rights of the Council to have fair discussions, and staff should be protected in preparing independent reports.

519 11:15 P.M. On motion of Giblin, seconded by Clawson, Council voted to extend the meeting another 15 minutes; LaHue opposed, all others in favor.

527 **EXECUTIVE SESSION**: On motion of Dunn, seconded by Giblin, Council voted unanimously to convene in executive session for 5 minutes to discuss a personnel matter.

11:20 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES SUMMARY
LEAWOOD CITY COUNCIL MEETING
DECEMBER 4, 1995

Video tapes 1 & 2 only

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, December 4, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Gregory J. Peppes, and Doug Patterson. Marnie S. Clawson, Peggy J. Dunn, and Louis Rasmussen were absent.

Staff Present: Richard J. Garofano, City Administrator; Ron Anderson, Police Captain; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Richard S. Wetzler, City Attorney; and Karen Hess (Planning Department) in the absence of the City Clerk.

APPROVAL OF AGENDA

Patterson asked that he be allowed to add comment on K-150, under "Other Business". Motion by Peppes to approve the agenda with Patterson's amendment. Second by Giblin. Approved unanimously.

CITIZEN COMMENTS

John Jenks, 2333 West 98th Street, moved to Leawood 5 years ago. Taxes at that time were $1,477. Today's bill was just under $2,500 - a 70% increase in 6 years. His city taxes went from $242.00 to $464.00, an increase of 91.8%. Thought that bordered on fiscal irresponsibility.

CONSENT AGENDA

After questions by Peppes about purchase of 3 vehicles by Planning Department, and the purchase and installation of an outdoor siren, items were removed for further discussion.

The following were approved unanimously on motion by Campbell, seconded by Peppes:

1. Minutes of the November 20, 1995 Council meeting;
2. Public Works Committee report (minutes) of their November 2, 1995 meeting;
3. Resolution No. 1266, attached as part of the record, designating holidays for 1996;
4. Purchase of replacement animal control truck (Ford F-250 cab/chassis) in 1996 through the Kansas City area cooperative purchasing bid in the amount of $17,999.00;
5. Resolution No. 1267, attached as part of the record, approving the revised final plat of Hallbrook 7th Plat located at College and Brookwood;
6. Resolution No. 1268, attached as part of the record, approving the final plat of Pavilions of Leawood 2nd Plat located at approximately 151st and Mission Rd.;
7. Resolution No. 1269, attached as part of the record, directing the City Clerk to publish notice of proposed assessments to pay the costs of construction of 155th Street (Bell Drive) and Iron Horse Drive from Mission Rd. to the Ironhorse clubhouse and in Iron Horse Estates;
8. Assignment to the Public Works Committee to review the study prepared by Johnson Brickell Mulcahy and Associates (JBM) for modifications to the intersection at 119th and Mission Rd.;
9. Settlement agreement with United States Fidelity and Guaranty Co. (USF&G) regarding new city hall construction - Leawood to receive $150,000 from USF&G.

CONSENT AGENDA, cont'd

Purchase of 3 vehicles for Planning Department

Peppes asked McKay if the two vehicles to be replaced would be put up for auction. McKay replied that they would be declared surplus as soon as delivery of new vehicles was made, and would then be auctioned.

On motion by Giblin, seconded by Campbell, Council unanimously approved the purchase of 3 1996 Oldsmobile Ciera Sedans through the Mid-America Council of Public Purchasing cooperative bid for a total of $41,220 ($13,740 per vehicle), to replace 2 Toyota trucks and 1 4x4 Jeep.

Approval of bid for purchase and installation of outdoor warning siren.

Peppes asked if bid was for siren at Iron Horse. Asked Strack to explain numbers. The Emergency Preparedness Committee had met in October to prioritize outdoor warning siren locations. The first priority was the Lee Blvd. park and Greenway, siren to be located in the area of College and Tomahawk Creek Parkway. The second priority was the Ironhorse golf course, siren to be located at the maintenance building at 154th and Mission Rd. The Committee requested that the Council include the cost of the outdoor siren for College and Tomahawk Creek Parkway in the College Blvd. improvement project. That would allow the purchase of an outdoor siren for the golf course area.

On motion by Peppes, seconded by LaHue, Council unanimously approved the low bidder, Blue Valley Public Safety, Inc., in the amount of $20,776.10, for a siren in the golf course area.

PLAN COMMISSION

A. Resolution No. 1270, attached as part of the record, approving final plat of Town Center Business Park, First Plat, located at approximately 117th and Roe.

Motion by LaHue to approve. Second by Campbell. Peppes asked about Town Center Lane - was it a private or a public street? McKay stated that it was a public street connecting Roe and 115th.

Patterson asked about signalization at 115th and Roe. Would it be installed within the one year letter of credit? Brandt stated that letter of credit would be cashed after the year was up. Rinehart stated that half of the signal would be paid for by the developer, and the other half would be paid by Mr. Spears, or a developer of Mr. Spears' property.

Unanimous approval.

B. Ordinance No. 1546 rezoning from AG to CP-O and CP-1, Town Center Business Park.

Motion by Campbell. Second by Peppes. Roll call vote was unanimous.

C. Resolution No. 1271, attached as part of the record, approving the preliminary and final site plans for the Cocherl Office Building, 14212 Overbrook, Lot 1 and the south 53 feet of Lot 2, Bi-State Business Park

Giblin abstained because he was involved in the sale of the land.

Kerry Knott, architect, 12817 Sagamore, present representing Cocherl.

Rinehart asked if it had been resolved as to whether there could be plantings along the pipeline easement. McKay replied that it had not yet been decided.

Motion for approval by Campbell, second by Peppes.

LaHue had difficulty with design submitted. Couldn't tell what it would look like. Knott stated it was a 2-story building. It sat back about 100 feet. There was a covered canopy and windows on all four sides.

Unanimous approval, except for Giblin abstention.

D. Resolution No. 1272, attached as part of the record, approving the revised preliminary plat of Hazelwood, 4th phase, 119th & Pawnee.

Motion by LaHue to approve. Second by Patterson.

Mayor asked about private access easements. McKay stated that those long driveways would be maintained by owners, not the city.

LaHue asked if city would still be able to get fire trucks down the street. Strack replied in the affirmative.

Unanimous approval.

MAYOR'S REPORT

Rinehart and Rasmussen attended National League of Cities meeting in Phoenix, Ariz.

Rinehart asked Hakan to answer any questions about Have a Heart - Help a Child employee giving program at Christmas.

Markley reported on Chamber of Commerce meeting.

OLD BUSINESS

A. Request for approval of appraiser's report on condemnation awards, 83rd Street improvement project.

Motion to approve by Campbell, second by Giblin. Unanimous. Lasley property, 3200 W. 83rd, $1,700; Howard property, 8301 Cherokee Lane,

$1,000; Jazbi property, 8132 Lee Blvd., $1,100; review appraisers' fees, $2,970.

B. Public Works Committee report on drainage concerns at 10400 Cherokee Lane (Robert Karnes residence).

There was a swale in the area that was graded through Cherokee Lane which allowed storm runoff to flow across the street and down to an open channel. The swale created a hazardous condition during storms. To remedy the drainage concerns, a 6-foot curb inlet and 200 feet of 15" concrete pipe needed to be installed. Four hundred linear feet of street also needed to be reconstructed. The cost of improvements, which could be included in the 1996 Cherokee Lane improvement project, was estimated to be $40,581.20.

Motion to authorize improvements by LaHue, second by Campbell.

Patterson asked what percentage of the project was street repair versus sewer construction. Brandt replied that storm sewers were about 25% of total cost.

Unanimous.

C. Public Works Committee report on request for cul-de-sac rehabilitation, 8500 Block of Cherokee Place.

Earlier in the year, residents of the cul-de-sac had petitioned the Council for a total curb, driveway fillet, and street rehabilitation. The cost was estimated to be $148,326.77. The Public Works Committee agreed that the street ratings and field inspections did not justify the need for a rehabilitation program; spot repairs should be made by City crews as previously planned.

Motion by LaHue to approve the Committee's decision, second by Campbell. Unanimous.

NEW BUSINESS

A. Authorize interlocal agreement between Leawood, Overland Park, and Johnson County for the improvement of Nall Avenue, 119th/135th, and 127th Street west from Nall 930 feet - for the remainder of C.A.R.S. funds.

Rinehart stated that this was second year of a 2-year project. The federal government was paying 80% of the project. Initially, CARS paid 50% of

the remaining 20%. Now Johnson County would only pay 25% of the remainder. Campbell felt City had no choice but to continue project, but wanted staff to continue to negotiate with Overland Park and the County for funding.

Motion by LaHue to approve the agreement, adding authorization for staff to continue to negotiate with County to recover additional funding. Second by Giblin.

Peppes asked if 25% of CARS was eligible but City would try to negotiate for more. There was a shortfall of $23,125 per Garofano.

Unanimous approval.

B. Resolution No. 1273, attached as part of the record, authorizing execution of Agreement No. 144-95 with KDOT for landscaping along K-150 - to allow KDOT to obtain federal funds from the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and to allow the City to let a landscaping contract. Plans and specifications were prepared by HNTB Consulting Engineers; a consultant for construction engineering services would be selected by the Public Works Committee.

Motion by LaHue, second by Campbell. No discussion. Unanimous.

C. Authorize contract for engineering services to complete site investigation for preparation of design of a water line and drinking fountain plan at Tomahawk Creek Park at 119th Street, and shelter site plan at Leawood Park.

LaHue asked about restroom facilities at 119th Street site. Whitaker stated that restroom facilities would continue to be portables due to flooding possibilities. Rinehart asked if flooding would contaminate water line. Whitaker stated that he felt it would not. Campbell asked what it would cost to construct the shelter. Whitaker replied that it was a prefab unit and would be about $15,000. Lions Club wanted to help construct it. Campbell asked about paying $12,000 just to design a site plan. Whitaker stated that plan would include more than the shelter. Water and electricity would be brought to site for future expansion. Whitaker stated that City didn't know where some of the utilities were located. Giblin asked how much the Lions had committed for. They had already given $18,000. Had committed $24,000. Giblin asked total cost for complete concession stand and shelter. Whitaker stated it could be $60,000; depended on how elaborate the Lions Club wanted to get. Giblin asked if Lions Club would run concession stand. Whitaker stated that they might, knowing that the profit would go back to the city. Rinehart said they might do it as a

service project. She pointed out that they were looking at $3,500 for water line at 119th Street and $11,760 for City Park shelter.
On motion by LaHue, seconded by Peppes, Council unanimously authorized a contract with Continental Consulting Engineers for amounts not to exceed $3,500 for the water line at Tomahawk Creek Park at 119th Street and $11,760 for the City Park shelter.

D. Authorize contract for engineering services to complete site investigation for preparation of design of soccer fields and additional parking at Leawood Park - due to tremendous demand for more soccer fields.

Giblin had problem of improving leased land (leased from Johnson County Wastewater District). Whitaker stated that it was a 99-year lease; couldn't put buildings on land, but could put fields. Giblin asked what a soccer field cost. Whitaker stated that it could be $100,000 if contracted out, but thought majority of work could be done in-house.

On motion by Peppes, seconded by Campbell, Council unanimously authorized a contract with Continental Consulting Engineers in an amount not to exceed $16,800. LaHue felt city should look at location of possible future shelter at this site.

E. Authorize contract for development of a 5-year plan for rehabilitation of residential streets and maintenance activities. Giblin asked what City would receive for $25,000. Brandt stated that part of the cost was the software. Brandt stated that original proposal was $38,000; had negotiated down to $25,000. LaHue asked if program would allow Public Works to better budget for street improvements. Brandt stated Public Works would be able to predict failure in a street in the future based on frequency of travel, climate, and other factors. Ratings were done in-house now. Giblin asked if any other city had this program. Brandt replied that Prairie Village had it.

On motion by LaHue, seconded by Campbell, Council authorized a contract with Larkin Associates in the amount of $25,000. Nay vote from Giblin. Motion carried 4 to 1.

F. Ordinance No. 1547C amending Section 1-404 of the Code of the City of Leawood eliminating the assistant city attorney position from officers appointed by ordinance, making the position a staff position.

Campbell chaired committee to study possibilities of hiring in-house legal counsel. City now spending $18,00 to $20,000 for docket and court services of Logan & Logan firm. Estimated savings of $30,000 for

prosecutorial services. Couldn't estimate savings for other services that were currently provided by Bennett Lytle. Increased need for services. Rinehart asked where house attorney would office. Campbell wasn't sure if office would ultimately be on lower level of city hall after it was finished. Garofano stated that lower level would be finished for court use and community center; the project was in capital improvements program for 1996. Recommendation was to hire full time City Prosecutor. Patterson asked Wetzler for his thoughts. Wetzler had no problem with committee's recommendations. Patterson felt in-house staff person was not as independent or broadly focused as someone outside. Campbell stated that committee anticipated that in-house person would be available to staff and Council. Campbell would be involved in interview process to make sure right individual was hired. LaHue thought it had been decided in 1992 that City would be losing expertise by hiring in-house counsel as well as leaving City open to liability. Campbell replied that the 1992 study looked into replacing Wetzler, whereas this focus was on the prosecutorial side of City business. Also had no place to put a city attorney at that time. Had busier dockets now. City had increased legal needs and need for staff to have immediate access to legal opinion. Anticipated decreased costs with Bennett Lytle. Rinehart stated that Garofano was person who actually hired the attorney, so committee should not preempt his responsibilities by conducting the interview process. LaHue thought that salary figure was not realistic. Rinehart stated that more court sessions were needed.

Motion by Campbell to commence interview process and advertise for in-house legal counsel and hire person within guidelines of report. Second by LaHue. Unanimous.

Motion by Campbell to pass ordinance to make position a staff position rather than an appointed one, effective February 1, 1996. Second by Patterson. Roll call vote was unanimous. Rinehart pointed out that Wetzler's position did not change.

G. Approve bid for 1995 sanitary sewer manhole rehabilitation.

The low bid was received from Gra-Co, Inc., Arkansas, in the amount of $96,838.48, using Permacast which did not meet specifications.

Peppes asked Brandt for synopsis on Permacast. Brandt stated that it would reduce bills for damage from ground water. Rinehart asked if these were all the manholes that need to be repaired. Brandt stated that there was an on-going plan and more would be done each year.

Motion by LaHue to approve staff recommendation to award bid to second low bidder Dobson-Davis Co., Kansas, in the amount of $114,872.00 using Strong Seal process which met specifications. Second by Campbell.

John Tillman, Graue-Hewiit & Affiliates, representative of Gra-Co, Inc., a Permacast company, spoke. Stated that their bid was lower and their product was as good. Asked Council to reconsider their proposal.

Brandt stated that Permacast did not meet specifications.

Patterson wasn't sure they had studied Tillman's proposal thoroughly enough. LaHue asked if the other process was being used by any other municipalities. Tillman read list of other cities that had used the process. Rinehart pointed out that there would be another phase to the project and therefore another opportunity for further bidding.

Motion approved 4-1, with Patterson voting against.

H. Approval of appropriation ordinance #771.

Motion by Giblin to approve. Second by Campbell.

Giblin asked about #42717, $2400 for D.A.R.E. T-shirts; #42764-two laptop computers for the D.A.R.E. program. Would get half of the $7,000 back ; #42727- Information on Investments guide. Malnicoff stated that City used this as guide for its investments. Campbell asked about #42673, animal tags; #42719, park shelter; #4497, benefit district costs.
Roll call approval of appropriation ordinance was unanimous.

OTHER BUSINESS

Patterson stated that Ward 4 was appreciative of efforts to finish intersection of Roe Avenue at K-150 so quickly.

LaHue asked about effect of new, higher speed limit on I-435 in Leawood. Anderson stated he did not think section would change.

9:45 P.M. Meeting adjourned.

Martha Heizer

Martha Heizer, City Clerk

MINUTES
PUBLIC HEARING

Tape No. 344

47 Minutes of a public hearing held Monday, December 18, 1995, at 7:13 P.M., in the Council Chamber, 4800 Town Center Drive, Leawood, Kansas.

The purpose of the hearing was to hear public comment on proposed assessments to pay the costs of the construction of 155th Street (Bell Drive) and Ironhorse Drive from Mission Road to the IronHorse clubhouse and in Ironhorse Estates.

Councilmembers present: Gregory J. Peppes, Louis Rasmussen, and Marnie S. Clawson. Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson were absent. Staff present: Harry Malnicof, Finance Director; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; and Martha Heizer, City Clerk.

Mayor Marcia Rinehart opened the hearing.

80 There was no public comment. The hearing was closed at 7:15 P.M.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 344

80 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, December 18, 1995. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Rebecca Hessel Garten, City Planner, Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

93 The agenda was approved unanimously on motion of Dunn, seconded by Rasmussen, after the addition of a discussion of sidewalks on the Lee Boulevard bridge over I-435, and a discussion of the 1996 4th of July celebration.

116 **RECOGNITION OF LEAWOOD EMERGENCY PREPAREDNESS COORDINATOR BETTIE BRIDGES**: The Mayor presented Mrs. Bridges a certificate from the Kansas Emergency Management Association (KEMA), Committee on Standards and Practices, recognizing her certification as a Certified Emergency Manager.

CITIZEN COMMENTS: None.

165 **CONSENT AGENDA**: A resolution to approve the final plat of Meadows of Ironhorse at 151st and Linden was removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Peppes:

1. Minutes of the December 4, 1995 Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their December 12, 1995 meeting;
3. Departmental reports;
4. Application (renewal) for Cereal Malt Beverage License - Osco Drug Store, 11729 Roe Ave., Camelot Court Shopping Center;
5. Purchase of a 1996 Oldsmobile Cutlass Ciera through the Kansas City area cooperative purchasing in the amount of $14,445.00 as a replacement vehicle for police investigations;
6. Purchase of a 1996 Plymouth Grand Voyager through the Kansas City area cooperative purchasing in the amount of $19,840.68 as a replacement for the Fire Department's Incident Command Vehicle.

Resolution No. 1274, attached as part of the record, approving the final plat of Meadows of Ironhorse at 151st and Linden: Adopted unanimously on motion of Rasmussen, seconded by Dunn. Public Works Director Brandt said that the landscaping satisfied the requirements (the developer's obligations) of the Landscaping Policy adopted by the Council on September 18, 1995.

261 **RESOLUTION NO. 1275, ATTACHED AS PART OF THE RECORD, APPROVING THE REVISED PRELIMINARY SITE PLAN OF PHASE 2 OF TOWN CENTER PLAZA, NOT INCLUDING THE ELEVATIONS OF THE SHOPS OF PHASE 2; APPROVING THE REVISED PRELIMINARY SITE PLAN OF GALYONS (SPORTS STORE), WITH OUTDOOR MUSIC AND SIGNS TO BE CONSIDERED AT A LATER DATE; AND APPROVING THE REVISED PRELIMINARY SITE PLAN FOR AMC THEATERS, INCLUDING APPROXIMATELY 3100 SEATS IN 20 THEATERS; ALL LOCATED AT APPROXIMATELY 117TH AND NALL:**

375 Developer Dan Poag gave a presentation. The revised plan for Phase 2 had 68,342 less square feet in building space than the original plan.

741 Tim Gillin of Colliers Turley Martin Kerr & Co. Realtors (formerly Kerr & Co.) described plans for the 30 acres of vacant land between Town Center Plaza and Town Center Drive owned by the Douthat family (Marned Corp.) - Class A office space would be built (possibly within 5 years) on the property after the shopping center was completed to provide a buffer (with Edgewood subdivision and the new City Hall on Town Center Drive) between the shopping center and residential areas to the north.

1140 Mr. Poag continued his presentation, particularly on Galyons. He explained that Galyons and AMC was a "package", necessary for financing and property acquisition; if one of them was not part of the plan, then income would be insufficient to both purchase the property and build the buildings. Mr. Poag couldn't buy all the property and pay for part of the buildings. Also, Galyons had made it clear that if AMC was not approved, they would not come to the center.

1883 Councilmember Campbell was concerned about the more intensified traffic flow created by the theaters. Mr. Poag said he had been looking for a theater almost from the beginning (although the specific names of stores/retailers had never been mentioned), and theater traffic was a part of the original traffic study. However, the theater would generate a timing issue, not an increase in traffic. A theater would interact with the rest of the shopping center, basically reaching a peak at the time stores would be closing. Mr. Campbell was also concerned that no pedestrian walkways between the theaters/Galyons and the main shopping center had been planned.

2172 Steve Schooley with Johnson Brickell Mulcahy traffic engineers addressed the AMC traffic flow, patterns and times. Peak traffic flows on City streets were from 5-6 P.M., but there would be higher theater traffic peaks during later evening hours when there was a smaller volume of traffic on City streets, so there would be good traffic flow on the street system, adequate capacity to serve the theater development as proposed. The parking ratio was 3(theater seats) to 1(parking space).

2733 Frank Rash of AMC Theaters described the theaters and their operations.

3630 Several area residents spoke against the theaters - felt they were not warranted (already many theaters close to Leawood), not part of the quality of life that Leawood wanted, not upscale, there would be traffic problems, they might not be economically viable, they were not part of the original upscale plan promised by the developer, a traffic study was done with 10-year old data, there would be a lot of teenagers with less appreciation/consideration for people and property (security problems), there was little or no community support for the theaters. One

resident had concerns about Galyons (and spoke on behalf of others), particularly the outdoor activity area - the lighting, music, noise, age group attracted to the area, fencing or screening and landscaping, would it have a discouraging impact on prospective businesses considering locating nearby. Galyons looked like a discount store, unlike the other stores in the center.

6137 Councilmember LaHue said he was in favor of the developer's plan. Galyons did not appear to be a wholesale or discount store at all, he liked the looks of the store, the interactive area was screened with a 12-foot wall and adequately buffered by the AMC Theater building. And he had no problem with a theater in the shopping center.

6324 Dr. LaHue moved to adopt the resolution with the addition of a change in the parking lot entrance/exit at 117th Street to accommodate a left turn lane (there would be 3 lanes), seconded by Campbell.

Councilmember Clawson moved to amend the motion to state that there would be no games or video arcade at the theater (agreed to by Mr. Rash), that there be raised pedestrian crosswalks (similar to those already planned for the rest of the center) between the theater/Galyons and the main phase of the shopping center, and that no movies would start after 10:45 P.M. (agreed to by Mr. Rash). Motion to amend seconded by Campbell.

Councilmember Dunn said she was against the main motion; she felt the theater and sports store plan was not in keeping with the high quality of the first phase. Councilmember Rasmussen said he would vote against the amendment because he felt it was "sugarcoating" a use which he felt was a substantial change in the planning concept for the area, totally changing the traffic patterns on the surrounding streets. Councilmember Peppes said he would not vote for the main motion; he was not convinced that questions about traffic patterns and parking had been answered. Councilmember Campbell expected an upscale center with a number of uses, including an upscale sporting goods store and upscale theater; he was in favor of the plan. Councilmember Clawson felt the redesign and positioning of Galyons and the theater would enhance the look of the center, enhance the enjoyment and usage of the center, and further enhance the economic viability of the center.

7604 END OF TAPE

Tape No. 345

95 Councilmember Clawson said that her support of the plan had absolutely nothing to do with any financing constraints upon the developer.

160 11:00 P.M. On motion of Giblin, seconded by Clawson, Council voted unanimously to extend the meeting 30 minutes.

490 Mrs. Clawson's motion to amend carried; Giblin opposed, all others in favor. Dr. LaHue's main motion as amended carried; Giblin, Peppes, Dunn, Rasmussen opposed; LaHue, Campbell, Clawson, Patterson in favor; Mayor in favor. The Mayor said she voted affirmatively because there were 68,000 fewer square feet, and the buildings had been placed closer to Nall Ave. which she felt was preferable to the original plan - better to not have to look at the parking lot from Nall, better to look at

the buildings. If the amendment had not carried, the Mayor would not have voted for the main motion.

11:15 P.M. Recess.

11:20 P.M. Council returned to regular session, same members present.

521 **RESOLUTION NO. 1276 APPROVING REQUEST FOR REZONING FROM RP-3 TO RP-4, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, AND CHANGE IN MASTER PLAN DESIGNATION APPROVAL, FOR VILLAS OF LEAWOOD LOCATED AT APPROXIMATELY 138TH AND KENNETH ROAD**: Councilmember Rasmussen moved to deny the request, seconded by Clawson. Stuart Stein represented the applicant. He said the land had been zoned RP-3 for the second phase of an apartment complex (Leawood Manor). The developer suggested a "downzoning" - wanted to build a townhome community, with homes (4 attached to each other per building) for sale separately, not rental units, which would be marketed primarily to the elderly.

City Planner Rebecca Garten explained that the Master Development Plan showed the area as Medium Density Residential-Single Family Detached. The Planning Department had been working with another developer who was trying to do a small lot single family project, but found it to be unfeasible. Planning thought Villas of Leawood had enough credibility that they went through a Master Plan designation change at the last update of the Master Plan. Mrs. Garten said that in a way, the developer was trying to move the Master Plan back to what it was previously - attached rather than detached - because the Villas were fourplexes. She said it did seem backwards to be going from detached to attached, but to a lesser density (RP-3 being twice as dense as RP-4). Mrs. Garten said the Master Plan did not match the zoning on the property.

720 11:30 P.M. On motion of Giblin, seconded by Dunn, Council voted unanimously to extend the meeting 30 minutes.

Mrs. Clawson withdrew her second to the motion to deny, but Councilmember Giblin then seconded the motion. After further discussion, particularly about the width of the streets and easements on either side, Mr. Giblin withdrew his second. There was no other second, so Mr. Rasmussen's motion to deny failed.

On motion of Campbell, seconded by Peppes, Council unanimously approved the request (adopted the resolution). Resolution attached as part of the record.

ORDINANCE NO. 1548 REZONING PROPERTY (VILLAS OF LEAWOOD) LOCATED AT APPROXIMATELY 138TH AND KENNETH ROAD FROM RP-3 TO RP-4: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1168 **ORDINANCE NO. 1549 ADOPTING AN AMENDMENT TO THE 1993 MASTER DEVELOPMENT PLAN MAP** - amendment modified the map by redesignating a tract, approximately 23.7 acres in size, located at 138th and Kenneth, commonly referred to as Villas of Leawood, from Medium Density

Residential-Single Family Detached to Medium Density Residential-Single Family Attached: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1192 **REQUEST BY VILLAS OF LEAWOOD FOR A SPECIAL USE PERMIT FOR A TEMPORARY OFF-SITE SIGN TO BE LOCATED AT APPROXIMATELY THE SOUTHWEST CORNER OF K-150 AND KENNETH ROAD** - to direct potential homeowners to the subdivision further south on Kenneth Road: On motion of Campbell, seconded by Patterson, Council unanimously approved a permit for 2 years (from Council approval date), the sign to be located outside the rights-of-way and construction easements for K-150 and for Kenneth Road.

1203 **MAYOR'S REPORT**: The Mayor congratulated Fire Department Operations Chief Ben Florance on successfully completing the National Fire Academy's Executive Fire Officer Program (EFOP).

Parks & Recreation Director Whitaker reported that a recent edition of "Golf Digest" listed the top 10 public access golf courses for each state, and Leawood's IronHorse Golf Club (less than a year old) was #1 in Kansas.

1279 **ORDINANCE NO. 1550 LEVYING ASSESSMENTS TO PAY THE COSTS OF CONSTRUCTION OF 155TH STREET (BELL DRIVE) AND IRONHORSE DRIVE FROM MISSION ROAD TO THE IRONHORSE CLUBHOUSE AND IN IRONHORSE ESTATES**: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1551 AUTHORIZING THE ISSUANCE OF TEMPORARY NOTES; PROJECT 124; 135TH STREET [K-150], STATE LINE-NALL AVENUE; $1,000,000: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1552 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 140; 83RD STREET; $500,000: The ordinance was considered and passed on motion of LaHue, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1553 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 146; TOWN CENTER PLAZA; $1,000,000: The ordinance was considered and passed on motion of Campbell, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1339 **POLICY ON THE USE OF TOMAHAWK CREEK PARKWAY** - used for running and other sports events: Many factors, including an increase in traffic, made it undesirable to close the road on any regular basis for special events. Parks and Recreation had already recognized the problem and had made plans to move their "Blades, Skates, and Wheels" events to the

portion of the Parkway south of 119th St.

On motion of Rasmussen, seconded by Clawson, Council unanimously approved the following policy: Tomahawk Creek Parkway between College Boulevard and 119th Street will be closed to traffic a maximum of six times in 1996 for running and similar events. First priority will be given to City sponsored events. Second priority will be given to groups which have held prior events on the roadway. Last priority will be given to any other groups on a first come, first served basis until six events have been scheduled.

Traffic volume and patterns in 1996 would be monitored and further restrictions could be proposed.

1411 **RESOLUTION NO. 1277 DECLARING THE BOUNDARIES OF THE CITY OF LEAWOOD, KANSAS** - required by state statute due to passage of Ordinance No. 1511 (exclusion of land) and Ordinance No. 1512 (annexation of land), both effective 12:01 a.m., August 31, 1995: Adopted unanimously on motion of Campbell, seconded by Dunn. Attached as part of the record.

1420 **AUTHORIZE AGREEMENT PARTIALLY VACATING PLATTED EASEMENT**: Karl and Patricia Jonietz of 5205 W. 112th St. (Lot 19, Block 5, Leawood Country Manor, Third Plat) requested that the City vacate a portion of a utility easement across their property because their home had been constructed on a portion of the easement. A storm sewer existed within the easement, but not located within the portion of the easement over which the residence encroached. The mortgage company would not close on the property until the conflict was resolved. On motion of Campbell, seconded by Rasmussen, Council unanimously approved the agreement.

1495 **ORDINANCE NO. 1554 GRANTING RIGHTS-OF-WAY TO LATERAL SEWER DISTRICT NO. 13, TOMAHAWK CREEK SEWER SUB-DISTRICT NO. 3, REQUIRED FOR THE CONSTRUCTION OF THE VINTAGE APARTMENT COMPLEX AT APPROXIMATELY 121ST AND ROE AVENUE IN OVERLAND PARK** - Leawood did not require compensation for the rights-of-way: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1570 **ORDINANCE NO. 1555 GRANTING STORM SEWER EASEMENTS TO THE CITY OF OVERLAND PARK, KANSAS, REQUIRED FOR CONSTRUCTION OF THE VINTAGE APARTMENT COMPLEX AT APPROXIMATELY 121ST AND ROE AVENUE IN OVERLAND PARK** - restoration of land was covered in easement documents: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

12:00 P.M. On motion of Campbell, seconded by Peppes, Council voted to extend the meeting 30 minutes; LaHue opposed; all others in favor.

1640 **APPROVAL OF APPROPRIATION ORDINANCE NO. 772**: The ordinance was considered and passed on motion of Giblin, seconded by Rasmussen. On roll all, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1685 **DISCUSSION OF THE REFUNDING OF OUTSTANDING REVENUE BONDS ISSUED BY THE PUBLIC BUILDING COMMISSION FOR THE CONSTRUCTION OF THE NEW CITY HALL**: On motion of Rasmussen, seconded by Campbell, Council voted unanimously in favor of the concept of refunding.

1725 **OTHER BUSINESS**: 1996 4th of July Celebration: Staff recommended that there be no 4th of July parade in 1996 (many negative comments had been received on the content of the parade, plus other factors), but rather a strong emphasis would be placed on day-long family activities at Leawood Park, 106th and Lee Blvd. Councilmember LaHue favored continuing the parade in some fashion. Councilmember Peppes moved to approve staff's recommendations for 1996 as outlined in a December 13, 1995 memorandum from Recreation Supervisor Alan Marstall (which included not having a parade), seconded by Dunn. Motion carried; LaHue, Clawson, Patterson opposed; all others (5) in favor. The Mayor felt the Parks and Recreation Advisory Board should be advised of the strong concern by the 3 nays.

1985 Sidewalks on Lee Blvd. bridge over I-435: Public Works Director Brandt recommended constructing a sidewalk on the west side of Lee Blvd. between 105th St. and Constitutional Court (in Leawood Park on the south side of the bridge), providing fencing to restrict direct access to I-435, and installing a railing on the east side of the bridge. He explained that the northern boundary of Leawood Park was the south right-of-way line of I-435, and from that point over the bridge to 105th St. was street right-of-way which varied in width. Councilmember Dunn was concerned about building a sidewalk north to 105th St. because the land was so steep there would have to be retaining walls. She recommended not going all the way to 105th St.

Councilmember Rasmussen felt that the total bridge design in terms of the way KDOT left it was a hazard. He was especially concerned about the north side of the bridge; coming off the actual presence of the bridge there was open access down a very steep slope into water channels and erosion wall. He wondered if HNTB engineers felt that the area from the edge of the present pedestrian access to the bridge to the edge of the north right-of-way was safe. He asked who would maintain the slope in terms of mowing, etc. He said there was probably only about 2 1/2 - 3 feet from the slope to the edge of I-435 on the west side of the bridge. He thought the state would have some interest in making sure that that particular area did not allow unsafe access to I-435.

Council requested more information from HNTB before making any decision.

2197 Update on appeal of tennis court matter by Timothy and Patricia Smith, 9415 and 9421 Lee Blvd.: City Attorney Wetzler said the court had remanded the matter to the Plan Commission on a technical point. The court directed the Commission to make a specific finding as to whether or not the tennis court complied with subdivision regulations.

2225 12:20 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 346

72 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:40 P.M., Tuesday, January 2, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Peggy J. Dunn, Louis Rasmussen and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

82 The agenda was approved unanimously on motion of LaHue, seconded by Peppes, after the addition of a resolution consenting to the enlargement of Johnson County Consolidated Main Sewer District.

CITIZEN COMMENTS: None.

99 **CONSENT AGENDA**: The following were approved unanimously on motion of Rasmussen, seconded by Dunn:

1. Minutes of the December 18, 1995 Public Hearing on proposed assessments to pay the costs of construction of 155th Street (Bell Drive);
2. Minutes of the December 18, 1995 Council meeting;
3. Declaration of surplus property - police vehicles: 1993 Ford Crown Victorias (VIN's 5285, 5283, 5282, 5284); 1991 Chevrolet Caprice VIN 5031; ~~1989~~ 1990 Chevrolet Caprice VIN 6874; ~~1988~~ 1991 Chevrolet S-10 pickup truck VIN 4010; 1991 Ford Explorer VIN 0223;
4. Purchase of 2 1996 Ford Explorers for the Police Department through Kansas City cooperative purchasing, each $22,488.00, to replace a Ford Explorer in the patrol fleet and a 1993 Ford sedan used by canine handler;
5. Purchase of a 1996 chassis-mounted transport unit for a new animal control vehicle from Deerskin Manufacturing in the amount of $10,955.00.

109 **MAYOR'S REPORT**: The City had received a check in the amount of $1320.00 from the Cloisters Homes Association for Police and Fire Department funds. Residents of The Cloisters subdivision gave contributions annually.

Councilmember Patterson said that the City's ad hoc Stormwater Management Committee would have an early morning meeting in about 2 weeks for an overview of the City's stormwater projects, and then have regular meetings on available Monday nights for the term of the Committee, and submit a final report, hopefully within 6 months. The Committee planned to meet Monday, January 29th.

Planning Director McKay said that changes to the Master Development Plan text that had been accepted by staff (not all suggestions were accepted by staff) would be shown in bold print; the revised pages

would be submitted to the Council before the January 8th Council work session on the Plan text only, not land use, hopefully by Thursday, January 4th. Mr. McKay said that once the Council had accepted the language, he felt it would be appropriate to send it back to the Plan Commission, at least as an informational item. Councilmember Dunn asked City Attorney Wetzler if the Council would be able to discuss any land use matters that were pending. Mr. Wetzler felt that to the greatest extent possible, any issues that directly related to land use under consideration by the Council or the Plan Commission should not be discussed. He said if there were discussions/hearings outside the City's regular procedure for zoning matters where decisions were made which impacted on planning and land use applications, that could be perilous. He felt that the "stage was already set" for pending zoning matters, but that wouldn't stop people from trying to change things, and later on arguing that the changes did have some impact.

813 **AUTHORIZE FINANCIAL ADVISOR GEORGE K. BAUM & COMPANY TO PROCEED WITH NON-BINDING PRE-OFFERING OF $4,160,000 (subject to change) LEAWOOD PUBLIC BUILDING COMMISSION PUBLIC BUILDING REFUNDING REVENUE BONDS, SERIES 1996 (THE LEAWOOD CITY HALL PROJECT)** - to improve the interest rate structure of the bonds (interest rates on bonds had decreased considerably since the initial issue) and eliminate the use of $445,000 as a reserve on the initial bond issue to allow the City to use that money: Councilmember LaHue moved to authorize the financial advisor to proceed, seconded by Campbell. Moody's Investors Service had issued a favorable rating indicator on uninsured bonds which would free up the $445,000 reserve. The Public Building Commission recommended refinancing of the initial Public Building Commission bonds, and recommended that the funds that would be saved as a result of the refinancing be used to enhance/improve the new City Hall. Dr. LaHue's motion carried unanimously.

1235 **AUTHORIZE CONTRACT FOR PRELIMINARY DESIGN OF 119TH AND MISSION INTERSECTION**: On motion of LaHue, seconded by Dunn, Council unanimously authorized a contract with Johnson Brickell Mulcahy Engineers and Planners in an amount not to exceed $19,900.00.

1355 **AUTHORIZE CONTRACT FOR DESIGN OF MISSION ROAD, 135TH STREET TO 143RD STREET**: On motion of Rasmussen, seconded by Dunn, Council unanimously approved a contract with Continental Consulting Engineers, Inc., in an amount not to exceed $18,020.00.

1448 **RESOLUTION NO. 1278 ESTABLISHING THE 1996 FEE SCHEDULE FOR FEES NOT SPECIFICALLY PROVIDED FOR IN THE CODE OF THE CITY OF LEAWOOD**: Councilmember LaHue moved to adopt the resolution, seconded by Campbell. Councilmember Peppes noted that fees for plan reviews had been increased along with fees for some building permits; there appeared to be a twofold increase in the same area. He didn't feel plan review fees should have been increased. Planning Director McKay said his department had lost money on plan reviews the last couple of years. As staff's work load increased, he had to depend on outside consultants to review many plans. Dr. Peppes was concerned about small business owners and residents who would be paying a significant increase. Mr.

McKay said that plan review fees had not been adjusted in a number of years, and he wanted to try and recoup some costs for the City in 1996, and to hopefully make plan review self-sustaining.

Dr. LaHue's motion carried unanimously. Resolution attached as part of the record.

1777 **APPROVAL OF APPROPRIATION ORDINANCE NO. 773**: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

1791 **RESOLUTION NO. 1279 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT** - to provide service to 1 house at 14600 Mission Road: Adopted unanimously on motion of Clawson, seconded by Giblin. Attached as part of the record.

1855 8:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer City Clerk

MINUTES
REGULAR COUNCIL MEETING

Tape No. 347

50 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, January 15, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. * Graham G. Giblin, Sr., arrived 7:45 P.M.; ** Doug Patterson arrived 8:15 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

63 The agenda was approved unanimously on motion of Clawson, seconded by Peppes, after the addition of a report from the City Attorney regarding code enforcement action at Ranchmart Shopping Center (95th & Mission Rd.) and a discussion of a remand to the Plan Commission of the Master Development Plan text. It was noted that a revised pay request for the 91st Street rehabilitation project to be considered under the Consent Agenda had been distributed to the Council.

125 **RESOLUTION OF RECOGNITION OF POLICE CAPTAIN SID MITCHELL FOR HIS SERVICE TO THE CITY**: The Mayor presented the resolution to Captain Mitchell for 20 years of service in the Police Department from January 5, 1976 to January 5, 1996. He also received a plaque from Police Chief Cox.

* 7:45 P.M. Councilmember Giblin arrived.

CITIZEN COMMENTS: None.

249 **CONSENT AGENDA**: Departmental reports, Pay Request No. 5 (FINAL) revised for the 91st Street rehabilitation project, and Pay Request No. 3 (FINAL) for the 143rd Street rehabilitation, were removed for further discussion. The following were approved unanimously on motion of Dunn, seconded by Giblin:

1. Minutes of the January 2, 1996 Council meeting;
2. Leawood Arts Committee report (minutes) of their November 8, 1995 meeting.

Departmental reports: Councilmember Rasmussen complimented Police Chief Cox on his excellent report on 1995 alarm system results. He also commented on the Planning and Development activity report for December 1995 which included a comparison of monthly revenues from 1988 through 1995. A significant amount of money was coming to the City, and he wondered what the City would do without the permit revenue once the City was built out. City Administrator Garofano said that staff considered the revenues "one shot" revenues, realizing that they fluctuated from year to year; they were not applied to anything of an on-going nature. And there would be offsets in the future as sales tax

revenues increased.

On motion of Rasmussen, seconded by Clawson, Council unanimously approved the departmental reports.

Pay Request No. 5 (FINAL) revised for the 91st Street rehabilitation project: Councilmember Peppes was concerned about the cracks in the asphalt. Public Works Director Brandt said the City had hired a testing company to review the design and contractor's work; they couldn't find a definite cause. Public Works was surveying the elevation of the curbs to see if they had settled during a drought period, possibly causing the asphalt to stretch. Dr. Peppes was concerned about approving a final payment when the work was not yet up to City standards. Councilmember Dunn was interested in making a partial payment to the contractor. Mr. Brandt did not feel that the asphalt pavement was substandard, but that there was a tear in the asphalt, which was fairly typical of a lot of asphalt streets, particularly during droughts. He didn't believe it was the contractor's fault, even though a 2-year contractor's maintenance bond would be in force after final payment. The requested final payment was $48,487.02, which included Change Order No. 1 in the amount of $10,959.50. Mrs. Dunn moved to approve a payment of $36,000 (withholding the approximate amount for sod) to Seal-O-Matic Paving Co., seconded by Rasmussen. Motion carried; Peppes opposed, all others in favor.

Pay Request No. 3 (FINAL) for the 143rd Street rehabilitation project: After clarification of the original contract estimate and final payment for work required in the field, and on motion of Dunn, seconded by Clawson, Council unanimously approved the final pay request by Leavenworth Excavating and Equipment Co., Inc. (LEXECO) for $47,025.32.

736 **REQUEST BY RESIDENT KRISTI MORRIS FOR A SPECIAL USE PERMIT FOR A CHILD CARE CENTER KIDS 1ST AT HER HOME, 2001 WEST 86TH TERRACE (SOUTHWEST CORNER OF 86TH TERRACE AND STATE LINE ROAD)**: Planning Director McKay said the applicant requested the permit for a maximum of 24 children. The property was already being used as a home occupation in-home day care center which, by City ordinance, permitted 6 children. Anymore than that number required a special use permit for a specified period of time. Child care/day care (commercial use) was an acceptable use in residential areas by ordinance. Former owners of the home had used it for day care. Staff had recommended approval, but the Plan Commission recommended denial of a permit because of a possible change in the character of the neighborhood and a concern about the number of children.

The applicant Kristi Morris said she was seeking a permit for a maximum of 18 children, not 24. She did not intend to change the character of the home, had not asked for a sign, and said there was a need for the service she provided. Architects presented the proposed physical improvements to the home, including a 6-foot fence (already approved by the Board of Zoning Appeals), circle driveway, lighting, and landscaping. They also talked about traffic on State Line Road, and in their opinion, some erroneous Plan Commission information. They also felt their request had been prejudiced by the denial of previous requests for special use permits by former property owners who wanted

to have more children and signage.

** 8:15 P.M. Councilmember Patterson arrived.

It was noted that the applicant currently accepted up to 12 children without having obtained a special use permit, possibly because of a misunderstanding of the definition of child care center. Planning Director McKay said that if a special use permit was not granted, then the applicant would have to go back to 6 children.

2449 Several area residents spoke in opposition to the permit. They were concerned about noise and traffic and the safety of the children. They felt the special use would decrease their property values. Some said that the home was in a run down condition, not well maintained. The Leawood Homes Association was opposed.

2996 Councilmember LaHue said he had no problem with day care in a residential area, but the proposed plans did not appeal to him. He would prefer that the home look more like a home by getting rid of the converted garage and putting an addition on the back, and preferred an opportunity to bring cars and the children through the back from a large parking lot to the south (part of the Ward Parkway Shopping Center property). He felt there was too much of a business flavor to the home.

3099 Councilmember Patterson moved to deny the special use permit, seconded by Giblin. Councilmember Rasmussen felt that the condition of the home would further decline unless there was a concentrated effort to upgrade the appearance. If there was a condition that the applicant maintain the residential character of the structure, that would enhance the area. The addition of six children wouldn't make much difference. If the special use permit was denied without having someone willing to invest the money to improve the property, the property would continue to decline. Councilmember Clawson had concerns about the applicant having the ability to put money into the property - income from 18 children wouldn't be enough. And she had a problem with the applicant already operating with 12 children without having obtained a special use permit. Councilmember Peppes felt the City should try to keep the Leawood side of State Line Road residential in character; 18 children would change that character as a whole. He supported day care on a smaller scale.

3361 Mr. Patterson's motion to deny carried unanimously.

3400 **RESOLUTION RELATING TO REQUEST FOR REZONING FROM AG TO CP-0 AND CP-1, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, AND MASTER DEVELOPMENT PLAN AMENDMENT, FOR TOMAHAWK CREEK OFFICE PARK AT THE SOUTHWEST CORNER OF COLLEGE BOULEVARD AND TOMAHAWK CREEK PARKWAY**: The Plan Commission had recommended denial of the application. The applicant Paul Goehausen, who was not present, had asked staff for a continuance. City Attorney Wetzler said a simple request was adequate for a continuance, but would prefer to have a reason. Planning Director McKay said that the person who was going to make the presentation for Mr. Goehausen was unable to attend the Council meeting.

Councilmember LaHue wondered if a developer could economically develop the property as single family residential and do the extensive and expensive flood control work that would have to be done. The Mayor

reminded the Council that they had authorized a drainage study with Olathe, Overland Park, and Johnson County about the effects of stormwater. The Council should see the report late summer or early fall. Dr. LaHue didn't feel he could make a decision about the property until he knew what the stormwater options would be to a developer, whether residential or business. Mr. McKay said there was a significant difference in the cost to develop the property because residential had to have a certain elevation, whereas a parking lot for retail or commercial could be in the floodplain without any difficulty.

Residents attending the meeting were opposed to a continuance; they felt that Mr. Goehausen was perfectly capable of making a presentation himself, and that the application should simply be denied because he did not attend the meeting. If the application was not denied forthwith, they would prefer to wait until the drainage study was completed, or a 90-day continuance.

Councilmember Rasmussen said he would vote against continuance; Mr. Goehausen showed no consideration for residents or the Council. The application should be denied, and the developer would have to reapply.

Councilmember Campbell agreed with Mr. Rasmussen to some extent (Mr. Goehausen could have handled the matter better), but he was in favor of giving Mr. Goehausen an opportunity to present his application. Mr. Campbell moved to continue the matter to the first meeting in March, seconded by LaHue. Councilmember Patterson moved to amend the motion to state that this would be the only (last) continuance for Mr. Goehausen, seconded by Clawson and carried unanimously.

4167 Mr. Campbell's motion as amended carried; Rasmussen, Dunn opposed; all others in favor.

ORDINANCE REZONING FROM AG TO CP-0 AND CP-1 - TOMAHAWK CREEK OFFICE PARK: No action taken.

4205 **MAYOR'S REPORT**: Councilmember Clawson, Council liaison to the Leawood Arts Committee, reported that the Committee was planning several opportunities for the display of art, in public facilities and at an upcoming volunteer party.

4458 **ORDINANCE NO. 1556 AUTHORIZING AMENDMENT OF BASE LEASE AGREEMENT AND AUTHORIZING LEASE AGREEMENT BETWEEN THE CITY AND THE LEAWOOD PUBLIC BUILDING COMMISSION, AND APPROVING THE TERMS OF THE COMMISSION'S PUBLIC BUILDING REFUNDING REVENUE BONDS, SERIES 1996, RELATING TO THE CITY HALL PROJECT**: The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

4680 **DISCUSSION OF A REMAND TO THE PLAN COMMISSION OF THE MASTER DEVELOPMENT PLAN TEXT**: The Council had received text changes that they had authorized at a work session in order to send the text back to the Plan Commission for their consideration in February, back to the Council in March. Councilmember Patterson said that he did not see some of his suggestions, and therefore moved to consider the text again at the February 5th Council meeting to hear further comments and review revisions

distributed, seconded by Rasmussen. Motion carried unanimously. Any comments would have to be given to Planning Director McKay by January 22nd.

4989 **AUTHORIZE PAYMENTS OF CONDEMNATION AWARDS FOR COLLEGE BOULEVARD IMPROVEMENT PROJECT, PHASE 2**: On motion of LaHue, seconded by Clawson, Council unanimously authorized payments totaling $26,860.00 for Marshall Gordon property ($9,118), Barbara Spack property ($9,616), Anthony Kostusik property ($500; 4201 W. 110th Terr.), and Keith Linas property ($1,626; 11016 Delmar), and 3 review appraisers' fees of $2,000 each.

5003 **AUTHORIZE CONTRACT FOR ENGINEERING DESIGN SERVICES FOR STORMWATER MANAGEMENT PROJECT, SAGAMORE ROAD, 97TH - 98TH STREET**: Councilmember LaHue moved to authorize a contract with Schlagel & Associates in an amount not to exceed $19,500, seconded by Campbell. Councilmember Rasmussen said he would vote against the contract - this would be the third time for designing the project! Public Works Director Brandt explained that there had been an earlier in-house preliminary design which Schlagel would use to complete details. Schlagel's design was required to receive County funding. Motion to approve carried; Rasmussen opposed, all others in favor.

5274 **AUTHORIZE RELOCATION AGREEMENT WITH WATER DISTRICT NO. 1 FOR RELOCATION OF WATER MAINS ON NALL AVENUE, 128TH STREET TO 130TH TERRACE, PART OF THE NALL AVENUE IMPROVEMENT PROJECT, 119TH STREET TO 135TH STREET**: The City would pay the Water District an estimated $110,512 for the relocation. On motion of Clawson, seconded by Campbell, Council unanimously authorized the agreement.

5380 **APPROVAL OF APPROPRIATION ORDINANCE NO. 774A FOR DECEMBER (3) 1995:** The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

5576 **APPROVAL OF APPROPRIATION ORDINANCE NO. 775 FOR JANUARY (1) 1996**: The ordinance was considered and passed on motion of Dunn, seconded by Peppes. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. Nays---None.

5631 **OTHER BUSINESS**: City Attorney's report on code enforcement at Ranchmart Shopping Center (95th & Mission): Mr. Wetzler said there had been a number of cases filed in municipal court within the last month by staff relating to sign ordinance violations. Very few signs remained up. Where individual merchants removed their signs, the cases were dismissed. Businesses which still had signs up were given a choice - trying the cases, or if they removed their signs, fines would be suspended. All of the merchants wanted to cooperate with the City. The case involving the owner of the shopping center was still pending; he would be submitting an overall plan soon for the center which would result in an overall improvement with a new sign concept.

Councilmember LaHue moved to authorize staff to issue temporary sign permits, not to exceed 30 days, to those businesses which had re-

moved their nonconforming signs, so as to not harm their businesses. Motion seconded by Clawson. Planning Director McKay suggested some kind of uniform banner. Motion carried unanimously.

6438 10:35 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

February 5, 1996

Minutes Summary

Video Tape #1
Audio Tape #348

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, February 5, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Peggy J. Dunn, Marnie S. Clawson, Graham G. Giblin, Sr., Ronald LaHue, Gregory J. Peppes, Doug Patterson, Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Police Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/ Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

#65 **APPROVAL OF AGENDA**

The agenda was approved unanimously on motion of Peppes, seconded by Dunn; after 2 additions: discussion of amendment to Charter Ordinance No. 6, and City Attorney's report on Ranchmart, status of sidewalk, signs.

#95 **PROCLAMATIONS**

Prairie Star Elementary Democracy Day, February 13, 1996.
School PTO Chair Tracy Martin introduced 8 fifth grade students who wrote the document proclaiming Democracy Day at Prairie Star Elementary School, to accept the proclamation from Mayor Rinehart.

Engineer's Week, February 18 - 24, 1996, was proclaimed in honor of engineers' service to the community. Ron Brandt, Public Works Director, accepted the proclamation from Mayor Rinehart. The Mayor acknowledged the Public Works Department's efforts and contribution to this community.

#274 **RECOGNITION OF CITY EMPLOYEES**

Employees who observed their 10-year anniversary with the City were recognized and presented with certificates and City-logo watches. The employees marking their 10-year

anniversaries: Pete Chronister, Terry Keesler, Becky Garten, Ron Peters, Steve Lyle, Scott Fanning, Bob Kerr, Rick Clodfelter, Scott Hansen, Cynthia Pitts, Rick Long.

Employees responsible for the success of the 1995 Have a Heart Help a Child employee giving program were recognized and presented with certificates of appreciation. Those employees are Diane Brooks, Nancy Kelley, Nancy Blackerby, Geri Viator, Bill Porter, Kevin Ritter, Jill Manson, Wade Broussard, Joyce Murphy, Linda Smith, Becky Garten. The Mayor commended employees for initiating this program.

#462 **PUBLIC HEARING**

Public Hearing was held on the vacation of a portion of a utility easement generally located on Lot 19, Block 5, Leawood Country Manor, Third Plat, more commonly known as 5205 W. 112th Street. The hearing was opened on motion of Clawson, second by Peppes, with unanimous approval. Wetzler explained the need for the order of vacation of easement. There were no comments from the public. The Public Hearing was closed on motion of Dunn, second by Patterson, with unanimous approval.

Wetzler defined "easement." Council discussion centered on the unusual nature of the situation; the fact that the house may be built partially over or so near to the sewer line that any relocation of the line could cause damage to the property; that an agreement exists requiring the owner to assist in any future line relocation; and that the problem is clouding the title thus making conveyance of this property difficult. The Council, on motion of Rasmussen and second by Dunn, voted unanimously to execute the order for vacation of easement.

CITIZEN COMMENTS

None.

#650 **CONSENT AGENDA**

1. After removal of two items for further discussion, the following items were approved unanimously on motion of Rasmussen, second by Peppes:
2. Minutes of January 15, 1996, Council meeting;
3. Committee Reports (Arts Committee minutes of 1/10/96; Public Works Committee minutes of 1/11/96);
4. Purchase of Public Works Equipment;
5. Resolution No. 1280, attached as part of the record, approving the revised final plat of Edgewood, replat of Lots 27 through 31, Town Center Drive and Rosewood.

Items removed for further discussion:

1. Change Order No. 1 representing a $43,636.42 reduction to the contract amount for K-150 improvements: Approved unanimously on motion of Dunn, second by Rasmussen, after Dunn complimented Brandt on the savings and noted they do not often see a reduction to an original contract amount.

2. Resolution No. 1281, attached as part of the record, approving the revised final plat of Villas of Ironhorse, 2nd Plat, 151st and Linden: Adopted unanimously on motion of Dunn, second by Clawson. In response to Dunn's question, McKay explained RP4 setback requirements which allow reduction from 30 to 22 1/2 feet with Council approval to allow a bigger home to be placed on a lot.

#720 **MAYOR'S REPORT**

The Mayor announced that Deidre Markley, Economic Development/Special Projects Coordinator, has become President of the Johnson County Partnership; she congratulated Markley on her position with this 11-county economic development coalition.

Mayor Rinehart recently attended Hy-Vee Store event at which Hy-Vee presented $1,100 to Leawood's DARE program. The monies were raised by Hy-Vee through a golf tournament. Hy-Vee has participated in DARE funding in the past, and the City is appreciative of this continuing effort and support.

Mayor Rinehart announced the Fire Department has received a $10,000 bequest from the estate of Gladys Dillon. Chief Strack said this is the first time in his 30 years with the City that the City has been given funds from an estate; $3,000 will be used to purchase hazardous environment protectors; the Fire Department hopes to use the $7,000 for something permanent but, as yet, undecided. Chief Cox confirmed that the Police Department received a like amount from Mrs. Dillon's estate.

OLD BUSINESS

#800 **Discussion of Master Development Plan text - remand to the Plan Commission.**

The changes entered on page 81, to eliminate the Pawnee extension (Waterford to 133rd) and the Fontana extension (Leawood Meadows to 137th), were discussed and the intent clarified.

LaHue expressed his reservations about making decisions for road layout of undeveloped sections which may not be approved for the zoning on which the road decisions are based; he also sees possible fire and police safety consequences resulting from non-through roadways; he asked McKay for his recommendation on the street closing.

McKay responded that his original recommendation was that both Pawnee and Fontana go through whatever development occurs, and that it would be helpful to have a roadway through this area. McKay has checked with Police and Fire Departments and found that the closings will not be a problem although it would be nice to have another connection. McKay stated that master plans are always amendable. This Council's decision would be making a commitment to the residents who live there now that the through street will not be allowed. The only way to reverse such a decision in the near future would be for the

neighborhood to say they erred in their request, and this would have to be done before the development takes place.

LaHue raised the potential problem of this Council restricting a future Council which may find a need for access, although he certainly subscribes to giving the neighborhood some degree of confidence in what's going to happen.

The Mayor called for discussion regarding Patterson's interest in perhaps changing some items under special development district and regarding McKay's comment in opposition to Patterson's request.

McKay responded that he does not disagree; his concern is only over the timing of adopting Patterson's proposals before Plan Commission has reached and submitted its decision to council for a final decision which could affect the language of what Mr. Patterson proposes.

Patterson stated his idea of the logical sequence would be for Council to formulate, from a general master plan point of view, what the special development district would be; then Plan Commission could consider what uses would be allowed in that category. The resulting amended master plan would set the theme for development.

McKay stated that special development is a zoning classification that fits with planned business zoning; he feels it would be better to define what the City wants special development zoning to accomplish how it should function and then put that language into the ordinance and incorporate the changes into the master plan. Consideration of special development district issues will be on the agenda for Plan Commission's February 27, 1996, meeting. Consideration of the remand of master development plan text may occur at the same meeting or later, in March. McKay further stated his belief that Plan Commission deserves to go through the process, have a public hearing, and make recommendations to Council. Then Council can decide whether to accept, change, reject, or send it back to Plan Commission.

Rasmussen suggested simply sending Patterson's comments to Plan Commission for discussion. The Mayor felt Council needs to discuss Patterson's comments. Patterson disagreed.

Rasmussen moved for remand to Plan Commission; seconded by Dunn. Council voted unanimously to remand Council's comments and suggestions ("blue sheets") to Plan Commission.

Rasmussen expressed his opinion about conveying to Plan Commission the comments ("pink sheets") of Patterson, as one council person whose comments are as worthy as any

other citizen's, and sees no reason why they can't be transmitted to Plan Commission simply as the comments of Doug Patterson.

Clawson saw no problem with doing that but would like to add comments of other perople on council as well; she has concern about striking out the zoning category allowing wholesale trade and noted such trade exists along College Boulevard and is innocuous to the communities around it; she would be concerned if the pink sheets were sent to Plan Commission without any hint that they express no more than one council person's opinion.

Campbell inquired about what constitutes "business services" and what exactly "wholesale trade" means.

Rasmussen called attention to the special development district data furnished by Planning staff with the packet: a chart defining special development categories and descriptions of appropriate uses by category, and an explanation of how council members could use the chart to indicate uses acceptable to them and/or to uses to eliminate entirely or in part.

The Mayor said she thinks it appropriate that Council have a work session about special development district zoning. Rasmussen disagreed; he thinks with the information supplied by Planning staff he knows enough to make decisions.

Campbell again stated he is unsure of some of the "business services," and he might need more time to sort through which business uses he would favor and which to omit. He would like to see staff's draft of the plan. Patterson said he should have just mailed his comments to Plan Commission.

Patterson moved to submit his comments to Plan Commission without recommendation from staff or council but only as the viewpoint of Patterson; second by Rasmussen.

LaHue thought it appropriate to allow time to consider or hold a work session to reach an understanding or consensus as to the direction Council wants to take. Mayor Rinehart said this should go through Plan Commission and they will send their comments to Council.

The Council voted unanimously to send Patterson's suggestions to Plan Commission without a recommendation.

#1777 **Public Works Committee report on Committee's review of 119th and Mission Road traffic study.**

The Public Works Committee and staff submitted four recommendations. Dunn added her recommendation for timing of the traffic signal to coincide with Church of Nativity's services on Sundays, such timing to be activated only for Sundays. Brandt said these changes can be in effect within six weeks, before Easter. Clawson moved to accept

Committee's four recommendations and take Mrs. Dunn's into consideration; second by Dunn. Approved unanimously by Council.

NEW BUSINESS

#1926 **Authorize contract for engineering services for sanitary sewer improvements, Rehabilitation Project No. 2.**
Motion by LaHue to authorize contract for engineering services; second by Peppes.

Dunn stated she is not opposed to George Butler Associates engineering the project but asked why the Public Works Committee was not involved in engineer selection as is customary. Brandt replied that GBA was selected by the Committee for an earlier phase of the project and that staff recommends GBA because of their familiarity with the project; also GBA is consultant for the Wastewater District for repairs, and as Leawood's sewer system is transitioning into Wastewater Districts, it makes sense to use GBA.

LaHue asked Wetzler whether it is appropriate for the City to discuss this upcoming expense with the Wastewater District prior to combining our system with theirs. Garofano stated the Wastewater District is well aware of the expenses and work that is needed.

Clawson asked whether the improvements will deal with the problems caused by overloaded lines. Brandt stated these improvements are part of a 4-year plan meant to relieve the current 200% overload which occurs during 10-year floods and results in back-ups flowing into basements and creeks.

Rasmussen noted the study found the necessary expense of $750,000 a year for several years, and that the preliminary estimate of $750,000 for this construction is the entire amount for this year. Giblin inquired about GBA's fee. It was 16% for the 1995 Sewer Rehab Project. Brandt explained that the fee has been reduced based on earlier work.

Council unanimously authorized a contract with George Butler Associates, Inc., for amounts not to exceed $86,256 for Sanitary Sewer Improvements, Rehabilitation Project No. 2.

#2095 **Ordinance No. 1557 accepting warranty deed for Lots 39B and 40B of Edgewood subdivision.**
Motion for approval made by Rasmussen, second by Dunn.

Giblin asked whether staff has performed or looked at an environmental study on the lots. He feels the City should consider the environmental study. Brandt responded that it was considered as was part of the development of Edgewood; further, staff is very familiar with conditions because of work on City Hall and the environmental study in connection with that; no source of hazardous or toxic waste was found. Giblin asked how much an

environmental study would cost? Garofano stated the City and developer shared the cost of the original drainage structure, so we know what is going on.

Patterson asked whether there are storm drainage facilities on the lots. Brandt responded that there are and that the City has already accepted them by easement

Council voted unanimously to accept the warranty deed for Lots 39B and 40B of Edgewood subdivision.

#2192 **Approval of appropriation ordinance No. 774B of December 1995.**
Motion by Rasmussen to approve. Second by Clawson. Roll call approval of appropriation ordinance was unanimous.

Approval of appropriation ordinance No. 776 of January 1996.
Motion by Clawson to approve. Second by Dunn. Roll call approval of appropriation ordinance was unanimous.

#2217 **Schedule executive session re pending litigation.** On motion by Clawson, second by Giblin, Council voted unanimously to hold an executive session for no longer than 15 minutes at the end of the regular meeting to discuss pending legislation.

#2248 **Charter Ordinance No. 21, amending Charter Ordinance No. 6 dealing with city elections, to allow the City to hold primary elections to comply with state statute.**
On motion by Dunn, second by Peppes, roll call approval of Charter Ordinance No. 21 was unanimous.

OTHER BUSINESS

#2327 **City Attorney's report on Ranchmart and sign ordinance status.** Wetzler appeared as prosecutor at the last code enforcement session of Municipal Court, when the Ranchmart cases were on the docket. Council did not want to jeopardize existing businesses, but signs not complying with existing ordinances need to be removed and any new signs put up have to comply. A number of signs came down, but store owners needed signs. Wetzler suggested that Council authorize staff to issue temporary sign permits to those who took down non-complying signs so that their businesses can be identified. Staff does intend to permit some form of uniform temporary signs. McKay suggested the Ranchmart merchants get together as a group, hire a sign company, do a banner or signs that would be consistent, indicate the location, etc., and submit the plans to Planning. Planning will issue the temporary permits upon receipt of that information. McKay noted it seems difficult for the store owners to talk to one another. Wetzler has noticed more signs have come down. He said the City is going back to court on this before too long.

Status of sidewalk. Rasmussen inquired about the status of Mission Road sidewalks in front of Cure of Ars and Ranchmart. Garofano said the City can proceed w/ condemnation. The Mayor directed staff to get information on sidewalk completion and include a report.

Schedule Work Session. A work session was scheduled for February 26, 1996, at 7:30 p.m. The purpose of the work session is to hear from department heads about what they see five and ten years down the road. This is a public meeting.

Next Council Meeting. The Mayor reminded Council that the next regular meeting will be on Tuesday, February 20, 1996, as the 19th is a staff holiday.

Stormwater Committee. Patterson met with the Committee immediately prior to Council meeting. He will issue an outline report on the focus, funding, priorities, matching funds, other funding mechanism , etc., defined by the Committee. He will keep Council abreast of progress, specifics, and meeting dates.

Comment on Leawood Police Officer. LaHue commented on the pleasant and personable manner and attitude of a Leawood Police Officer who stopped him and ticketed him for speeding.

Executive Session.

#2793 At 9:10 p.m. Council convened in executive session with the same members present.

At 9:25 p.m. Council returned to regular session with the same members present. On motion of Dunn, second by Campbell, Council voted unanimously to extend the executive session for 30 minutes to continue discussion of pending litigation.

#2813 At 9:45 p.m. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

February 20, 1996

Minutes Summary

Audio Tape # 349

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Tuesday, February 20, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Peggy J. Dunn, Marnie S. Clawson, Graham G. Giblin, Sr., Ronald LaHue, Gregory J. Peppes, Louis Rasmussen.
Absent: Doug Patterson.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Police Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Ben Florance, Fire Chief of Operations; Deidre Markley, Economic Development/ Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

#74 **APPROVAL OF AGENDA**

The agenda was approved unanimously on motion of Clawson, second by Peppes, after three additions: (1) Report by Chief Strack about incident/rescue of boys from icy pond, added to Other Business; (2) Giblin's memo to be distributed and discussed under Other Business; (3) Schedule executive session, to be held prior to Plan Commission items, to discuss matters of attorney/client privilege and which may be involved in litigation.

At LaHue's suggestion, move Item 5 (Plan Commission matters) to end of agenda so that all other items can be concluded prior to executive session. The rest of Council approved.

Mayor suggested adding discussion of Markley's open records memo to work session. agenda for February 26, 1996. Agenda to include Reports by department heads of their projections for the next 5,10,15 years, and Open Records.

#242 **CITIZEN COMMENTS**

The 3 citizens who signed in to comment Item 5 (Plan Commission) opted to wait until that matter comes up on agenda.

Mr. Pour, 13040 Catalina, said he owns property at the southwest corner of 95th and State Line. Over the years he has seen many accidents and picked up copious amounts of trash. The trash at the corner is the first thing people see upon entering Leawood; it gives an unfavorable initial impression of the City. As he no longer lives there, but still owns the property, he cannot continue to take care of the trash situation. He would like the City to clean up the trash on the easement and sidewalk.

PROCLAMATIONS

The Mayor proclaimed March 1996 as Youth Art Month.

#401 **CONSENT AGENDA**

After removal of two items for further discussion, the following were approved unanimously on motion of Campbell, second by Dunn:

1. Minutes of February 5, 1996, Council meeting;
2. Committee Reports (Parks & Recreation Board minutes of February 13, 1996);
3. Department Reports;
4. Application (renewal) for Cereal Malt Beverage License - Leawood Hen House, Camelot Court Shopping Center;
5. Assignment to Public Works Committee; review proposals for consulting engineer for design services for Oxford Hills storm sewer design;
6. Change Order No. 3, $22,584.90; 83rd Street improvements;
7. Change Order No. 1; extension of time; sewer relocation near College Boulevard bridge over Indian Creek.

Items removed for further discussion:

1. **Change Order No. 4; $10,340.00; 83rd Street improvements.** Dunn asked whether the cable found to be in conflict with the box culvert resulted from either a design error or a mismarked plan. Brandt responded it was an unforeseen conflict the City didn't know of, and he does not see this as an error by Black & Veatch. Approved unanimously on motion by Dunn, second by LaHue. LaHue asked Brandt when the 83rd Street improvements will be finished. Brandt said the project will be substantially complete sometime in June 1996.

2. **Resolution No. 1282, attached as part of the record, amending certain Parks & Recreation fees.** Clawson expressed a concern with outside clinics held at the parks in terms of the department's plans to limit outside groups who want to use the entire park; residents always need to have access to the park for individual, unstructured use. She has received numerous comments from residents who just want to play with their kids in the park but are hindered by so much large group activity dominating the space.

Peppes said the Parks & Recreation Board will begin charging these groups higher fees, tying up only one or two fields, and leaving the rest of the park for people who just want to play. He mentioned inadequate parking for large groups and damage to the park caused by some groups; the Board will consider each group and request individually to be sure the income and possible damage to the park are in line.

Whitaker said the same groups come every year and the number of clinics may not increase. The large revenues they generate using our facilities has been noted; Leawood has some of the nicer soccer fields, and charges to outside groups will be increased.

Campbell asked whether the City has been approached by The NFL Experience. Whitaker said not for 1996; however, Spike It Up is interested in holding a huge volleyball tournament in the park, similar to NFL activities; more information is needed prior to deciding whether to allow it; if they're willing to pay a premium, it will be considered, as will others, on a case-by-case basis. They will bring major events which would take up the whole park to Council in advance. Motion by Campbell, second by Rasmussen, and approved unanimously.

#710 **MAYOR'S REPORT**

Mayor Rinehart attended Democracy Day at Prairie Star Elementary School; there was enthusiastic crowd of young people, and they learned alot.

The Mayor reported that the Sister City Committee had a very nice Chinese New Year Celebration February 18th; she thanked Peggy Dunn, Julie Hakan and Cindy Pitts. Dunn added her thanks to Hakan and Pitts.

Dunn expressed appreciation and thanks to Nate Sutton of Wetzler's firm for his work with setting up the Leawood Foundation as a 501(C)(3) foundation.

Clawson reported that the Kansas City Area Development Council (KCAC) holds a breakfast meeting every other month at which announcements are made regarding companies moving into the Kansas City area. No mention was made at of locating some of these companies in Leawood. She talked to Bob Marcusse and proposed taking some of the small companies to look at appropriate sites in Leawood. The Smart Investor newspaper is available to look at after the meeting.

OLD BUSINESS

#795 **Authorize amendment to interlocal agreement for 1996 CARS funding, College Blvd.**

Mayor Rinehart expressed appreciation on behalf of Council and staff for the assistance of County Commissioner Surbaugh who was instrumental in bringing the agreement and amendment to a favorable conclusion.

At the Mayor's request and for the benefit of the public, Dick Garofano provided background information emphasizing this issue is not new, nor is the funding formula; rather it is the culmination of efforts over 18 months to finalize the County's share of College Boulevard funding. He explained the relationship between a decreased federal funding share, the county jail tax trade-off with CARS funding cutback from 50% to 25%, and Leawood's projected $800,000 shortfall (difference between CARS funding less anticipated jail sales tax receipts). The current funding agreement results from a commitment made earlier by the County to make up that deficit. Until now, however, there was no language in an interlocal agreement spelling out how the County would make up the funding and thus the City has withheld approval of the interlocal agreement. Last week the Board of County Commissioners approved the agreement now before the Council whereby the County commits to an amount not to exceed $5.5 million over four years and the City commits its jail tax profits to reduce, dollar for dollar, the County's total share of College Boulevard project funding.

Rasmussen inquired how much of the total cost as currently estimated will remain the obligation of the City-at-large. Garofano responded the $1.1 million obligation of the City-at-large remains unchanged. Peppes asked whether the County will reduce its share should sales tax receipts exceed expectations or, in the alternative will the County make up for any shortfall in receipts should that occur. Garofano said that is, in fact, agreed to.

With no further discussion and on motion by Dunn and second by Campbell, the Council unanimously approved the amendment.

Authorize interlocal agreement for 1996 CARS funding, College Blvd. improvements. On motion of Campbell, second by Clawson, Council unanimously approved the interlocal agreement, as amended, and authorized its execution by the Mayor. The Mayor noted that College Boulevard is extremely important to the County as well as to the City, thus the County and federal funding participation.

#1209 **Authorize interlocal agreement for 1996 CARS funding, 83rd Street improvements.** Motion by LaHue to authorize interlocal agreement; second by Peppes. Rasmussen asked about project funding. Garofano explained this agreement covers the last installment of the multi-year CARS project and provides for County funding of up to 25% but not to exceed $132,625. The final amount will depend on final costs. Rasmussen said it was not his understanding to limit CARS funding to $132,625; the Mayor responded that she understands his concern. Garofano noted that not all elements of a project are reimbursable under CARS, for example costs of land and right-of-way acquisition, utility relocation, legal and design fees are excluded. Of the total project cost, estimated to be $2,380,500, and change orders, a little over $1 million has been committed by CARS, and the City-at-large pays the rest. Rasmussen stated he just wants to be sure this is in accordance with our earlier agreements with the County.

The Council unanimously authorized the interlocal agreement for 1996 CARS funding for 83rd Street improvements.

NEW BUSINESS

#1410 **Ordinance No. 1558 authorizing the issuance of general obligation refunding and improvement bonds, Series 1996; $18,860,000.**
Malnicof and Roger Edgar of George K. Baum announced the sale was successful because they were able to catch a favorable market bounce and locked in a 4.71% interest rate; this results in a savings of approximately $600,000 from refinancing. Motion by Rasmussen to authorize bond issue; second by Clawson. Roll call approval of Ordinance No. 1558 was unanimous.

#1592 **Ordinance No. 1559 authorizing issuance of temporary notes; College Boulevard; $3,800,000.** Motion by Clawson to authorize temporary notes; second by Peppes. Roll call approval of Ordinance No. 1559 was unanimous.

Ordinance No. 1560 authorizing issuance of temporary notes; K-150; $2,000.000. Motion by Dunn to authorize temporary notes; second by Campbell. Roll call approval of Ordinance No. 1560 was unanimous.

Ordinance No. 1561 authorizing issuance of temporary notes; Mission Road, 95th to 103rd Street; $200,000. Motion by Giblin to authorize temporary notes; second by Campbell. Ordinance No. 1561 approved on roll call vote; LaHue, Campbell, Clawson, Giblin, Peppes, Dunn voted in favor; Rasmussen opposed.

Ordinance No. 1562 authorizing issuance of temporary notes; Old Kenneth Road; $600,000. Motion by Giblin to authorize temporary notes; second by Clawson. Roll call approval of Ordinance No. 1562 was unanimous.

Ordinance No. 1563 authorizing issuance of temporary notes; Nall Avenue; 119th to 135th Street; $300,000. Motion by Dunn to authorize temporary notes; second by Giblin. Roll call approval of Ordinance No. 1563 was unanimous.

Ordinance No. 1564 authorizing issuance of temporary notes; 83rd Street; $1,600,000. Motion by Peppes to authorize temporary notes; second by Campbell. Roll call approval of Ordinance No. 1564 was unanimous.

Ordinance No. 1565 authorizing issuance of temporary notes; Mission Road, 103rd to I-435; $200,000. Motion by Campbell to authorize temporary notes; second by Clawson. Roll call approval of Ordinance No. 1565 was unanimous.

Ordinance No. 1566 authorizing issuance of temporary notes; Town Center Plaza; $3,200,000. Motion by Clawson to authorize bond issue; second by Rasmussen. Roll call approval of Ordinance No. 1566 was unanimous.

#1738 **Ordinance No. 1567C relating to the cutting of weeds and vegetation (property maintenance).** Motion by Rasmussen to approve. Second by Dunn. Roll call approval of Ordinance No. 1567C was unanimous.

#1749 ***Resolution No. 1283, attached as part of the record, consenting to the enlargement of* Johnson County Consolidated Main Sewer District to serve Blue Valley Elementary School #14 and Middle School #6.** Adopted unanimously on motion of Clawson, second by Giblin.

Resolution No. 1284, attached as part of the record, consenting to the enlargement of Johnson County Consolidated Main Sewer District to serve Leawood South, 2nd Plat. Adopted unanimously on motion of Dunn, second by Rasmussen.

#1779 **Resolution No. 1285, attached as part of the record, consenting to the enlargement of Johnson County Consolidated Main Sewer District to serve Forrest Greens subdivision, 151st and Mission Road.** Motion to adopt by Campbell, second by Dunn. Rasmussen recalled the alert received from the Sewer Districts district advising of the eventual need to increase facilities with a corresponding increase in odors. Although in favor of sewer districts, he wondered to what extent the sewer district considers these concerns. Garofano said the District's intent was to alert everyone that this particular subdivision will be right up against the treatment plant, and they didn't want this to come as a surprise to anyone in the future when the District begins making additions and expanding the plant.

Rasmussen wants to be sure the record reflects Council's approval is with full knowledge and understanding of the District's plans and that Council feels this enlargement is in the best interest of the community. The Council voted unanimously to approve Resolution No. 1285.

#1876 **Approval of appropriation ordinance No. 777.**
Motion by Rasmussen to approve. Second by Peppes. Roll call approval of appropriation ordinance was unanimous.

OTHER BUSINESS

#1892 **Appointment of Fire Chief.**
Garofano said that Fire Chief Jerry Strack will retire March 18, 1996. He has been with the City more than 30 years and has worked his way up through the ranks and we are sad to see him leave after such a long association with the City. Garofano presented Ben Florance as his candidate to fill the vacancy. Florance currently is Operations Chief, has

been with the Fire Department more than 10 years, has a Master's degree and experience in the private sector. Garofano requested Council's affirmation of the appointment of Florance to the Fire Chief position upon Strack's retirement. Motion by Dunn, second by Rasmussen. The vote was unanimous to approve the appointment; the Mayor and Council extended congratulations to Florance.

The Mayor asked Council to put Wednesday, March 27, 1996, into their calendars. That is the date for the annual volunteer event; invitations will go out later.

#2062 **Report by Chief Strack and Florance about a near-drowning/rescue in Leawood.** Strack told of two incidents which occurred Friday (February 16) at 4:00 p.m. and which kept Leawood and several other fire and police departments very busy: a church fire at 8801 Nall in Prairie Village, to which Leawood Fire Department responded; and the water rescue of three boys at 126th and Juniper. Firefighters from Leawood, Overland Park and Lenexa, divers from Overland Park Police and Fire Departments, and boats from Overland Park and Lenexa were all a part of the rescue. Leawood's Fire Department responded with ambulance, pumper truck, inflatable boat, wet suits, and other equipment. He noted the Leawood Woman's Club had provided much of the equipment in 1987.

Florance outlined the events at the pond rescue: The Leawood Police Department had two officers on the scene at 4:07 p.m.; at 4:09 the first Leawood Fire Department personnel and equipment arrived; at 4:18 the first two boys were pulled out of the pond, and at the same time Overland Park's boat was put into the water. The third victim was removed from the water at 4:35. Leawood had ample resources at this high profile incident, and many residents were there also. Florance reported all the units responding from the county worked very well together as the short time frame for removing victims and transport to the hospital indicates. Initially all three boys were taken to St. Joseph's Hospital. Two were treated and released, and the third victim was later transferred to Children's Mercy Hospital where he remains in a coma with his condition described as critical but stable.

Chief Strack said this was the first water and ice rescue in his 30-plus years with the department, other than rescues of dogs. Clawson asked Strack what, if any, needs (for community group contributions) this incident brought to light. Strack said it takes six minutes to manually inflate the department's inflatable boat; modification of the boat to inflate in 35 seconds would be an improvement. He noted that all Fire Department personnel are trained in water rescue techniques.

Dunn commended both the Police and Fire Departments for the actions and reactions of their personnel in handling the rescue.

Next Council Meeting. The next regular meeting will be on Monday, March 4, 1996, at 7:30 p.m.

95th & State Line, trash situation. LaHue asked for the name of man who spoke about this and would like his concerns to be channeled appropriately. The Mayor saw it as a beautification issue and suggested that possibly Clawson and Rasmussen could contact someone in Leawood Estates Homes Association about it. Clawson said she will do that.

#2304 **Comments and memo by Giblin regarding sale of property.** Giblin said someone called a local newspaper saying Giblin had acted improperly regarding the sale of Bi-State property to the City of Leawood. He is upset because it and reflects poorly on him and on the other Council members as well. He read his memo of February 6, 1995, to Mayor and Council explaining the listing agreement in which Graham Giblin, Sr., Cornelius Giblin and J.D. Reece Company waived compensation in the event of a sale to City of Leawood. Giblin further stated he had excused himself from the Council vote on the transaction, and he is upset that his campaign is the target of this kind of shenanigans.

#2515 **Executive Session.**
On motion by Campbell, second by Peppes, Council voted unanimously to hold an executive session not to exceed 30 minutes for the purpose of discussing matters under attorney/client privilege.

At 9:00 p.m. Council convened in executive session in the main Conference Room with the same members present.

At 9:30 p.m. Council returned to regular session with the same members present.

PLAN COMMISSION

#2543 **Resolution No. 1286 approving the revised preliminary site plan for Town Center Plaza, Phase II, AMC Theaters at approximately 117th and Nall.**
This matter came before the Council after approval, with stipulations, by Plan Commission. Wetzler said the reason it's a "revised" preliminary site plan is that it becomes final only upon final approval by Plan Commission. McKay said the zoning and parking and footprint were approved previously. At its last meeting, Plan Commission gave a combination preliminary and final plan approval. Any changes made tonight will have to go back to Plan Commission for approval. The Mayor noted this is the only opportunity for Council to recommend changes.

McKay advised of concerns raised during zoning and approval processes and said they have been addressed as follows: raised sidewalks create a pedestrian link to the main center and to Galyan's; and applicant has widened the main drive in front of the building to allow for a defined drop-off lane and 2 additional lanes of traffic. Plan Commission recommends approval with 3 stipulations: (1) the complex is limited to 62,100 sq. ft. with 20 screens and 3096 seats; (2) no movies will start later than 10:45 p.m.; and (3) there will be no

video arcade or game room. The Mayor said her recollection is that the Council said "no games" whether or not in a game room.

Frank Rash, representing applicant American Multi-Cinema, Inc. (AMC), said they have incorporated the design elements and attempted to capture the essence of Town Center Plaza, and they have accomplished recommendations of staff.

Scott Olson of Gould Evans and Goodman walked the Council through the plan feature by feature. He noted the raised sidewalks, 3-lane drive in front of theater, parking stalls, landscaping and lighting that are identical to Town Center Plaza, the bigger trees to be used for screening along Nall, the combination of planes of the theater building which are to break up the large mass by conveying the look of a series of smaller buildings, and the red and buff color brick which matches that of Town Center Plaza.

Rasmussen asked about the entry elevation compared to that of Town Center Drive; about the purpose of the truss above the sign and roof line and equates it to golden arches, twirling cats, and an old-fashioned steam locomotive chimney; and whether it will be higher than 40 feet. McKay said the height complies with special development district zoning.

LaHue asked whether the architectural arch will move, rotate, or have banners hanging from it. Dunn asked whether it is similar in scale to the truss on the east side of the Ward Parkway theaters. Rasmussen asked what structural problems, if any, the elimination of the arch would create and whether it would detract significantly from weather protection. The Mayor asked how many other arches exist in the part of TCP under construction and whether the AMC truss is higher than the other trusses in TCP.

Olson responded that the truss is simply a design element, not a sign element; and the truss at Ward Parkway is much larger and is an architectural element. Terry McEwen of Poag & McEwen, TCP developer, explained the existing trusses in the first phase; there are two which serve as architectural tie-ins between sections; also the service drives between pods will go under archways which, in every case except Jacobson's, go over the roof line.

Clawson asked whether the columns on either side of entry are blazing light towards the sky, and Rasmussen asked whether they will be like those at the church on Main Street at the Plaza. Olson responded they are simply to accentuate the entry.

Dunn and Peppes asked about the raised sidewalks, how they tie in, and about the texture and color of the raised areas and asphalt. The Mayor asked about the exits. There were several questions about the atrium and gallery area.

LaHue asked about traffic patterns, entrance and egress to the theater, and whether the intersection at Nall will be signalized. McKay said it will be signalized as soon as the warrants are there; also discussed were right turn only lanes and medians on Nall.

LaHue suggested the Council discuss events which could put staff or Council in the position of considering requests for granting exceptions to the rule about the 10:45 p.m. cutoff time for starting movies. Mayor Rinehart said this Governing Body has clearly said there can be nothing after 10:45 p.m. Wetzler advised that, notwithstanding the Council's intent, if someone wants it changed, they can always come back to Council with a request.

#4338 **CITIZEN COMMENTS (continuation)**

Jeff Nessel, 12012 Ensley Lane, stated he is a plaintiff in the pending lawsuit; the amendment is a restraint of trade which Council might want to consider. The Mayor recalled that applicant agreed to the amendment. Nessel further stated he just went and looked at existing structures at TCP and saw no purple lights, purple metal nor green metal. The truss does not match or fit the motif; also, the view from Nall of the building's back is not aesthetic. Regarding parking, he predicted a major parking problem.

Pat Lysaught, 4905 West 112th Terrace, commented that the design does not match the architecture of Town Center Plaza; it's a significant departure, a big box, and looks nothing like the general design of TCP. The theater and Galyan's will obscure TCP as you drive down Nall. The citizens have a right to expect Council to hold developers' feet to the fire. The parking provided is inadequate based on the traffic study. Although the meeting in December has been referred to tonight as "the zoning meeting," in fact there has never been a public hearing on the zoning. Citizens were never permitted to give input on the design and approval process. He said Council has it within its power to suggest to applicant that this plan is not in harmony with the Center, has inadequate parking, does not meet the design criteria and is inappropriate. He urged Council to take no solace in the fact there were not hundreds of people at the meeting to speak against approval; he has found not one person in the City who suggests this is a good idea. Finally, Lysaught said special development district zoning is for necessary commercial development; this project is not necessary, nor desirable, it doesn't fit, and there's no way the applicant can establish it is needed.

Chris Walley, 4501 West 143rd Street, said he does not live near TCP. His objection is that this area was originally planned to be a mix of retail, office and a hotel; he thinks it's a mistake to foreclose the option of an office development on the west side. He further objected to increased traffic loads in an area where traffic is already a problem even before TCP has opened. He expressed concern about the process itself and about Council taking any action which would expose the City to litigation.

Mayor Rinehart and McKay advised that the parking issue was addressed, the parking meets the criteria, and there is considerably more parking than required by ordinance.

The Mayor asked how decisions on accent colors are made. Olson responded they were based on the brick and accent colors used in Town Center Plaza. The Mayor asked whether the truss could be rust colored.

All of the above features and elements, as well as others including signs, dumpsters, banners, lighting were discussed at length.

#6354 At 11:00 p.m. the meeting was extended for thirty minutes, on motion of Campbell, second by Clawson, and unanimous vote of Council.

Clawson moved to approve the revised preliminary site plan; second by Campbell.

Rasmussen moved to amend the motion by eliminating, under "elevations," the following wording: "supporting a proscenium arched truss rising to approximately 50 feet," and to make it clear under "signage" that applicant is requesting 2 wall signs and one free-standing sign, and that the white neon perimeter accents be eliminated. Second by Giblin.

Clawson stated she likes the arch (truss). LaHue said it breaks up the big box look and he likes it for that reason.

Rasmussen, Giblin and Dunn voted in favor of the amendment; LaHue, Clawson, Peppes, Campbell voted against it. The amendment failed.

On the main question, the request for preliminary site plan approval, those voting in favor were LaHue, Campbell, Clawson, Peppes; and those opposed were Dunn, Giblin, Rasmussen. The motion carried.

#7039 **Adjourned.** At 11:20 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

March 4, 1996

Minutes Summary

Audio Tape #350

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, March 4, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Peggy J. Dunn, Marnie S. Clawson, Graham G. Giblin, Sr., Ronald LaHue, Gregory J. Peppes, Doug Patterson, Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; Sid Mitchell, Police Captain; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Jerry Strack, Fire Chief; Ben Florance, Fire Chief of Operations; Scott Whitaker, Director of Parks and Recreation; Alan Marstall, Recreation Supervisor; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

#65 **APPROVAL OF AGENDA**

The agenda was approved unanimously on motion of Clawson, seconded by Peppes, after 3 additions: schedule executive session to discuss personnel matter; discussion of left turn off K-150 onto Nall; discussion of correspondence from Darrell Rupp.

#125 **PARKS & RECREATION AWARDS**

Scott Whitaker announced awards received by Parks & Recreation personnel at the recent National Youth Sports Coaches Association conference:

Kevin O'Grady (volunteer) - District #4 Coach of the Year

Dan Mahanke - Clinician of the Year for District #4

Scott Whitaker - District Coordinator of the Year for the State of Kansas

P&R Department - Kansas Chapter of the Year, and Goal Achievement Award

CITIZEN COMMENTS

The citizen who signed wanted to make his comment after Council's discussion and approval of the Minutes of February 20, 1996.

PROCLAMATION

The Mayor proclaimed March 4-10, 1996, National Juvenile Arthritis Awareness Week.

#283 **CONSENT AGENDA**

After removal of four items for further discussion, the following items were approved unanimously on motion of Peppes, second by Campbell:

1. Committee Reports (Arts Committee minutes of 1/31/96);
2. Application for temporary permit to serve alcoholic beverages at Town Center Plaza for K.C. Festival of Wines charitable event for American Heart Association;
3. Resignation of Jacquie Harkness, Drug & Alcohol Council representative.

Items removed for further discussion:

Master Development Plan Text. Patterson opposed the master plan because of concerns about the special development zoning district. Council members discussed at length about incorporating Patterson's changes into the text and approve it, deferring approval until after special development district issues have been decided, adopting the text now and modifying it later to coincide with special development district. Patterson cited the pending litigation on the zoning part of s.d. district as further reason to delay approval. LaHue brought up his reservations about handcuffing future city needs and future councils, as the revised master plan may do on page 81 in closing certain future roadway extensions. McKay urged the council to go on record and, for consistency, approve the master plan text, which was submitted to Council in June of 1995, to coincide with the master plan map adopted in 1993. McKay did not believe the special development issue will be resolved within 4 or 5 months, and the current inconsistencies between map and text affect a great deal of property. Comments made and questions answered by the City Attorney while his microphone was turned off are not recorded in the minutes. LaHue moved for approval; the motion died for lack of a second.

#850 **Resolution No. 1287, attached as part of the record, approving the final plat of Hazelwood, 2nd Plat, at 119th and Pawnee.** Clawson asked about accessibility of lots 34 and 35 by emergency equipment. McKay explained that the two lots are accessed off a cul-de-sac/drive between lots 34 and 35 and lots 38 and 39. The terrain and soil conditions governed appropriate placement of homes on those lots and the access resulted. The Fire Department has reviewed the plan and approved it from the standpoint of ability to get fire equipment back into lots 34 and 35. On motion of Clawson, second by LaHue, the final plat was approved by Council. Dunn voted against approval.

#967 **Minutes of February 20, 1996, Council meeting.** Giblin referred to the minutes of the February 20, 1996, Council meeting, under Other Business, regarding his memo which he read into the minutes, which memo stated he did not vote on a transaction in

which the City purchased property for which Giblin and his brother were exclusive agents for the seller. Giblin said he has reviewed the records and found that he did in fact participate and vote on the sale of Bi-State property to the City of Leawood. He further stated that he and his brother Cornelius Giblin took no commission from the sale; that part of the memo read at the February 20th meeting statement remains correct. Clawson requested a correction of the minutes to reflect that Bi-State was the seller, not the purchaser of the property. With Clawson's correction, the minutes were approved unanimously on motion of Campbell, second by Peppes.

Citizen Comment: Chris Wally, 4501 West 143rd Street, stated his opinion that Giblin should have abstained from voting on the land purchase; that there is at least a perception of conflict of interest; and that Giblin was, in effect, serving two masters (buyer and seller). Wally asked the Council to revisit this conflict matter in the future should a similar situation arise.

Mayor Rinehart stated that everyone on the Council was aware there was no commission given for the sale and thus, from the City's perspective, there was no wrongdoing.

#1097 **Resolution No. 1288, attached as part of the record, approving revised final plat of Town Center Plaza, 119th Street between Roe and Nall**: Dunn stated she is opposed to the plan; she preferred the previous over the current design. On motion by Campbell, second by Clawson, approved by vote of Council. Dunn voted against approval.

#1131 **PLAN COMMISSION**

Resolution No. 1289, attached as part of the record, approving revised preliminary site plan, with Plan Commission's stipulations, for Yahooz, Lot 9, Town Center Plaza: Rasmussen's comments were made without the microphone and thus are not included. David Kaster of Kaster Architects, the designer, and Roger Kaster explained the revisions. LaHue said he thinks it's a beautiful building and likes the concept, but does not like the east side because it doesn't have any charm on the side exposed to Roe and Camelot Court. Specifically he dislikes the dumpster and the lack of windows, berms or sign. David Kaster explained the lighting and the articulated sides and shed roof which show interplay of materials; the restaurant service area, trash, and doors are shielded by a screen area and trees. LaHue asked if the design could be changed to improve the appearance of the east side. McKay reminded Council that the whole building was discussed by Plan Commission and sent back to the architects for the revisions in current plan. Dunn pointed out that at YiaYia's, the outdoor seating prevents this look on the similar back side, and the architect said the Yahooz design has a 7'6" masonry wall around the service area, where the trucks unload. In response to concerns raised about the lack of signage on the East exposure, Roger Kaster said people driving north or south on Roe will

see the signs, there are more than one, and nobody will be coming directly from the east who could not see the signs from the south or north. Paul Khoury of P.B.&J. Restaurants reiterated that there will be lots of landscaping and a wrap-around patio; also the east side will be the least looked-at.

Dunn asked whether there will be additional landscaping in the gap on Roe; Patterson asked whether the several breaks wouldn't provide some texture. The architect's answers were given without a microphone and not recorded. Mayor Rinehart asked why Plan Commission's stipulations 2 and 4 both say the same thing regarding landscaping installed before occupancy. McKay said it was to make sure it was clearly understood this was additional landscaping around the parking lot. Approved on motion of Rasmussen, second by Clawson. LaHue opposed, all others in favor.

#1714 **Resolution No. 1290, attached as part of the record, relating to rezoning from AG to RP-1, and approval of preliminary site plan and preliminary plat for Forrest Greens at approximately 151st Street and Mission Road.** Property owner/developer Mark Simpson explained the plans, layout, lots abutting Iron Horse golf course, private streets and entry gate, signage, extensive landscaping and fence. Dunn asked about the fence arrangements suggested by developer, whereby the City would contribute an amount equal to the cost for a chain link fence along the length of the property and Simpson would pay the difference for and would install a black wrought iron fence. McKay said the Golf Course Committee did not approve that request because there are no funds to apply to the fence. Simpson said the City's contribution for the ½ mile of fence would be $18,000, and he would pay considerably more for the upgrade to wrought iron. Whitaker spoke (without the microphone) about the fence issue. Simpson explained how the fence financing had worked before, in Overland Park, and resulted in Overland Park having a consistent wrought iron fence protecting its golf course rather than each property owner along the course putting up their own, non-uniform, fencing. Garofano said the original golf course planning included wrought iron fencing, and that there is some steel fencing painted to look like wrought iron, along Mission at the golf course.

Clawson and the Mayor brought up the issue of funding a fence, whether it would come out of golf course revenues or to require developer to fund it 100%. Simpson said he is offering to pay approximately 65%. Dunn asked McKay whether someone in the City is requiring the fence. McKay explained the developer brought the fence funding idea to the Golf Course Committee; neither the City nor the Golf Course Committee is requiring a fence. Clawson asked Whitaker whether the fence is really necessary considering the hilly and wooded terrain of this part of the course. Whitaker said the Committee has always had a goal to have a fence but has been unable to fund it and, thus, was willing to explore the developer's suggestion as a way to get consistent funding along the golf course. Mayor Rinehart suggested that, in the absence of a recommendation by the Committee about the fence and fence funding, this discussion may be premature; and, to require Mr. Simpson to put in the fence would be requiring more of him than of other applicants. Campbell raised

the issue of ownership and maintenance responsibility for any fence that might be placed there. McKay said it would have to be worked out at the time the fence was installed. Simpson proposed the fence would be on the City's side of the property line, and the City would be responsible for maintenance. Campbell had reservations about forcing the City to pay for part of a fence as well as maintenance. Simpson suggested the fence issue be decided at a later date and that the preliminary plat could be approved tonight as the fence is not inextricably tied to the plan approval.

Dunn, Clawson, and Rasmussen said they cannot support allowing private streets in the plan. Mayor Rinehart asked why private streets were recommended. McKay said given the location, seclusion, and single entry/exit to the subdivision, the idea of private streets and gates would be an amenity for the community; he said it's the same thing they did at Tomahawk Creek Estates. Clawson recalled a Chartwell resident who came before Council insisting he had been sold a bill of goods and was given no idea the streets were private; she fears that problem will repeat itself over and over. Giblin reminded Council they have gone to great pains to change private streets into public streets, and he would vote against private streets. Simpson said they are flexible on private streets and asked Council to look at the entire presentation; he said he could comply if the plan were approved with public streets; he would simply take $10,000 budgeted for the entry gate and put it into additional plantings.

LaHue said the Council would be eliminating gated subdivisions from Leawood by saying they won't accept any private streets. Patterson asked whether development of this plat is tied with Forrest Green's retail, if one was not approved, would the other happen. Simpson said they have flexibility to split up the timing; they hope they will fit with each other and have tried to keep them moving along together; however, if the two are split, they would probably proceed on one component without the other. LaHue asked about lighting, and Simpson said they've worked with the Public Works Director and will do everything required for a public street, except for the gate, and the lighting would be to city code.

LaHue asked about the boundary with Overland Park, and Simpson explained its abutment and also the arrangement he has made with Overland Park to de-annex 2 acres; and later they will be back before Council requesting annexation of those 2 acres upon which the plan will be expanded by 4 lots to the east where it meets Overland Park. Further discussion was had about the land remaining in Overland Park, to the east of the 2 acres. Simpson said it is mostly flood plain or wastewater treatment plant and railroad tanks. In response to inquiry by Peppes, McKay said the 25-foot easement behind the houses on the golf course will be looked at in the final plat.

LaHue moved to approve with the requirement to set up a funding mechanism for private streets; the motion died for lack of a second. Clawson moved to approve with the stipulation that all streets be public; second by Rasmussen. Campbell moved to amend Clawson's motion, *second by Rasmussen*, to bind developer to fund whatever fence Golf

Course Committee may require and to otherwise comply with whatever other recommendations and requirements Golf Course Committee may impose. Simpson said he has offered to pay for 65% of a fence; furthermore, he cannot agree to be bound by unknown requirements the Committee may impose in the future.

Dunn asked Campbell whether he intended to include the words "would be required by Golf Course Committee." which had not yet formulated a fence policy. Campbell changed it to "any fence would be paid for by developer." After re-reading the resolution (fencing was not even mentioned in the resolution), Campbell withdrew his proposed amendment; Rasmussen withdrew his second. The Mayor reviewed the motions: Clawson made a motion, Rasmussen seconded the motion, stipulating public streets. McKay said basically the streets would be platted as public right-of-way. Clawson asked about a maintenance bond on the improvements; Brandt answered without the microphone and the answer was not recorded. The Council approved the resolution with the stipulation that all streets be public; Giblin voted against approval.

#2900 **Resolution No. 1291, attached as part of the record, relating to rezoning from AG to CP-1, and approval of preliminary site plan and preliminary plat for Forrest Greens Retail at 151st and Mission Road.** Brick Owens of designer Ochsner, Hare & Hare spoke about the project, said they can't separate the two land uses, they have designed a retail center that will fit; two entry points are provided, one on Mission and one on 151st Street; one corner is 6-8" below Mission Road; parking guidelines are met and developer agrees with Plan Commission stipulations. Rasmussen had no basic objection but had concern about the flow and control of water through the development and whether it flows directly to the golf course. Tom Smith of Shafer, Kline & Warren explained the water flow without using the microphone (explanation was not recorded), including how the water would be carried off in the drainage pipe, and that the design will be submitted to Public Works with the engineering plans. Rasmussen said it's a fine project but he would like to include a statement expressing Council's concern about water flow and requiring, as a 4th stipulation, a stormwater report indicating construction has been approved by Public Works for the protection of the golf course property. Giblin said the retail is incompatible with the neighborhood because of proximity to The Pavilions; he thinks it should be further down 151st Street. Mayor Rinehart asked McKay whether there had been concern expressed by The Pavilions when this plan was originally proposed to Plan Commission. McKay said that most of the people who had spoken against it requested a change from CP-2 to CP-1, and that has been accomplished. Dunn asked whether this includes a convenience store with gas pumps. McKay said that would be CP-2; CP-1 allows grocery store, general retail, dry cleaner, bank, and does not allow convenience store with gas pumps. Dunn asked about future resubmission to bring back the gas station, and McKay said that would require a rezoning process including hearing. Giblin asked why the staff report says CP-1 zoning and the map says CP-2. McKay explained that the original request was for CP-2 and the map had not been changed but the resolution, which governs, reflects CP-1. Clawson moved for approval of the resolution; seconded by Rasmussen with

addition of stormwater management protection for the golf course. Approved on vote of Council with Giblin voting against, all others in favor.

#3311 **Ordinance No. 1568 rezoning Forrest Greens property located at approximately 151st and Mission Road from AG to RP-1 and CP-1, and directing amendment of the official zoning map of the City of Leawood, Kansas, and reincorporating said zoning map.** McKay said applicant wanted to show relationship of this ground with the golf course; there were several pieces of property that needed to be exchanged to make the land work better, and all of that went through Golf Course Committee approval. Brick Owens pointed out the areas of exchange.

Rasmussen moved for approval of Ordinance No. 1568; seconded by Dunn. Approved on a roll call vote of Council with Giblin voting against and all others in favor.
LaHue complimented Owens on the College Boulevard project. He reported he and Peppes drove out there and found it to be beautiful, a spectacular road. Owens hopes it will exemplify the phrase: "a harmonious insertion of road into green space."

#3400 **Request for approval of special use permit for a temporary off-site sign at SE corner of 115th and Roe for Tomahawk Creek Apartments.** On motion of Rasmussen, second by Clawson, approved unanimously. Permit limited to 2 years from date of Council approval.

#3415 **MAYOR'S REPORT**

Mayor Rinehart showed and circulated a brochure featuring Prairie Star School D.A.R.E. recipients.

OLD BUSINESS

#3430 **Consideration of pool renovation project**. Peppes told Council that Parks & Recreation staff has spent many hours working with Garofano and Bohl & Associates; the negotiating, rewriting and compromise have resulted in what he feels will be a facility Leawood can be proud of; he urged Council to take a good look at the proposal. Whitaker explained the project's history, bids, and schematic; said it benefits the whole community and renovations will give a chance to cover the facility's operating expenses and run the operation in the black rather than continuing to rely on taxpayer monies to subsidize the pool annually; also expects to recover some of the construction/renovation debt.

Mayor Rinehart asked Whitaker whether he foresees the same attendance and red-ink operations if the renovations only are done, as opposed to the operation moving into the black and becoming self-supporting with the proposed amenities. She noted this is a response to the hue and cry to be more responsible. Whitaker said the enhancements would attract families and enable the department to shift the burden of cost from the taxpayers to operating revenues. In response to Giblin's questions about project costs, Whitaker said the renovation is estimated at $900,000 to $1 million, and with the additions

and contingency, $1,580,000. Giblin moved to put the additional $500,000 for the amenities up for a public vote; second by Patterson. Rasmussen, with microphone off, questioned Whitaker about negotiations to lower the construction costs.

Mayor Rinehart said Council has a motion before it to put this to a public vote and asked Wetzler about the propriety of considering that before making a decision about whether or not to include the amenities. Wetzler responded that it is a judgment call on the Mayor's part. Dunn said an election would be costly. Peppes urged everyone to sit back and get a perspective of what's going on which is a discussion of amenities to be paid by revenue and a portion by taxpayers; the request is for more money for something which will generate more revenue. Rasmussen made additional comments which were inaudible because the microphone was not turned on. Patterson said Whitaker had made clear that renovated and enhanced pool complex would pay for operations but not for the capital investment. Giblin related that he has received some phone calls about this, including one he found interesting from a person who was all in favor of the renovations but not in favor of making the pool into an attraction which would be for the general public rather than for Leawood citizens.

Dunn asked Malnicof to comment on the numbers projected. Malnicof said Whitaker knows the numbers best. Whitaker reiterated they had looked at other pools and pool operations and fees and feel comfortable with the figures and projections used. Clawson spoke in support of the effort to improve and enhance the pool because the city park and pool are important to families within this community; while subdivisions do have pools, none of those has the appeal of going to the park and the associated and varied activities there. She said while it is noble to take issues to the public, she would rather spend money on renovations and improvements than on an election; she further stated the city has many young families, the population is getting younger, and those are the families and children who use the kind of facility proposed. Clawson said she would vote against Giblin's motion. Rasmussen said he is absolutely in favor of $1.2 million and asked if Giblin wants to put the $380,000 difference to a vote or the whole project. Giblin answered that he approves of the renovations and would vote for that, but people should be able to vote on the amenities to the tune of $500,000.

The Mayor recommended considering and discussing the entire project first, to see whether there's a majority that supports the entire project. Patterson seconded the motion to put the amenities to a public vote. LaHue stated during the 8-plus years he has been on the Council, amenities have been added to a variety of projects without seeking a vote of the public; the only amenity he could recall taking to the people for a vote was the golf course. He said Council has spent $13.8 million on College Boulevard with no vote; he regards the pool as an improvement and totally concurs with Clawson that this is the kind of project that cements quality of life issues for the citizens of Leawood. Giblin noted LaHue's use of the words "citizens of Leawood" and asked about opening it up to more than just Leawood citizens; he said the amenities would make it a big public attraction. The Mayor said the pool is open to the public now. The motion, to put to a vote of the public the

portion of dollars allocated for amenities, failed with Giblin, Patterson, Rasmussen voting in favor, and Dunn, LaHue, Campbell, Clawson, Peppes against.

Patterson made comments but his microphone was off. Whitaker said construction would start shortly after Labor Day. Campbell questioned taking bids now for a construction which would not begin for 6 months and asked whether a bid bond had been secured. Whitaker said a 5% bid bond has been secured. Campbell suggested the membership fees seem rather low considering the type of amenities in the project and the type of attraction it should prove to be; he thinks it should command higher fees in the open market place. Whitaker agreed, but said he wanted to plan and project 1997 fees conservatively, and also he did not want to shock the long-time patrons nor price ourselves out of the market. Peppes said when the pool is completed and if we start to attract a large number of non-residents, a lower price could be offered to Leawood residents or prices for non-residents could be raised substantially. Rasmussen asked about plans for swimming facilities for the south end of the city in a new park. Whitaker said there are no plans, he doesn't foresee a pool out south because of all the subdivision pools; would have to look at whether a need exists now or in the future. Garofano added that the city never intended there would be another community pool.

Rasmussen asked what Blue Valley Recreation has in terms of swimming facilities. Whitaker said BVR currently leases an indoor pool from Blue Valley High School, and he knows of no plans for any outdoor facilities. Giblin asked how many days the income figures are based on. Whitaker replied about 100 days and said he thinks current revenues will more than double. LaHue asked about additional restroom facilities. Whitaker told of the new shelter donated by Leawood Lions Club; it will include year-around restroom facilities. LaHue asked about parking adequacy considering expected increased attendance, whether any parking could be added along the road. Whitaker said that most of the parking on the grass is soccer-related, and they would like to look at additional parking from the pool and also from the soccer standpoint. Dunn commented that the general contractor selected High Country Pools as pool contractor; Bohl has reviewed and checked on B.C. Construction, and they've been working locally; they're small but we feel comfortable having reviewed them twice.

Campbell moved to approve the funding and accept the bid and staff recommendation for total construction costs not to exceed $1,580,000 which includes the slide; second by Peppes. The motion carried with Patterson, Dunn, LaHue, Campbell, Clawson, Peppes in favor; Giblin and Rasmussen opposed.

#4973 **Request for private streets of The Highlands of Leawood to become public streets.** Brandt reported this is the third request to come before Council for conversion of private streets into public streets. This subdivision's streets were built with standards comparable to public standards, are in acceptable condition and will not require unusual maintenance nor great cost to bring pavement surface condition into compliance; there are no sidewalks. The Homes Association hired Shafer, Kline & Warren, P.A., to look at the current condition of public improvements in The Highlands of Leawood; staff agrees with SKW's

findings and recommends acceptance as private streets with three stipulations: (1) Replat all Highlands of Leawood Plats to dedicate the streets to the City; the current property lines extend into the roadway. (2) Receive a certified statement that 100% of the property owners are in agreement with this conversion of private streets to public streets. (3) Completion of the necessary repairs as outlined in reports by SKW and by Leawood's Public Works Department. Dunn asked about the feasibility of the replat and the certified statement of agreement by 100% of property owners. Mrs. Schram, of Highlands of Leawood, said she understands they would have the neighborhood as a whole replatted, and that each neighbor will sign off that they approve the replat. Dunn said the cost of the replat would be borne by homeowners. Others representing Highlands of Leawood introduced themselves but did not use microphone. Campbell was concerned about lien holders, mortgagees, and future problems obtaining clear titles. Mrs. Schram said she understands homeowner would sign off, and it would be filed with the register of deeds; her comments were not recorded as she did not speak into a microphone. Rasmussen said it might be easier to have Highlands of Leawood deliver a check for $21,000 to the city and let the city worry about repairs (and keep the streets private). Rinehart said that would be against City policy. Giblin said the transfer and replat would be to the benefit of the mortgagee as they're giving up a liability. Patterson commented, again with no mike.

Motion by Giblin to approve recommendation of staff to accept streets as public, second by Rasmussen. Motion approval was unanimous. The Mayor thanked Mrs. Schram.

#5395 **Authorization of design contract with Shaughnessy Fickel and Scott Architects Inc. for City Hall finish.**

Garofano explained the project's scope and the choice of the Shaughnessy Fickel and Scott firm. Dunn asked about the $92,000 fee for design services, was it based on construction costs. Garofano said the fee is based on SF&S's estimate of hours necessary to make the design; the schematics are done and it is a definable project, so they feel comfortable going on an hourly basis rather than a percentage of construction cost. Dunn said it's hard for her not to view it as a 9% fee (based on original construction estimate of $1 million) which seems too high for an interior finish. Garofano said the estimate for construction was made by the City, not SF&S, and we know already that the estimate is low. Dunn recommended going back to try to renegotiate the fee to 5 to 7%. Campbell asked why the fee is $92,000 yet the cost breakdown reflects $81,910 for design and inspection; he also asked what the "other" $200,000 under Funding Source is. Garofano said $81,910 was the estimate made for CIP in September 1995; it is not SF&S's estimate; the $92,000 includes additional civil engineering for parking lot and drive and lay-out design and engineering for expansion of the existing lot. The $200,000 actually should read $600,000, of which $400,000-plus represents refunding of public revenue bonds, plus the settlement from the bonding company. The finished lower level will generate revenue that is not figured into this equation.

Rinehart said space is needed for Municipal Court, and the community center and space for programming would be an added benefit. Dunn said she does not oppose completion of City Hall but would like to move to go back and try to renegotiate the fee. Peppes asked Garofano whether he feels the cost has increased to the point that if we went by a percentage we'd be spending more than $92,000. Garofano said this fee includes the upper quadrant, parking lot, civil engineering, mechanical engineering, minor structural changes in entry way, stairwell down from first floor. The estimated costs are for the terrace level and represent 84% of total construction; 16% of the cost will be for the upper level, and the cost to finish that has not been estimated. LaHue asked what the City would jeopardize by renegotiating. Garofano told Council he wishes they would give some guidelines for fees; when a percent-based fee is proposed, Council questions that; yet a flat fee has been negotiated in this instance and Council is still dissatisfied. Mayor said the Council needs to give Garofano these guidelines in public. Dunn said it would help her to see construction costs on the whole project; she'd probably feel differently if she knew the total price. LaHue said he assumes staff has done everything to make the fee as reasonable as possible.

Dunn moved, and Rasmussen seconded, to have Garofano to renegotiate the fee with SF&S. The motion failed. Dunn, Rasmussen and LaHue voted in favor; Clawson, Campbell, Giblin, Patterson and Peppes voted against.

Motion by Campbell, second by Peppes, to approve the agreement with Shaughnessy, Fickel & Scott. Campbell asked Garofano whether fees in "not-to-exceed" contracts ever end up costing less than the not-to-exceed amount. Garofano said it's not likely in this case because the architects are certain how many hours it will take to do this work and based the fees on the hours and rates for personnel to be involved; it will very likely be $92,000. Dunn advised Council and staff that the Sister City Committee would like to have input about the location of the gift from I-Lan. Garofano said he's talked to the architect about moving it to a more prominent location in the lower level. Motion approved with LaHue, Campbell, Clawson, Peppes, Patterson and Giblin in favor; Dunn and Rasmussen opposed.

#6355 Council recessed at 10:35 p.m..

End of tape No. 350.

Council reconvened at 10:40 p.m.

Audio Tape # 351

NEW BUSINESS

Resolution No. 1292, attached as part of the record, requesting CARS funding for 5-year CIP (1997-2001).

Motion by Rasmussen, second by Dunn. The Mayor said the city cannot add any projects until the year 2000. Submission is for funding assistance for two projects: (1) a $3.5 million project to widen 151st Street from two- to four-lane-divided from Nall to Chadwick which would rely on $1.75 million in CARS funds, start in March 2001 and be completed by October 2002; and (2) a $3.84 million project to improve Roe Avenue from Tomahawk Creek to 135th Street from a two-lane roadway to a four-lane roadway with curb and gutter, street lights, enclosed storm sewers, traffic signals and sidewalks with $1.77 million in federal aid and $885,000 in CARS funds, starting in April 2000 with completion by May 2001. Approval was unanimous.

#26 **Authorize contract for installation of traffic signals for Town Center Plaza.**
Motion by Rasmussen, second by Clawson. Brandt reviewed the bid tabulation and explained the savings of almost $250,000 by relieving Walton Construction of the responsibility for the signals. He reviewed the funding splits between Overland Park, the developer, the Douthats, and Leawood; Leawood is the administrator of the project. Brandt recommends accepting the low bid of $285,530 and awarding the contract to Teague Electric for installation of traffic signals around Town Center Plaza. Garofano said that temporary signals are being installed at 119th and Rosewood and 119th and Hawthorn Plaza until the permanent ones go in. Authorization by Council was unanimous.

#163 **Resolution No. 1293, attached as part of the record, authorizing execution of Supplemental Agreement No. 1 to Agreement No. 28-94 with KDOT for intersection improvements at 89th and Mission Road.** Brandt said this is simply "bookkeeping" to establish a reduced maximum amount of funding for the improvements; the scope of the project was reduced after Prairie Village declined to participate. Authorized unanimously on motion of Rasmussen, second by Dunn.

#180 **Authorize supplemental agreement for construction inspection services with Johnson Brickell & Mulcahy for College Boulevard improvements, Phase 2, total cost - $725,000.00.**
Brandt told Council that Phase 2 will be bid in 2 weeks, and they need to have an inspector; the increase in cost for inspection, over that of Phase 1, results from doubling the number of working days, and the bridge will make inspection time consuming. Dunn questioned the 14% (of construction costs) range for cost of services. Brandt agreed 14% is high, but costs are driven up by all the paperwork and detailed requirements of KDOT. Garofano reminded Council all this is set out by KDOT. Patterson asked whether design work is completed enough that another engineer could bid on the job. Brandt said it could be done but it would take 4-6 weeks to get other bids, and this would slow down the project considerably. Motion by LaHue, seconded by Clawson carried with LaHue, Campbell, Clawson, Peppes and Dunn voting in favor and Rasmussen, Patterson and Giblin opposed.

#306 **Authorize engineering services for landscaping and irrigation for Leawood City Park access road.** Brandt said the City had to obtain right-of-way from the Saddle and Sirloin Club and from Unified Wastewater District for construction of the park access road, in exchange for which the Governing Body agreed to provide a landscape area along the access road. HNTB has combined the plans prepared by HNTB for the Wastewater District treatment plant and by Suburban Lawn and Garden for the Saddle and Sirloin Club. Dunn asked whether adding drip irrigation is something every group will want from now on. Brandt said the City has been doing it for other projects. Campbell noted this more than triples the original contract and asked why the substantial increase. Brandt answered that HNTB was asked to take the Saddle and Sirloin landscape plan and merge it with the Wastewater District plan for across the road. As well, the designs for incorporating the drip irrigation system requested by Leawood Parks & Recreation Department to water the plantings during the first critical years of growth, and including the 2" water main extension to water the future soccer fields are add-ons. Rasmussen asked whether consideration had been given to using creek water. Brandt said that would take more approvals including by the Department of Water Resources.
Motion by Campbell, seconded by LaHue. Motion carried with all in favor except Clawson who abstained. Contract increase of $17,100.00.

#514 At 11:00 p.m. the meeting was extended for thirty minutes, on motion of Dunn, second by Peppes. Motion carried with Dunn, Peppes, Clawson, LaHue, Campbell and Rasmussen in favor; Patterson and Giblin opposed.

#525 **Authorize supplemental agreement #1 with Wilson & Company for surveying stormwater management project, High Drive east to Lee Court, near 93rd Street.** On motion of Rasmussen, second by LaHue, Council unanimously authorized the supplemental agreement at a cost of $15,711.

#537 **Award bid for 1996 Slurry Seal Program.** Brandt explained the advantages of slurry seal over chip-and-seal. Giblin reported his constituents in Mary Lea Farms have asked about their roads; he asked whether those roads have been looked at lately. Brandt said they're in the inventory and he will get the condition and maintenance schedule for those streets for Giblin. Giblin asked for the same information on Overbrook.
Motion by Rasmussen, seconded by Dunn to award bid to Musselman & Hall Contractors, the low bidder, at the bid price of $.963 per square yard.. Motion carried with all in favor except Patterson who abstained citing conflict of interest.

#607 **Approval of appropriation ordinance No. 778.**
Motion by Dunn to approve. Second by Peppes. Roll call approval of appropriation ordinance was unanimous.

OTHER BUSINESS

#656 **Appointment of Assistant City Attorney/Prosecutor.** Garofano asked the Council's approval, required by ordinance, for approval of Melissa Hall as Assistant City Attorney/Prosecutor. He thanked Campbell and Rasmussen for assisting in the selection process. On motion of Rasmussen, second by Campbell, approved unanimously.

#698 **Open Records Policy.** Rasmussen explained his proposed changes to the resolution declaring the City's Open Records Policy. He doesn't feel there is any intent on the part of Council nor staff to be anything but very open; however, there is a timing problem. Council members receive their packets on Friday evening or Saturday morning prior to the meeting. The same thing happens before committee meetings. Whenever the Council or an authorized committee has a study prepared (for example, a traffic signal study), current policy says the study is not public record until it has been sent to Council; this puts the public in the same unfortunate position as Council, which is getting a report Friday night and meeting/discussing/deciding/voting on Monday. Rasmussen suggested changing Resolution No. 634 to make it clear that, in the event staff or Council has prepared a study to influence the decision-making process of an authorized committee or the Council, upon completion of such study it shall be considered a public record and at that time a copy of the study will be transmitted to members of the committee and/or City Council; essentially, as soon as we have a study and staff intends to use it, it should be made public. He explained his choice of the word "study" as all-inclusive (of documents such as proposal, analysis, investigation), and he prefers an expansive word. He has faith that staff is open and honest and when they know the work is done, it will be considered and treated as an open and public record. He said he's trying to accomplish more than state statute requires and get information to the people; the citizenry is highly educated and used to having studies and reports, and when they are unable to have such information either they feel deprived or they lose their ability to contribute and exercise their right to be heard.

Motion by Rasmussen to repeal Resolution No. 634 and replace it with the version submitted to Council which incorporates Rasmussen's wording changes; seconded by Dunn. Rinehart asked him to consider changing the word "influence" to "assist in making a decision." Rasmussen said that would be fine. Campbell said this proposed wording differs from what he envisioned when he and Rasmussen talked about it. Campbell had thought the wording would be "at such time as a member of the general public requests a copy of the study, said study will be transmitted to Council or city committee." Rasmussen agreed with Campbell's wording. Patterson said a study is a public record that would be distributed, and background documents likewise should be considered public records available for review on request. He would like the wording to reflect that "records, upon completion of a study, and all other documents used in the preparation of the study, except those items protected by law, shall become public record." Wetzler's response was made without the microphone and was not recorded.

#1303 At 11:30 p.m. the meeting was extended for thirty minutes, on motion of Dunn, second by Clawson, with unanimous approval of Council.

Rasmussen withdrew his motion to approve the resolution with his wording; Dunn withdrew her second. Rasmussen moved to continue the matter until the next Council meeting to permit input from Council and staff; second by Campbell. Approved unanimously. Rinehart requested staff to come back with revised wording.

#1535 **Discussion of left turn off K-150 onto Nall.** Dunn said that on westbound K-150 there is no left turn allowed onto Nall, and as a result cars are turning left onto Roe; this creates a dangerous situation. Brandt said Overland Park has prohibited left turns from K-150 onto Nall, and that is out of Leawood's jurisdiction.

#1570 **Discussion of Rupp letter.** Campbell referred to a letter of February 28, 1996, from Darrell Rupp, 12610 Cedar in Leawood. Staff was requested to look at the creek and potential of high water and flooding described in Rupp's letter.

Mission Road sidewalk, 95th Street to Cure of Ars Church. Rasmussen said he understood at the last Council meeting that it was decided to stop the project right at the Ranchmart border. Mayor Rinehart clarified that the $72,000 cost is for the entire sidewalk.

EXECUTIVE SESSION.

#1614 On motion of Clawson, second by Giblin, council voted unanimously to convene in executive session regarding a personnel matter for 10 minutes

#1626 At 11:40 p.m. Council convened in executive session with the same members present.

At 11:50 p.m. Council returned to regular session with the same members present.

Council was reminded the next meeting will be March 25, 1996, because of lack of a quorum for March 18, 1996.

#1695 There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

March 25, 1996

Minutes Summary

Audio Tapes No. 352 and 353.

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 6:00 p.m., Monday, March 25, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Peggy J. Dunn, *Marnie S. Clawson, **Graham G. Giblin, Sr., ***Gregory J. Peppes, Doug Patterson, Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Chief of Police; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/ Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

Request for Special Meeting: Mayor Rinehart announced that Councilmembers Rasmussen, Patterson, Dunn, Campbell and LaHue had submitted a request for the City Council Meeting at 6:00 p.m. to allow time for items on the agenda.

APPROVAL OF AGENDA

#50 The agenda was approved unanimously on motion of Rasmussen, second by Dunn.

#107** Giblin arrived at 6:10 p.m.

CITIZEN COMMENTS

G. Gordon Thomas, 10516 Mohawk Lane, commented on three subjects and withheld comment on a 4th subject (related to rezoning at 135th & Mission Road) until after discussion of that matter.

1. Election and allegation of conflict of interest: Thomas asked Mayor Rinehart whether she concurs with allegations of conflict of interest by Sun Publications against Giblin. Mayor responded that Giblin had made it clear on the record that from the City's perspective no conflict existed because he received no payment nor commission, and the City Attorney had also stated clearly that he did not see it as a conflict. Campbell said this is not an appropriate forum to debate the issue; the facts are out and people are free to determine where they stand based on the facts.

2. Roofing materials: Thomas displayed a sample of Gerrad metal tile roofing which he said Council recently approved for commercial and residential use. He asked reconsideration for safety reasons; explained the reaction of this type roof to fire - it gets hot; said also danger exists to firefighters in event of roof collapse and this material would fall on them.

3. Robert's Rules of Procedure: Thomas brought to the Mayor and Council's attention that elected officials should be referred to as "Councilman;" however, the Mayor has been referring to one member as "doctor;" three others are qualified to be called "doctor" and he feels the Mayor should address Council members uniformly.

CONSENT AGENDA

The following items were approved unanimously on motion of Rasmussen, second by Dunn:

1. Minutes of March 4, 1996, Council meeting;
2. Committee reports (Arts Committee minutes of 2/29/96; Public Works Committee minutes of 3/14/96; Parks & Recreation Advisory Board minutes of 3/12/96);
3. Departmental reports (Fire, Planning & Development, Police):
4. Lease Agreement for the relocation of the Oxford School building from K-150 & Mission to property of Stuart and Diane Sharp, 13101 Mission Road;
5. Appointment of Janet O'Neal as Leawood representative to DAC;
6. Authorize contract for pool renovation; BC Construction in the amount of $1,436,165;
7. Resolution No.1294, attached as part of the record, relating to speed limits;
8. Request to negotiate purchase of 2 replacement fire trucks;
9. Resolution No. 1295, attached as part of the record, approving final plat of Gates Subdivision at 2001 West 103rd Terrace;
10. Resolution No. 1296, attached as part of the record, approving final plat of Villas of Leawood, 1sst Plat, 139th Terrace and Kenneth Road.

#289* Clawson arrived at 6:15 p.m.

PLAN COMMISSION

Resolution No. 1297, attached as part of the record, approving revised preliminary plat and final plat, Whitehorse 2nd Plat, 148th and Nall.

LaHue announced he would abstain from discussion and voting as his wife is employed by J.C. Nichols Company. Applicant/owner, J.C. Nichols Company, was represented by Joe E. Barko, P.E. Campbell asked about density, order of development of the plats, and the tennis courts, pool and clubhouse. Barko explained the density on the revised preliminary plat is around 1.65 or 1.7; the 2nd plat will be developed first, and then the next plat will extend south to 151st Street; the tennis courts, pool and clubhouse form a unified complex with 35 foot setback. Giblin inquired about average sales price of lots. Barko said the lots average $60,000, and the rule of thumb is the home cost would be 5 times the lot price, or average $300,000. Dunn moved for approval; second by Campbell. Council voted 7 in favor; LaHue abstained.

#450 **MAYOR'S REPORT**

Mayor Rinehart said she had recently attended National League of Cities conference where she attended several useful seminars. She brought back materials that may be of interest to Councilmembers. Garofano has the materials in his office should anyone wish to review them.

#462 **OLD BUSINESS**

Public Works Committee report on Consultant Selection for Oxford Hills Storm Drainage Improvements. Motion to approve by Rasmussen; second by Patterson. LaHue asked whether the project is to be submitted to SMAC; Dunn replied there's no plan to do so. LaHue asked why it would not be submitted and about the funding. Brandt said this is a maintenance activity; a galvanized pipe has collapsed and is being rebuilt. Dunn said Phase 1 is just 200 feet and is to be done in July 1996. Brandt said the whole project is being designed, but just the 200 feet will be built with contingency fund moneys. LaHue recommended that Brandt submit it to Johnson County Stormwater for funding assistance because Stormwater has had similar things approved for funding. Dunn asked LaHue to amend the motion to direct staff to submit this to Johnson County Stormwater for assistance in funding the improvements.

Campbell asked why the Committee selected Larkin as design consultant. Brandt answered that five firms submitted proposals to design the storm drainage improvements, and the Committee chose Larkin Associates. Shafer, Kline & Warren came in second and, although SKW has worked on it previously, Larkin on it more recently than SKW. Dunn said the committee felt strongly that any one of the five firms could do the job; they could have chosen any one, and that's why they limited the fee to 7% of total improvement costs. LaHue moved to amend to suggest submitting the project for SMAC funding; second by Rasmussen. Amendment approved unanimously.

Motion to select Larkin Associates approved unanimously.

#638•••Peppes arrived at 6:25 p.m.

Resolution No. 1298, attached as part of the record, repealing Resolution No. 634 and amending the City's Open Public Records Policy. Rasmussen moved for approval as presented; second by Dunn. The Mayor reminded Council the language "it and any materials used in its preparation or referred to within such study" were not discussed at the last meeting. Patterson said that addition was his suggestion, and the proposed wording reflects his intent. Wetzler repeated his prior statement that the proposed changes are significantly broader than that required under Kansas Open Records Act; certain records now protected would not be under the proposed language; it's within Council's prerogative to provide more than required under the Open Records Act. Wetzler restated his concerns that the Act was enacted for a purpose, and there's a delicate balance between the public's need for information to form opinions about matters and the City's need to keep certain information until it is prepared to announce it. Campbell and Clawson expressed concerns about requiring production of documents the City does not have, for example notes an engineer made when producing a report and which may not be in possession orknowledge of staff. Wetzler explained that the state's general policy requiring all public records be open to the

public allows many exceptions, and records that really are not in the possession of the city would be excepted.

Clawson moved to add the words "except as exempted by State of Kansas Open Records Law" to the final sentence on page one. Second by Patterson. Rasmussen said the proposed revisions to City policy is to change the timing to insure that the public, committees and council have a fair time period to review these records and form an opinion on which to base decisions; it is not to change the intent of the law. Garofano said there's still a state statute governing decisions of what is released, and Council is simply looking at a question of timing; it will place a burden on staff to have to do something other than what statute requires, but as long as it's understood the statute governs, staff can comply.

LaHue said the current law is working and has for the 8 years he has been on the Council; he questioned the advantage to the City by changing current policy. Having too broad a rule which goes beyond state and federal law could expose the City to more potential litigation and thus adversely affect costs and require tax increases to pay litigation fees.
Campbell said there have been a few problems and he feels it's a good addition; it doesn't change the law, just the timing. He said if it creates a tremendous burden on staff, Council can revisit it in a year. Peppes wants everyone to agree this is just a timing mechanism, so the record will be clear about Council's intent.
Rasmussen called for the vote; second by Dunn. LaHue opposed; all others in favor.
The vote on Clawson's amended wording was unanimously in favor. Campbell moved to amend by adding, after "referred to within such study," the words "in the possession of or accessible to the City." Second by Rasmussen. Approved unanimously.

The vote on the main motion, subject to the two amendments approved by Council, to add to the City's current policy a paragraph #7 as follows: "In the event that the City staff or the City Council has prepared or has caused to be prepared a study, the purpose of which is to assist the decision making process of an authorized City committee or the City Council, on the completion of such study, it and any materials used in its preparation, referred to within such study, in the possession of or accessible to the City, shall be considered a public record, except as exempted by State of Kansas Open Records Law. At such time as a member of the public requests a copy of the study, said study will also be distributed to the members of the City committee and/or the City Council."
Nay - LaHue; all others in favor. Motion approved.

Wetzler summarized the proceedings saying that tonight's discussion clarifies that it is the intent of Council to change only the timing, which is something covered by the Open Records Act, but to him it's not as big a concern as the content. He said this will create additional staff work and requires staff to make a determination as to when a study is complete. He thinks we can live with it.

NEW BUSINESS

#1522 **Intent to Proceed with Channel Stabilization near 84th and State Line Road, Project No. DB-04-015.** Brandt said the County is requesting Leawood's intent to proceed with the

project, and he recommends declining County funding for 1997 for the project due to insufficient up-front funding available to the City. As project administrator, Leawood is responsible for the entire cost and can submit for reimbursement after payment has been made. Of the design costs, approximately $60,000, the City can be reimbursed at 75% prior to the construction phase. Malnicof gave a revised estimated 1997 cost of $677,000, of which Leawood's share will be $158,000 which is needed to proceed. He discussed bonding and temporary notes as a funding alternative. LaHue asked whether Council approval to proceed or stay on the list for future funding would place the City in violation of cash basis law. Malnicof said a commitment of intent is not a commitment of dollars; it's only when the City signs a contract to design or construct a project that it gets involved on a cash basis; thus signing an intent with the County is not placing the City in conflict with the cash basis law as having the cash on hand is not required until a contract is signed. LaHue expressed concern with getting out of sequence, with the inflationary spiral caused by delay, and with paying interest on temporary notes that would be needed until 1997 when funds come in for the project. He suggested staying in order, it's in the City's best interest. Rasmussen is opposed to committing to additional projects until others in the pipeline are completed and funds are reimbursed by the County.

Rinehart pointed out that LaHue is Chairman of SMAC. LaHue said if they decide to proceed, it would be feasible to take out a bond until funding came in the following year; this project has the potential to be done significantly in advance of others, and the City would be better off to stay in line for this funding. Malnicof estimated the costs and schedule for temporary notes. Motion of Rasmussen, second by Dunn, to approve staff's recommendation; *approved by Council with 7 in favor, LaHue against.*

#2309 **Approval of appropriation ordinance No. 779.** Motion by Rasmussen to approve. Second by Peppes. Roll call approval of appropriation ordinance was unanimous.

OTHER BUSINESS

#2319 **Ordinance No. 1569C amending sections of the Code of the City of Leawood relating to Assistant City Attorney.** Rasmussen told Council they are voting on the version that matches the position description for Melissa Hall's position. Approved unanimously on motion of Rasmussen, second by Campbell.

Recess. At 7:20 p.m., Council recessed for 10 minutes.

#2382 At 7:32 p.m., the meeting resumed with the same members present.

Mayor Rinehart announced that the next four items on the agenda relate to requests for rezoning in the area of 135th Street and Mission Road, and Council will first discuss whether to allow or deny developer's request for continuance. She announced the procedure to be followed and the voting requirements which are detailed in Rinehart's 3/21/96 memo to Council about Rezoning 135th and Mission. She expressed appreciation to the audience and everyone who has taken time to communicate with Council about the rezoning issues, and to Plan Commission and staff. She reminded that these are public servants voting on the matter,

and they care about the entire City; while their opinions may differ, they will do their best to render a fair decision. Rinehart asked the audience to show respect during the proceedings, and not to applaud or make comments during the meeting; the purpose is to listen and reach a decision.

Request for Continuance. Campbell suggested applicant may wish to add to the reasons for the request. Winn said the letter is self explanatory; he said applicant is ready to go if Council will assure him they have kept open minds and have not prejudged the matter. Campbell said he has an open mind and has read Winn's letter and considered the concerns; he thinks he can speak for the whole Council in saying he doesn't think the timing, whether before or after the election, will have any impact on the vote. Motion by Peterson to deny request for continuance of four items. Second by Giblin. LaHue said Council has the obligation to be sure all evidence comes in, and if Council has not decided by 11:00 p.m., they should continue it to another time. Vote to deny continuance was unanimous.

Request for rezoning property (Price Chopper) at 135th and Mission Road from AG to SD-CR, preliminary site plan and preliminary plat approval.
On an aerial photo of layout, McKay located Mission Road, Price Chopper, Mission Pointe, and surrounding residential (approved) retail and office zoned area, reverse frontage road, and access along K-150 corridor. Rasmussen asked about property ownership and other zoning along the north side of K-150. McKay pointed out areas zoned office, CP-2, church special zoning; he said Vic Regnier owns the land from Mission Road east to the airport property. In response to Giblin's question, McKay said zoning on the south side of K-150 includes CPO (Lord of Life Church), CP-1 at the SW corner of 135th and State Line, and everything to the west is AG.

#3066 Larry Winn III, attorney for applicant Super Market Developers, Inc., explained their standard procedure is to meet with surrounding property owners. In this case, they urged the (Waterford) owners to form a 6- to 8-person committee to sit down and discuss the project and plans in a group. He distributed copies of letters attempting to schedule such meetings and trying to get together with Harry Wiggins, the attorney working with Mike Gill; those overtures were denied, and thus applicant has not met with property owners. Winn introduced and explained the following exhibits:

1. Statement out of 1988 Master Plan regarding economic development opportunity expansion: "Focusing on the expansion of economic development opportunities represents a change in past policy. This amended policy is specifically designed to promote the economic viability of our expanding City. Development of new retail centers to lessen the City's dependence on the predominately residential tax base is a prime concern governing the adoption of the 1988 Master Plan." Winn said the map associated with the 1988 Master Plan showed this parcel and others as "Office." In 1993, Council approved the map on display; the map and accompanying text designated that area as "Planned Business District." That district allows office and retail or mixes of office and retail. Council had hearings when changing the Master Plan in 1993. Language in the map stays consistent and carries over into 1996 Master Plan.

2. Jamison parcel: In August of 1993 Council approved rezoning the Jamison parcel (Mission Road to Roe), for 418,000 s.f. of retail, 458,000 s.f. of office. The Jamison tract was zoned with little or no fanfare, without the requirement for a traffic study, and with very few elevations. It is 200,000 s.f. larger than Town Center Plaza.
3. Corridor Study of 1986: Map shows reverse frontage road south of 133rd Street; typical retail is indicated between frontage road and K-150; north of that shows residential and school. Layout of concept and purpose of reverse frontage road. Traffic Study projected 17,000 vehicles/day on Mission Road north of K-150, at full development. Winn said when the Jamison plan was approved by the City, the school district was trying to purchase 6 acres from Jamison estate. Jamison did not want to sell because they thought the school would hinder development. The Blue Valley School Board then, armed with knowledge there would be 17,000 vehicles/day of Mission and with the reluctance of seller, acquired the site where the elementary school is now located. The school district did not ask whether that would be an appropriate location for a school.
4. Schools and traffic: Letter dated 2/21/96 from Winn to McKay with copies to school administrators, Police Chief Cox, and others. He has researched with schools and police of Leawood and Overland Park the records of accidents near schools in the last 25 years, and found that in over 10 million student trips between school and home, there have been 4 accidents with a broken leg being the most serious. In fact, the main problem with child and vehicle accidents occurs on school property, in school drives. He stated he and applicant respect children and their safety.
5. Traffic Counts by Schools: Data compiled by City Planning staff; indicates vehicles per day at various schools, Corinth, Mission Valley and others, are comparable to Mission Trail situation; many of the counts are far greater than any projections for this project.
6. Letter from Sherry Obringer, President, Blue Valley Board of Education and Dave Benson, Superintendent: Upon receipt of letter, Winn met with them, heard their concerns, and applicant has agreed to do all they things they were concerned about.
7. Nunnink Associates, Inc., letter re effect of Price Chopper Center on residential property values: Paired sales analysis concluded the proposed development should have little or no effect on property values; Hy-Vee Center and other similar sites were compared; study of residential sales revealed no negative impact on value of single family homes near similar centers. Letter is submitted as part of the record.
8. Traffic: Steven R. Schooley, P.E., with JBM Engineers & Planners, was the third-party traffic engineer. Schooley's February 26, 1996, letter to Bob McKay, concluded "no matter what the development is on the site in question, Mission Road will carry a significant volume of traffic. This volume of traffic, however, is within the range that can be served by a two-lane roadway with auxiliary turn lanes. The key for Mission Road to function acceptably will be the capacity at the major intersections." Winn explained the access and the heavy morning traffic to an office site, during school arrival hours.

Finally, Winn advised Council that, in Taco Bell v. City of Mission, *in which Taco Bell* appealed the denial of rezoning based on traffic flow, the Court found that a slight increase of traffic on a busy thoroughfare is not cause for rejecting development.

Peter C. Bohling, Manager of Retail Development, Super Market Developers, Inc., outlined history of the site development plan: June 23, 1995 - application for rezoning filed, called Waterford Homeowners Association to advise of application and request meeting; June 29, 1995 - developer met with small group from Waterford; protest petition in circulation against the project. Since then, developer has invited residents 6 times to meet; no response received; only communication has been at public hearings; the meeting at the school was not a good forum for exchange of ideas. Developer has worked with City staff and Architectural Review Committee of Plan Commission. Staff comments were accommodated, plan was revised three times, allowing bigger buffer zone. After three Plan Commission meetings, Plan Commission consensus on November 14, 1995, was that proposed land use was appropriate; however they did not like the plan and asked developer to redesign the project to meet City standards and to be consistent with K-150 Guidelines. Developer accepted the challenge to come up with a new, unique, spectacular design up the Plan Commission's standards. Bob Sanders was hired and given a free hand to design something really great. Bohling said Sanders' design will set the standard for future mixed use development for this corridor and meets most of the concerns expressed (trash, noise, facing, etc.). Further, to respond to legitimate concerns of residents that the 10- to 12-acre buffer zone may never get developed, they are willing to commit to build infrastructure and begin construction on 2 units (4 homes) as a condition to obtain the occupancy permit for the center. Developer anticipates investing in excess of $12,000,000 in the shopping center and several million more in the residential buffer.

#4503 Robert Sanders, architect/designer, presented the development plan. After meeting with the Design Review Committee three times, he developed the proposed concept. The essence of the design is a building containing the supermarket, with a smaller L-shaped office building to screen the back of the supermarket, hiding the loading area and service court for deliveries, conduit, mechanics, trash; thus, in essence there are four finished faces. Another element is significant green space, berming, a landscape buffer on both sides of the reverse frontage road . To break up great expanses of asphalt for parking, the design includes a fountain with shade trees and benches in the center of the parking area. The SE corner of the super market, with adjacent drive on sides, has been inverted and converted to a design interest feature in order to prevent a blind corner and possible safety hazard. Additional buffering between the grocery store and the residential buffer is created by smaller shops, the single-story scale of elevations, and an open-air pavilion or pergola on the north side.

Sanders said they have addressed, wherever possible, the concerns of residents and of the Plan Commission. Also they have worked out the driveway situation which was causing concern at the school. The main entrance to the center is off Mission at 133rd Street. Rasmussen requested Sanders to show the pre-1986 conceptual plan display again and asked that he state this was not a Master Plan and not approved by a governing body. Winn said that display is a page directly out of the 1986 K-150 Corridor Study; all three of those exhibits came out of that same study; the land is owned by the Regniers.

Rasmussen asked about the terms and conditions between applicant and landowner if the zoning is approved. Winn replied there is a zoning contingency; Vic Regnier will not be

designing the shopping center. Rasmussen asked if it's correct the buffer is not single family residential. Winn responded that is the subject of a separate rezoning application that follows sequentially. Rasmussen inquired about stormwater, retention ponds, impact of flow into Waterford, and capacity of sanitary sewers. Sanders showed where the retention ponds were located at the NE corner of the original plan, and the drainage ditches along 135th Street. The proposed plan addresses all the same design standards (100-year, on-site) but the detention system is all underground.

Arnie Tulloch of Shafer, Kline & Warren, added that the release rate for stormwater detention is in compliance with APWA standards; the underground system is to be constructed out of a product requiring no maintenance; access is gained from each end for annual inspections. A second system is designed with a network of piping to the same standards. He said there will be no negative impact on Waterford from stormwater. Tulloch also said that a segment of the sanitary sewer has some limiting capacity caused not by this development but when full development of the area is reached. The Mayor asked what the Wastewater District plans to do. Tulloch responded that the Waterford people don't want their sewage mixed with Price Chopper sewage. Rasmussen said that language in the application indicates the SW corner pad site will be restricted to banks, and asked how they propose to restrict it. Bohling answered that several banks would love to be on that corner; and it sets a certain tone to have a financial institution as the gateway to the center. Also agreed is the pad site at 133rd and Mission will be office, and the one south of that could be office or retail - not a drive-through restaurant. He said there is a stipulation running with the pad site at 133rd and Mission, and applicant is willing to stipulate the corner is office or bank. In answer to Rasmussen's question as to why this corner was chosen over the other corner where the landowner already has zoning applicable to the proposed uses, Bohling said that sophisticated market research used to determine the best site indicated this is the best corner for them to invest many millions of dollars to build the facility. Patterson asked whether the NW corner of K-150 and Mission was considered. Bohling said he wasn't with the company when the location decision was made. Campbell asked about proposed uses for pad sites along 135th Street and grocery store hours of operation. Bohling responded there are not any restrictions or stipulations currently; it's not planned to be "fast food row;" eventually the grocery store will be open 24 hours.

Peppes asked about parking capacity and the 133rd Street extension . Bohling said the parking square footage exceeds the City's design standards; the street extension is by Plan Commission directive. Chief Cox explained the changes the City requested, the exit drive to be added at the south end of the school's existing parking lot, and school traffic patterns. Winn said developer is obligated to extend 133rd Street west of Mission. LaHue asked who will own the property and the property to the north, if the zoning is approved. Winn said Mr. Bohling's company will own the entire shopping center development; George Lieberman will own the property to the north. The residential units are not rental units, they are luxury attached homes worth approximately $450,000 per 2-unit building. Patterson asked about phasing of the projects. Sanders said the only portion of the shopping center that would not be built in phase one would be the lesser anchor on the SE corner.

Winn summed up applicant's proposal: They are proud of the project; it has been beautifully done, and next to Town Center Plaza itself, this is the finest retail he's been associated with in 25 years. Reminded Council this is a land use issue and Golden criteria should be followed in making the decision. Expressed confidence that governing body will be able to separate fiction from fact; appreciates all the questions and the way the meeting has been run; said more has been accomplished during this meeting, without all the booing and hissing; he thanked the Mayor for the conduct and tone of the meeting.

Mayor Rinehart asked about an additional access point in the frontage road for ingress and egress, and about the plans for completion of the road. Winn said additional access is not proposed with this project, but McKay wants to do it when the property to the east is constructed. McKay wouldn't speculate as to when the entire reverse frontage road might be built; Winn thought it reasonable to expect a 5- to 10-year time frame for completion. Rasmussen asked about the zoning, restrictions, and permitted uses. Winn said the underlying zoning would be SD, and a portion would be SD-CR, and the office portion would be SD-O. McKay agreed that in approving the zoning, Council would be approving the permitted uses listed on the table of uses Rasmussen referred to.

Dunn questioned the traffic counts for the proposed retail site versus a strictly office development. Steve Schooley of JBM, said they estimate trip generation for the site as a whole as about 10,000 per day; looking at it purely as office, at the lower intensity end they estimate 2,900 trips per day. In comparing traffic for commercial vs. office development, they consider that commercial attracts trips from the adjacent traffic stream, i.e. people driving along the roads for other purposes tend to stop at the center; thus the actual impact of traffic on the street system is not as great as the 10,000 (for retail) vs. 3,000 for office, because the 3,000 are all going there as an added trip.

#7550 End of Tape #352; beginning of Tape # 353.

Schooley said they specifically looked at the impact on Mission Road, and taking everything into consideration the overall difference would be 5 to 10% more traffic for mixed-use/retail than for office. Campbell, Rasmussen, Giblin all had inquiries about traffic impact and projections. Schooley agreed that retail would have more traffic than office, per s.f.; most of the traffic will come off Mission Road; he explained the design of the intersection of K-150 and Mission. Patterson noted that the figures and projections in Schooley's report don't jibe with the George Butler Associates study. Schooley said some of the figures in that study are as much as traffic at Oak Park Mall.

9:55 Mayor left the podium temporarily; Giblin in charge while she's away.

In response to Peppes' request for information about access to the complex from Mission Road, Arnie Tulloch explained the intersections and roadways around the center; plans conform to staff requests regarding left turn lanes; Pawnee is a collector street, 36 feet wide back to back; developer will construct these lanes as well as the cost of the drive connection with the school, to eliminate the school's concerns about traffic.

Presentation and discussion regarding the residential buffer (Mission Pointe) at 133rd and Mission Road from AG to RP-4:

#784 Applicant's presentation by Jeffrey Alpert, principal and partner in L&A Development: L&A and George Lieberman and Mr. Neighbors are involved in numerous high-quality developments. The site is gently rolling, relatively flat, has existing tree line along the north bordering Waterford; 6- to 8-foot berms and landscaping along 133rd Street and along Mission, to screen residences. Mission Pointe will be a maintained community with landscaping, snow removal provided. Fee simple conveyances to be given. Entire infrastructure will be built up front; will build two structures, 4 living units, right up front; expect build-out of 46 units (23 buildings) within 2 years. Sale price to be approximately $200,000 per side or $400,00 per unit. Their contract is with the super market developers, so L&A's plans and intent is contingent upon Price Chopper receiving zoning. Backing up to Waterford, the units will have rear patios and decks; any privacy fencing around patios would be designed as part of the structure and would not be tack-ons.

Patterson asked about Alpert's communications with Paul Bertrand of George Butler Associates, Inc. Alpert said he suggested to Bertrand this would be an opportunity to work on a project they seem to be against, and he reminded Bertrand that GBA works for L&A also. Rasmussen asked about deed restrictions on the Mission Pointe. Alpert responded he does not know about Waterford's, but L&A has its own restrictions addressing everything; he's sure they meet or exceed Waterford's deed restrictions. Campbell wanted to know the basis of the difference in ability to sell $400,000 units in Edgewood next to the largest retail in Leawood, yet in Mission Pointe they can only sell $200,000 units. Alpert said the higher prices are based on amenities which can be supported and offered by a larger development (Edgewood), including gated subdivision, gatekeeper who delivers packages, etc., pool, etc.

CITIZEN COMMENTS regarding rezoning applications:

#1840 Dennis Palmer, 13100 Canterbury: Project does not comply with or meet requirements of City's Master Plan. Residents have the right to rely on Master Plan. The 1986 K-150 Corridor Study was a master vision of how City would be developed; on page 6 of that booklet, the corridor at Mission Road was designated "office." This is an attempt to change zoning that residents of the area relied on. The petitions reflect that residents would see changing the zoning as a betrayal of trust.

Carol Fogartie, 13025 Pawnee Lane: Children and traffic don't mix. Showed video of traffic along Mission near the school. Told of idyllic lifestyle envisioned for children in Waterford; listed all activities and schedule at school that conflict with traffic on Mission Road. Patterson asked her whether, traffic issues aside, the center design has been improved beyond what she wrote to Council on July 20th. Fogartie agreed it has been improved.

Steve Silverman, 3653 West 132nd Terrace: He owns three grocery stores. Price Chopper will have to generate high sales volume which translates into a high number of vehicle trips; center will also generate odors and noise.

Gene Verna, 3741 West 132nd Terrace, Waterford: He committed to comply with City codes in building his house, and to maintain his property and pay taxes. He reviewed Master Plan and received letter from McKay, both of which indicated the intended use of this land was office with a buffer of medium density residential housing; the word "duplex" was not used. He has lived up to his commitments and feels it's reasonable for the City to live up to its commitment regarding intended land use. To do otherwise would be a betrayal of the public trust.

Julie Cain, 12813 Delmar, President of Cherry Creek subdivision: Represents subdivisions on the west side of Mission and also south of 135th Street; opposition to this project extends outside Waterford. This is not the right site for Price Chopper; there are other places more appropriate. She and those she represents are worried about traffic, safety issues, and the developer; they've heard developer wants to come in and put up the store, then sell it and scram; no one knows what's going in at the pad sites; the schools and citizens were here first, and they relied on the Master Plan.

#2564 At 11:00 p.m. the meeting was extended for 30 minutes on motion by Dunn, second by Giblin, and unanimous vote of Council.

Mike Gill, 13016 Falmouth, president of Waterford Homes Association: Planned Business District was defined in minutes as mixed use of office and retail in the same building; there has been no change in text. Suggests Leawood could learn from the Rosanna Square mistake. Emphasized disparity between traffic studies by Steve Schooley and Paul Bertrand. Gill said there is approximately 5 times more traffic generated by retail center over office use; assumptions relied on for traffic study by Schooley are flawed.

Clawson asked Gill if he is against any development along K-150 until reverse frontage road is completed. Gill responded he is opposed ethically, but not practically to any other development.

#3595 At 11:30 p.m. the meeting was extended for 30 minutes on motion of Dunn, second by Rasmussen, and unanimous vote of Council.

Jeff Nessel, 12012 Ensley Lane: Spoke against the project.

Adam Bold, 12900 Delmar: Bold said he is a candidate for City Council and citizen who lives near the project. This is the wrong spot for Price Chopper; approval would be a betrayal of public trust. Reasons for opposition include child safety threatened by traffic, nature of the community, what it would be like to live next to such a center. City should be choosy about commercial development.

Jeff Flottman, 4340 West 132nd Terrace, President of Wilshire Homes Association: Proposed development will generate too much traffic volume for Mission Road and child safety.

#4426 At 12:00 midnight, the meeting was extended 30 minutes on motion of Dunn, second by Clawson; unanimous.

#4526 Wetzler advised Council in voting on this issue, to incorporate their reasons into the proceedings; he said he assumes Councilmembers will take into account the importance of the Golden and Taco Bell cases, copies of which have been provided to them. Patterson asked Mayor whether Council can assume the Mayor will vote. Mayor Rinehart responded that she may vote but they cannot assume she will.

#4624 **On the Ordinance rezoning property (for Price Chopper Center),** Dunn moved for denial; second by Giblin. Discussion:
Campbell said this simply is not the right location for this development due to problems with traffic; incompatibility with the neighborhood; and the reliance by owners, when they built their houses, on the plan for offices at that corner.

Dunn concurred with Campbell; likes the design and applauds developer for the plan and for moving the frontage road. She feels it is the wrong site for this development and would be detrimental to the surrounding neighborhood and property values.

Clawson said she will vote against the project because of its location on the only 2-lane north-south road in Leawood. She feels the plan itself has been redone in a very positive fashion, a grocery store of this sort would be a real plus to the area and the City, and that section of Mission Road will bear a huge increase in traffic no matter what is developed there.

Giblin said that Mission Road just won't handle the traffic, it just wouldn't be possible.

Patterson was not convinced by the traffic study. He would be proud to have this project at the right place in Leawood because it is a perfect development which would be prime except for the inappropriateness of the location.

Rasmussen discussed the Golden factors; said case law doesn't reflect the factual situation that existed in Leawood regarding that site and which has been in the record since 1986. The proposed zoning does not comply with the master plan and the City's intent to develop the infrastructure; it will have a detrimental effect on nearby property, although applicant has tried to mitigate those effects. On the Golden criteria of public health, safety and welfare vs. interests of the landowner, he noted the school purchased its property with awareness that the master plan called for office development at the site in question. He said the full faith and credit in our planning processes in Johnson County are the crux of this matter. Council planned the character of the neighborhood, and he hopes people of Leawood can maintain their faith in Council. Applicant has failed to comply with the City's planning requirements.

Peppes said Sanders and Bohling have convinced him of the viability of the project and he appreciates the adjustments they have made. He has to look at the overall impact and situation, and based on that he will vote against the rezoning.

LaHue said the public trust conveys to elected officials the responsibility to make adjustments in its course when those officials see a need or problem; the City has the authority and right to adjust its course when it feels changes are in the best interest of the City overall. The planned business zoning, as former councilmember Moore said in the minutes, was for marketing purposes only, to draw businesses into the environment. LaHue disagrees with the school and traffic argument; his three children attended Corinth Elementary at a very busy intersection (corner of 83rd and Mission); there have been no problems there with having traffic and children under supervision and in a protected environment. He does not believe there is any merit to the issue of decreased property value. LaHue stated he is in favor of appropriate development; this is a legitimate plan which has been well conceived and has had significant input of planners, consultants hired by the City, by the ladies in (anti-Price Chopper) t-shirts, and by the developer. He believes this quality development is what Leawood should have, and when good things come by, Council should take advantage of it. This has become a hot political issue; he understands that some Councilmembers are under significant pressure and do not have much choice to vote in favor of it. He hopes developers continue to bring the same quality development to the City.

Rinehart said the plan is well done; the residential portion also was well conceived and she supports the idea of duplexes. There will always be a lot of traffic on Mission Road. Her real concern is with traffic patterns, egress and ingress on this particular plan, and effects of traffic on the neighborhood until the reverse frontage road is built to State Line Road. The Mayor said there is a deficiency in the infrastructure; she challenged Council to look at what the effects of this will be on the entire corridor and decide where to go from here; the City needs to get the reverse frontage road built so there can be effective ingress and egress.

On the motion to deny, the votes were as follows: Aye - Campbell, Clawson, Giblin, Peppes, Dunn, Rasmussen, Patterson. LaHue voted against the motion to deny. The motion was approved by 7 votes, an override of Plan Commission; no remand.

#5782 **Resolution No. 1299 denying request for rezoning from AG to SD-CR, preliminary plat and preliminary plan approval, for Price Chopper at northeast corner of K-150 and Mission Road.** Motion by Rasmussen to deny; second by Dunn. Motion approved unanimously.
LaHue inquired whether Council, by its action on this resolution, is saying retail is basically eliminated from discussion at the K-150 and Mission Road intersection. Rinehart didn't think Council has said that; she said Council needs to have study sessions about the corridor.

#5879 **Ordinance rezoning from AG to RP-4, Mission Pointe.** Motion by Dunn to deny; second by Rasmussen. Motion approved unanimously. Rasmussen referred to the earlier discussion and Alpert's statement that if the zoning was not approved for Price Chopper, then applicant

was not going to do the Mission Pointe project. Wetzler said applicant is being given the opportunity as to whether applicant wishes to proceed.

#6017 **Resolution No. 1300 denying request for rezoning form AG to RP-4, preliminary plat and preliminary plan approval, for Mission Pointe at northeast corner of K-150 and Mission Road.** Motion by Campbell to deny; second by Dunn. Motion approved unanimously.

#6053 There being no further business before the Council, the meeting was adjourned at 12:30 a.m.

Martha Heizer

Martha Heizer, City Clerk

crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

April 1, 1996

Minutes Summary

Audio Tape No. 354.

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, April 1, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Peggy J. Dunn, Marnie S. Clawson, Graham G. Giblin, Sr., Gregory J. Peppes, Louis Rasmussen. Doug Patterson was absent.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Chief of Police; Ben C. Florance, Fire Chief; Harry Malnicof, Finance Director; Robert McKay, Director of Planning and Development; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#60 The Agenda was approved unanimously on motion of Clawson, second by Dunn, after the addition of three items:

1. Discussion of car mileage allowance;
2. Discussion of soccer at Leawood Elementary School fields on 123rd Street; and
3. Executive Session regarding pending litigation.

RECOGNITION OF FIRE CHIEF JERRY STRACK UPON HIS RETIREMENT

#126 Mayor Rinehart recognized and thanked Chief Strack for his 31 years of service; she read his record of promotions and advancement from Fireman to Chief. Chief Strack was given a plaque commemorating his service. Garofano praised Strack for his loyalty to his employer and for setting the stage to carry the Fire Department into the 21st century. Florance thanked Strack for his friendship and guidance and for leaving the Fire Department in such excellent condition as far as training, equipment, employees. Strack said he was privileged to serve the citizens of Leawood for 31 years and to work with staff and also with the City's firefighters who are wonderful people and give excellent service to the City.

INTRODUCTION OF NEW FIRE DEPARTMENT MEDICAL ADVISOR

#324 Chief Florance introduced Dr. Joseph F. Waeckerle as Medical Advisor for the Fire Department. He is Chairman of the Dept. of Emergency Medicine at Baptist Medical Center, Professor of Emergency Medicine at UM-KC, and a Leawood resident. The State of Kansas enacted legislation effective 1/1/94 requiring fire departments and ambulance services to have a medical advisor volunteering or employed by that department. Leawood's Fire Department has had an interim M.O. since then. Dr. Waeckerle is a volunteer in the position, and Florance advised Council the City is fortunate to have him in this position.

CITIZEN COMMENTS

#382 G. Gordon Thomas, 10516 Mohawk Lane: Thomas restated his question, directed to the mayor at the last meeting, this time addressing it to the entire Council, "Do you concur with the allegations of conflict of interest by SUN News against Ward 4 Councilmember Giblin?" He requested they reply. Mayor responded: Citizen Comments portion of the meeting is a time for comments, not for Council to respond; and it's inappropriate to discuss election matters at a Council meeting. Campbell agreed this isn't the time and place to address the matter; Thomas can assess the facts as he sees fit.

PROCLAMATIONS

#530 The Mayor proclaimed April 21-27, 1996, as National Crime Victims' Rights Week. Police Chief Cox introduced Gene and Peggy Schmidt and Senator Bob Vancrum. They outlined efforts of victims' right laws. Cox declared the flag at the Police Department will be flown at half staff during that week.

CONSENT AGENDA

#658 After removal of three items for further discussion, the following item was approved unanimously on motion of Peppes, second by LaHue:

1. **Authorize contract with Greenbriar Lawn, in the amount of $18,935, for 1996 traffic median and right-of-way maintenance.**

Items removed for further discussion:

Golf Course Committee report. Rasmussen said the learning center had been approved with an understanding the City would be reimbursed by KC Golf Foundation; he's disappointed by the progress in that regard. While the City has fulfilled its part of the deal, KC Golf Foundation has contributed only $5,000, well less than what was expected; he expects KC Golf Foundation to move forward towards fulfilling its commitment to the learning center. Dick Fuller reported he has met with and advised the Foundation the Golf Course Committee feels it is time for them to take a more active role. Whitaker said he has requested the Foundation send written confirmation about their involvement with the learning center and to give a timetable for payment. On motion by Rasmusssen, second by Peppes, the minutes were accepted unanimously.

Resolution No. 1301, attached as part of the record, approving final plat of The Reserve at IronHorse, 151st and Mission.

Rasmussen questioned the deed restrictions and the 25-foot rule, and fence requirements. Whitaker said the Golf Course Review Committee, at its 4/1/96 meeting, recommended the City require of the developer the following: (1) convey a 25-foot backyard easement on each golf course lot; (2) either no fence or a continuous wrought iron fence constructed by developer along golf course property; fence must be consistent with the fence the City constructed at the golf course along Mission Road; (3) provide to the City a temporary 15-foot easement for the pump station on the east property line of Lot 31, until such time as a permanent 15' unobstructed access easement can be provided by developer from the adjacent property owners to the east, with cost paid by developer. Whitaker said Mark Simpson has agreed to the above requirements. Rasmussen asked about a bond for mud that may flow onto golf course property. McKay explained the City does not require a bond for that contingency; instead the City requires developer to provide an erosion control plan and have all the protection in place prior to grading the property; City inspectors observe these protections being built and installed; if a problem arises later, the developer is required to repair it; failing that, the City places a lien on the property.

Rasmussen moved for approval subject to incorporating the requirement for an erosion control plan and the Golf Course Review Committee's requirements for 25' setback, 15' temporary easement, and fencing. Second by Campbell.

LaHue raised the issue of flood control on Negro Creek. Public Works is seeking funding for evaluation of flood studies on Negro Creek basin where this property is located. He sees a problem in approving property development in an area where the City does not have full understanding of flooding expectations. McKay said FEMA shows existing conditions, not what conditions will be in the future after development. This development is considerably higher than the golf ground and FEMA flood requirements of 1 foot above flood plain.

Brick Owens, Ochsner, Hare & Hare, told Council the engineer, Tom Smith of Shafer, Kline & Warren, has determined the property is not in the FEMA (100-year) flood plain. Also, EPA requires a permit to avoid any creek erosion. Brandt said the Negro Creek Basin study is to determine what the flood plain is now and what it will be at build-out, and what can be done to protect it. Overland Park has the majority of the undeveloped land and would be required to build retention ponds so our City, developments and residents won't be affected by flooding.

Campbell questioned the mechanics and timing of the temporary easement, recording of the plat, and granting of the permanent easement. Whitaker explained basis of the temporary easement with the Roses and the requirement on new owner Simpson. Campbell added to Rasmussen's motion that the permanent easement must be "agreeable to both parties."

LaHue checked with Simpson and Owens his understandings that the plat has nothing to do with the retail portion at this time, just with the 31 homes; that developer is fully

aware 151st Street will be a 4-lane road; the residences will be $400,000 properties next to a retail center with a grocery store, on a 4-lane road. McKay confirmed all the above is understood. Dunn asked about funding of the fence. McKay responded it will be paid for by developer. Rinehart asked the rationale for prohibiting an individual owner from putting up a fence in compliance with City specifications. Whitaker said they want to do it all at once and leave the door open for funding. On vote of the Council, Rasmussen's motion incorporating the above-listed stipulations and adding Campbell's wording as to the easement being "agreeable to both parties" carried unanimously.

Request by Kansas City Rotary Club for special solicitation permit for Greater Kansas City Day.
The Rotary Club's request is to sell newspapers on Royals opening day as a fundraiser to benefit Rotary Youth camp and other organizations (Girl Scouts, Boy Scouts) who use that camp. Chief Cox recommended denial of Rotary Club's request based on the following: opposition by his staff (safety concerns); number of other charitable groups starting to seek similar permissions; denial last fall of Redcoats (Chiefs) group to sell special edition newspapers in the streets in conjunction with first home game.
Speaking in favor of allowing the Rotary Club fundraiser:
Richard Adie 13108 Glenfield Road, Chairman of Steering Committee for Greater Kansas City Day; Larry Gerden, 10337 Pawnee Lane, President-elect of Downtown Rotary Club and 30-year Leawood resident; Kent E. Crippin, Downtown Rotary Club, former Mayor, resident of Leawood. The applicants stressed their safety history, concern for safety, and use of safety vests.
Clawson supports the charity but noted the Leawood Rotary Club elected not to participate and concurs with Cox's recommendations regarding safety.
Peppes also belongs to Leawood Rotary, does not concur, has participated in past years.
Rasmussen didn't recall any problems; thinks participants have always been responsible and cautious with traffic.
LaHue reminded Council of recent long-term disability injury of city worker wearing orange vest and trained in safety on the streets, yet was struck by a motorist and will not be able to work the rest of his life. Said the $2500 raised in the City of Leawood is not worth the safety risks.
Campbell moved to approve this year with the same safety conditions of prior years; second by Peppes. The motion carried with Rasmussen, Peppes, Giblin, Campbell voting in favor, and LaHue, Clawson, and Dunn opposed.

PLAN COMMISSION

#2077 **Resolution No. 1302, attached as part of the record, relating to request for rezoning from AG to RP-1 and preliminary site plan and preliminary plat approval for Highlands Ranch, 141st and Kenneth.** Giblin announced he will abstain from the proceedings due to conflict of interest; he left the table. Don Donahoo appeared as applicant. LaHue asked about the zoning of the unplatted 10 acres, how this development compares to Leawood Falls, drainage and in particular silt basins and drainage of public water into a private lake. McKay said a portion of the 10 acres is zoned retail, the rest is medium density residential; not comparable to Leawood Falls in that Highlands Ranch

properties will be $300,000 to 350,000 and up. Donohue said the storm sewers coming off the streets will be routed around the lake and spillway, into the dam. Wetzler stated he has received from Stan Woodworth, lawyer for applicant, documents giving the City the right to enforce the deed restrictions, creating a fund to maintain the lake area, and releasing the City from past, present and future obligation to maintain the lake area, and a copy of proposed deed restrictions,

Donahoo reiterated the design is to not have any storm drains run into the lake; they do not want to decrease the value of the lots. Dunn said she saw the silt basins and lakes as a proactive approach, no doubt as the result of problems with Royse. She asked whether any streets require buffering. McKay answered that only Kenneth requires buffering, and there will be street trees.
LaHue commented again on the drainage, but with microphone turned off. McKay reminded council that this is a preliminary plat, the engineering has not been done; this stormwater issue can be dealt with at the final plat stage; Council has served notice to developer it will not countenance stormwater flowing into the lake.
On motion of Rasmussen, second by Campbell, Council approved the rezoning, preliminary site plan and preliminary plat. Giblin abstained; LaHue, Campbell, Clawson, Peppes, Dunn and Rasmussen in favor.

#2702 **Ordinance No. 1570 rezoning from AG to RP-1, Highlands Ranch, 141st and Kenneth.** Motion by Campbell, second by Clawson. Giblin abstained; approved with LaHue, Campbell, Clawson, Peppes, Dunn and Rasmussen in favor.

#2718 **Resolution No. 1303, attached as part of the record, relating to revised preliminary plan and final plat, Phillips Petroleum, 120th and Roe Avenue.**
Giblin returned to Council table. McKay advised Council that in 1992 Phillips filed a plan for the same piece of ground at the SE corner of 119th and Roe, fronting on Roe, surrounded by Morgan properties. McKay understands both owners have agreed to this plan, and staff is currently considering the remainder of the property, and they feel it will fit in. Plan Commission has approved it; there is another access point that goes into the center, and eventually there will be 2 ways in and 2 ways out; it's like an out-lot of the future development there.
Rasmussen asked about the architectural treatment of the facades. McKay responded the majority of the building is brick with a champagne metal band over the glass area; the sign will be attached to the metal band. Rasmussen reminded staff that the City held Camelot Court to very high quality standards of design, materials and landscaping; it concerns him to allow this with metal panels, and nothing is specified for landscaping. McKay reviewed that Phillips had received approval on a previous gas station design similar to the one at 95th and Mission. They brought the plan back, then revised it at the suggestion of Planning staff. The zoning has been in place for many years, and it fits into CP-2 district and the site plan meets zoning regulations. McKay understands the Morgans approve of this plan; it works well with their plans for the property. LaHue stated his opposition to reoccurrence of independent development, such as at 103rd and State Line, and asked McKay how the City can intercede at this point. McKay responded

that Council could vote not to approve the plan and wait to see plans for the entire area together. Rasmussen asked whether Council has justifiable reason to turn down this preliminary plan and final plat based on the grounds that Council has insufficient data to know the development plans for the overall area.

Wetzler reviewed the property's history: Before it became a part of the City of Leawood, this property was zoned commercial; it came into the City with rights conferred by the earlier zoning. In 1991 a prior application for approval was approved by Council for zoning, preliminary site plan, the works; at that point Phillips could have applied for a building permit and built the facility similar to the one at 95th and Mission. In 1996, a new application was made, then changed significantly by reducing the canopy and refining the architectural treatment. The Plan Commission had the same concerns Council is expressing; the owner of adjoining property was in attendance and opposed Plan Commission's proceeding with the application until there was an agreement worked out for the owners of the two properties to work together so that the two properties would relate more harmoniously in final development. At the next regular Plan Commission meeting, the adjoining property owner appeared and actively supported the application. In response to Clawson's question, McKay said the shopping center itself is up for consideration at Plan Commission's April meeting The overall development plan and layout of traffic flow are still in draft form.
Rasmussen moved to continue the matter until Council could see a preliminary plan of the rest of the shopping center, within thirty days; second by Giblin.

Larry Winn III, attorney for applicant, told council this is no different situation than The Bristol coming out to Town Center Plaza; it's a pad site in a shopping center, and it's beyond Council's jurisdiction to dictate who comes in before the center is even proposed. Clawson pointed out that Council is accustomed to looking at the shopping center and then the pad sites. Winn said Phillips has rights associated with their property; the rights include coming in and developing a plan whether the Morgan property would be developed in a month or 5 years. McKay showed setbacks on the plan and explained the overall plan. After further discussion of timing and possible features of the overall plan, Rasmussen withdrew his motion; Giblin withdrew his second.

Clawson moved to approve; second by Campbell. LaHue wanted a 30-day delay in approval, until after Morgan plan goes to Plan Commission. Winn said Phillips needs to proceed, Morgan is comfortable with the proposal. He requested Council's approval tonight. Dunn said she's going to vote against approval; she prefers to see high-quality retail at that site. On vote of Council, motion carried with LaHue, Campbell, Clawson, Peppes, Rasmussen in favor; Dunn and Giblin voted nay.

#4485 **Request for special use permit for temporary sales trailer, 139th and Kenneth, Villas of Leawood.**
Motion for approval by Rasmussen, second by Clawson. Dunn asked about landscaping and skirting around the trailer. McKay confirmed those are a requirement of the permit.

Approved by unanimous vote of Council. Permit for 1 year from date of issuance of a building permit.

#4532 **MAYOR'S REPORT**

Mayor Rinehart recognized the efforts of Julie Hakan, Cindy Pitts, and Deidre Markley in arrangements for the Volunteer Party, and she thanked them.

Deidre Markley, Economic Development Coordinator, has become an ex-officio member of CERI.

Loraine Miller, a City employee for many years before her retirement 6 years ago, has died; in behalf of the City and Council, the Mayor extended sympathy to Loraine's family.

OLD BUSINESS

#4570 **Award bid for landscaping of park access road.** LaHue moved to approve the low bid of Hermes Landscape in the amount of $123,265.00, second by Dunn. Brandt said if Rosehill Garden's bid bond had been included, they would have been the low bidder; however, the City could not accept Rosehill's bid because the bid bond was not included as required by the bidding specifications. This project includes the drip irrigation but not the sidewalk and bike path. Clawson asked about feasibility of laying out the sidewalk first, before the landscaping is planted; this would avoid tearing out planting to install the sidewalk later. LaHue agreed and wants to include the sidewalk now because the money for it will have to be spent sometime. Brandt said he will work with Parks & Recreation on it. Garofano said it would be a separate contract for the pathway; the sidewalk can be included if Council wishes, and this seems like the logical time to do it; however, it will take time to design and bid this addition. Rasmussen asked what is being landscaped, and Garofano explained that the City agreed, in order to get the Wastewater District property for the roadway, to do certain landscaping along the wastewater treatment plant. Brandt said the sidewalk could be incorporated into the design for about 3000 linear feet of the asphalt rehab program. He would like to get this under contract as soon as possible so some of the plants can be obtained. Rasmusssen announced against approval; doesn't want to accept a bid based on a plan which doesn't accommodate his concerns about incorporating the pathway.
Motion carried, to approve the low bid; in favor - LaHue, Campbell, Clawson, Peppes, Dunn; opposed - Rasmussen and Giblin.
Clawson moved to proceed with the design of the pathway from Mission into Leawood Park; second by LaHue. Council approved unanimously. The pathway will be a continuation of the park street "Constitution Court."

#5240 **Award bid for construction of privacy wall at 128th and State Line.**
Brandt said bids were taken last week. Staff recommends accepting Kissick Construction's bid of $75,700.00 for Option 2, a poured-in-place wall. Motion by Rasmussen, second by Dunn. Approved unanimously. Larry Staniforth, 12720 Cambridge, on behalf of the home owners' association, expressed appreciation for

Council's support in fulfilling this commitment; he gave special thanks to Mrs. Dunn who showed genuine interest and concern about the matter. Dunn said the columns were eliminated to bring the cost down to the original amount agreed on two years ago; she regrets the delay in the project. LaHue said he thinks Council would have sought other alternatives had they realized it would be so expensive.

NEW BUSINESS

#5390 **Award bid for construction of Town Center Drive (east bound lanes).** Rasmussen moved to approve the bid of Reno Construction in the amount of $487,601.15, conditioned on receipt of an engineer's estimate which was higher than the low bid; second by LaHue. Brandt said the cost savings developed because on this project the general contractor will handle the subcontractors. He pointed out the engineer's estimate is not available at meeting time, but it is higher than the low bid; waiting for that estimate delays the project for two weeks. Wetzler advised that Council cannot authorize the contract without an engineer's estimate that is higher than the bid. He thinks Council can authorize the bid with the condition of receipt of the estimate and the bid being within that estimate; there should also be a condition the Mayor would not be authorized to execute the agreement unless the bid is lower than the estimate.

Rasmussen amended the motion to include the two conditions, above. Approved unanimously by Council.

#5609 **Ordinance No. 1571C relating to urinating/defecating in public.** At Rasmussen's suggestion, this item was moved up to accommodate staff members on hand just for this item. Motion for approval by Rasmussen, second by Clawson. Dunn said 30 days in jail for violation seems a fairly steep penalty for violation of the ordinance.

Garofano introduced Melissa Hall, Assistant City Attorney/Prosecutor. Hall responded that the penalty is the lightest available for a Class C offense. The judge has discretion to simply fine, rather than jailing, an offender. Council approved the ordinance unanimously.

#5757 **Authorize interlocal agreement with Overland Park for temporary traffic signals at 119th & Rosewood,the common entrance to Town Center Plaza and Hawthorne Plaza.**
Motion by Rasmussen, second by Dunn. Brandt said Town Center Plaza is paying 100% of the cost of signals. Approved unanimously by Council.

#5785 **Authorize interlocal agreement with Overland Park for traffic signal installations at 115th and Nall and 119th & Rosewood, Town Center Plaza.**
Motion by Rasmussen, second by Clawson. Approved unanimously by Council.

#5805 **Award bid for SMAC projects, Belinder to Manor at 95th Street, and Meadow to Manor at 96th Street.** Brandt explained the funding and noted both bids are considerably

under the engineer's estimates. Clawson noted that street rehabilitation being done with both these projects does not complete the street; she requests the queue of streets be looked at again with a view to completing Meadow Lane. Rasmussen said Council has a prior agreement about the prioritization of streets to be repaired. Motion by Clawson, second by LaHue, to award bid to Muehlberger Construction for a total amount of $373,336.37. Approved unanimously.

#6114 **Authorize interlocal agreement with Overland Park for improvements to storm drainage system between Belinder and Chadwick in the 9600 block.** Approved unanimously on motion of Dunn, second by Peppes.

#6155 **Resolution No. 1304, attached as part of the record, supporting Negro Creek Basin Study.** Motion by LaHue, second by Dunn. Giblin asked about the decision FEMA's flood maps are no longer accurate. Brandt explained that when FEMA establishes flood plain limits, they do not consider the impact of future development on flooding. This study would give Planning staff a better projection of future flooding; it will be more in-depth and accurate than FEMA's studies. Giblin wanted to know why Leawood should have to pay for a portion of the study if all of the development is in Overland Park. Brandt said the City of Leawood has 48% of the Negro Creek basin, and thus we need to establish what build-out flood potential will be to be sure that Overland Park provides us with retention. The mayor said it is beneficial to our city to have the information, and the $12,250 cost is low. Approved unanimously by Council.

#6320 **Ordinance No. 1572 accepting a deed for street purposes, College Boulevard improvements, Phase 1.** Approved unanimously on motion of Clawson, second by Dunn.

#6342 **Ordinance No. 1573 granting permanent drainage easements for construction of Vintage Apartment Complex, 121st and Roe in Overland Park.** Brandt said the easements would go to the developer of Vintage Apartments. Dunn pointed out that the apartments are in Overland Park, not in Leawood. Approved unanimously on Motion of Clawson, second by Campbell.

#6415 **Approval of Appropriation Ordinance No. 780.** Dunn asked Malnicof about check no. 44587 to Design Energy Group Consulting. McKay said it was for plan review. Clawson asked about check no. 44605, what is a skid steer rotor? It is a Bobcat. Approved unanimously on motion of Peppes, second by Campbell.

OTHER BUSINESS

#6482 **Discussion of car mileage allowance**. Rasmussen moved to revise the current $.29 per mile allowance to $.31 per mile which is the federal government's rate for mileage; second by Clawson.

Campbell moved to amend to make the change effective as of the 1997 budget year; second by LaHue. The motion to amend failed. In favor - LaHue, Campbell, Peppes; opposed - Clawson, Giblin, Dunn, Rasmussen.
The main motion carried with Campbell opposed, all others in favor.

#6805 **Discussion of soccer field usage.** Dunn has received complaints that noise from soccer fields, especially horns being used on the fields, are annoying to residents. Whitaker has also heard from the residents; he said the fields in question are at Leawood Elementary School, and the soccer program is a Blue Valley Recreation Commission program; the Leawood Recreation program has nothing to do with soccer at Leawood Elementary School and thus has no authority over this issue.

#6931 **Executive session.** On motion of Giblin, second by Clawson, Council voted unanimously to hold an executive session not to exceed 15 minutes for the purpose of discussing matters of pending litigation.

#6961 At 10:45 p.m., Council convened in executive session in the cleared Council Chambers, same members present.

At 11:00 p.m., Council returned to regular session with the same members present. On motion of LaHue, second by Clawson, Council voted unanimously to extend the executive session for 10 minutes for discussion of the same topic.

#6974 Council returned to executive session; same members present.

#7058 **Adjourned.** At 11:05 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

April 15, 1996

Minutes Summary

Audio Tape No. 355

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, April 15, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Peggy J. Dunn, Graham G. Giblin, Sr., *Doug Patterson, Gregory J. Peppes. Louis Rasmussen was absent.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Diane Brooks, Planner, Planning & Development; J. Stephen Cox, Chief of Police; Ben C. Florance, Fire Chief; Julie Hakan, Human Resources Director; Joe Johnson, Assistant Director of Public Works; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/ Special Projects Coordinator; Fran Kessler, Acct. Tech/Buyer (in the absence of the City Clerk); Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#64 The Agenda was approved unanimously on motion of Dunn, second by Clawson, after the addition of two items:

1. Discussion of solicitation;
2. Discussion of public notification of openings on Plan Commission.

CITIZEN COMMENTS

None.

PROCLAMATIONS

#118 The Mayor proclaimed May 1, 1996, as the 39th annual observance of Law Day U.S.A., and April 14-20, 1996, as National Public Safety Telecommunications Week. Police Chief Cox introduced Leawood Communications Supervisor Donna Metzger and Communications Officers Angie Beyer, Fran Doll, and Jane Konzem. He called Council members' attention to Kathy Houtman's article, a light-hearted and thoughtful look at dispatching as a career, which was recently published in APCO Bulletin, a trade publication.

CONSENT AGENDA

#260 The following items were approved unanimously on motion of Peppes, second by Clawson:

1. Minutes of the March 25, 1996, Council meeting;
2. Minutes of the April 1, 1996, Council meeting;
3. Minutes of the March 12, 1996, Leawood Arts Committee meeting;
4. Minutes of the April 9, 1996, Parks & Recreation Board meeting;
5. Monthly reports of the Fire Department, Planning & Development Department and Police Department;
6. Pay Request No. 1 (Final) for Indian Creek sanitary sewer relocation #18; $125,625 to Industrial Excavating and Equipment, Inc.(College Boulevard improvements).

PLAN COMMISSION

#269 **Request for special use permit for a temporary sales trailer, Ironhorse Estates.** Giblin asked what is considered "temporary." Brooks said it is for one year; during the discussion at Plan Commission, applicant decided the sales trailer will be needed for only one year. The temporary permit was granted for one year on motion of LaHue, second by Peppes, and unanimous vote of Council.

#311 **MAYOR'S REPORT**

1. **Council of Mayors meeting.** The Council of Mayors recently met at Ironhorse Golf Club; the mayors enjoyed their tour, thought it was a lovely facility, and look forward to returning on a warmer day. The mayor asked Whitaker to see that all Council-members receive a copy of the newest Ironhorse brochure. At Council of Mayors, Chris McKenzie of League of Kansas Municipalities gave a legislative update on school finance law, tax increment financing, and other matters. The disposition will not be known until the legislature meets in the veto session; it is likely some legislation on these issues will be attached to unrelated materials. The City has made its position clear but should be on alert to communicate with legislators as legislation comes up.

2. **Committee and commission appointments.** The Mayor reminded Council members their recommendations for appointments must be submitted by the end of the meeting. All appointments need to be accomplished by May 6th. There will be 2 vacancies on the Plan Commission; anyone interested in serving on the Plan Commission must fill out a supplemental form.

3. **Joint session with Plan Commission and City Council.** The Mayor reminded Council of the work session tentatively scheduled for May 13th for a go-see tour and joint meeting afterwards at City Hall.

4. **Ribbon cutting.** The Commerce Bank ribbon-cutting was last week, and the bank is holding an open house this evening. The Mayor announced the bank will participate as a sponsor of arts on the Leawood City Hall plaza, and she welcomed them to the community.

5. **Retirement event.** The Mayor thanked Julie Hakan and Annette Kirkwood for orchestrating the reception in honor of Jerry Strack on April 14th.

6. **Leawood Arts Committee.** Clawson announced the Leawood Arts Committee studio tours program. The first, April 26, is a tour of Leawood resident Nick Vedros' studio at 19th and Central; he has been honored nationally for his work in photography; the Hereford House, which will soon open in Leawood, has agreed to donate refreshments for the event. The second tour, on June 6, is at Jim Hamil's studio; and the final 1996 tour is of Rita Blitt's studio near 89th and Mission on October 17th with refreshments donated by The Bristol. Tour tickets are $20 per studio, or $50 for all three; the Arts Committee has arranged for a very interesting evening at each one, and more information is available on the ARTs line.

OLD BUSINESS

#498 **Resolution No. 1305, attached as part of the record, authorizing KDOT to award contract and committing local funds for College Boulevard, Phase 2, improvements.** Dunn asked who the participants are in the local matching funds. Garofano said there is $5.5 million in federal money through KDOT, $5.5 million through a combination of CARS funds and the City's share of jail sales tax money; the remaining funding is divided between the developers and a benefit district. Approximately $1.1 million in city-at-large funds will be expended. Clawson asked for the construction schedule. Johnson replied that the notice to proceed will be issued April 22; Phase 1, El Monte east to Tomahawk Creek Parkway, will be complete before winter; bridge work will begin this year; the contract is for 250 working days; the project will be completed in early-to mid-summer of 1997. Low bid of Clarkson Construction Company, local match of $2,165,685.00, approved unanimously on motion of Campbell, second by Clawson.

* Councilmember Patterson arrived at 7:52 p.m.

#640 **Authorize contract for design services with Larkin Associates Consulting Engineers, Inc., for Oxford Hills drainage improvements in the amount of $27,000.** LaHue inquired whether the City is planning on bonding this project. Malnicof said Council has authorized and committed contingency funds for the project. Campbell asked about the design fee of 7.37% of construction costs. Johnson explained that the contract was written based on working hours to design the project; the fee is a fixed dollar amount rather than a percent.

Peppes asked about costs for the first phase. Johnson said originally both construction and design would not exceed $100,00 for Phase 1; once the plans come back, staff will look at all the costs and break up the phases. Dunn advised Council that in the Public Works Committee's discussion, Brandt made it clear that doing phase one may alleviate the problems and he felt they would not necessarily be coming back next year for Phase 2 or the following year for Phase 3. Patterson asked Malnicof how much remains in the contingency fund for fiscal year 1996. Malnicof said the fund is down to $350,000. Mayor Rinehart reminded the Council that staff was not in favor of this method of payment but Council decided to adopt the method anyway. On motion of Dunn and second by Giblin, Council unanimously authorized the contract.

#780 **Ordinance No. 1564C relating to reimbursement of expenses, including mileage, of City officials and employees.**
Patterson asked whether the reimbursement is in addition to monthly car allowances. Malnicof said it is for mileage reimbursement for employees, not for those with car allowances; the effect on the budget is negligible. On motion of Dunn, second by Clawson, the ordinance was passed unanimously on roll call vote of council.

#825 **Approval of Appropriation Ordinance No. 781.**
Dunn asked about expenditure #44905 to Scott Miller for golf lessons; Malnicof said this was in payment for lessons he taught. Peppes asked about expenditure #44865, a golf course cash flow advance. Malnicof explained that January and February, winter months with no golf rounds but people on the payroll, resulted in a negative cash flow; the City is advancing it so that accounts payable and payroll will be met. Malnicof hopes and expects it will be paid back during April. On motion of Peppes, second by Campbell, Council unanimously approved the appropriation ordinance.

OTHER BUSINESS
Giblin stated The Leawood SUN Newspaper owes him and the entire Council an apology and explanation for comments and statements published on March 20, 1996, that were totally inaccurate and untrue, which said Giblin was the listing agent for property which was sold to the City of Leawood. Giblin read from the listing agreement, which The SUN could have reviewed at any time, enumerating those lots (lots 1-23, 25, 26, 27, and 33) that he listed as agent. He said the lots purchased by the City of Leawood (lots 28, 29, 30, 31, and 32) were not listed on the listing agreement and thus he was not the listing agent for those lots and there was no conflict of interest. Giblin stated that whether the error was intentional or done irresponsibly, either way the City has been damaged and so has he other than that he has enjoyed his last four years on the City Council and, although he'll be gone, he will still be around.

#1010 Mayor Rinehart recognized Graham Giblin for his four years of service as City Councilmember representing Ward 4; during this time he has served as Council liaison to the Leawood Arts Committee, 4 years on the Public Works Committee, and 3 years as

Council liaison to the Historic Commission. The Mayor recalled that one of Giblin's key issues was private streets - he felt it inequitable that residents living on private streets were paying taxes but not receiving the same services as those on public streets. She said he worked hard on the issue and persevered, and the private street situation has been changed. She noted also that Giblin made a real difference in another major interest of his, establishing the Chamber of Commerce which is now a healthy group of about 90 members, and he is on its board of directors. The Mayor presented Mr. Giblin with a plaque in recognition of outstanding service as a member of the Leawood City Council from 1992 to 1996; and she gave him a key to the City.

#1160 **OATHS OF OFFICE**

Re-elected Councilmembers LaHue and Campbell, as well as newly-elected Councilmember Adam Bold, were given the oath of office and sworn in by Fran Kessler in the absence of the City Clerk. Adam Bold took his place with the Council. Bold and Campbell introduced family members in the audience.

Mayor Rinehart welcomed scouts who were in the audience to see a little about democracy in action; she encouraged their questions after the meeting or on Tuesday.

#1460 **ROLL CALL OF NEW COUNCIL**

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Peggy J. Dunn, Ronald LaHue, Doug Patterson, Gregory J. Peppes.
Louis Rasmussen was absent.

NEW BUSINESS

#1474 **Authorize interlocal agreement with Overland Park for overlay of College Boulevard, Nall to El Monte, and Roe Avenue from College to Tomahawk Creek Bridge; $80,000, Leawood cost estimate.**

Clawson observed that these roads are in terrific shape compared with many others within the City; she asked why the City is overlaying them at this time. Johnson explained that Overland Park is doing its side and asked whether Leawood wanted to participate. Typically it is much cheaper this way, thus it is better to do it now rather than wait two or three years. The City's share is only 20% because that is the proportional share of City property in the overall project. Johnson said the cost is based on the quantity of asphalt in the bid price, $70,000 for College and $10,000 for Roe. Dunn asked whether there would be any opportunity to recoup any of the expenditure for 119th and Roe from the developer of the retail center that will go in right on the corner. Johnson said the developer hasn't even been to Plan Commission for an application yet, they go April 23rd. Garofano said customarily the City has not charged developers for maintenance; they did pay for their share of the original construction when the streets were widened to four lanes; the City doesn't envision adding more lanes due to the shopping center, but if that happens, the shopping center would have to pay for it.
Approved unanimously on motion of LaHue and second by Dunn.

#1635 **Ordinance No. 1575 granting right-of-way easements to Johnson County Wastewater District across Ironhorse golf course property for The Reserve at Ironhorse sanitary sewer construction.**
Patterson asked how the City can enforce the portion of the contract stipulating the contractor shall not disrupt the primary activity of playing golf. Wetzler said the City will have to maintain an action against contractor if there is a serious problem; it's just like any other easement. LaHue asked for confirmation that there will not be any interference with play on the course from this easement. Johnson said if there is, the contractor will be required to modify the work schedules. He is unsure when construction will start; the plans must go through the state for approval; it could be this summer. On motion of Dunn, second by Peppes, ordinance was passed unanimously on roll call vote of Council.

#1705 **Ordinance No. 1576 granting storm sewer easements across the Ironhorse golf course property for construction of storm sewers for The Reserve at Ironhorse subdivision.**
Motion by Clawson, second by Campbell. Subject to inclusion of accurate legal descriptions, approved unanimously on roll call vote of Council.

#1739 **Ordinance No. 1577 granting a permanent drainage easement across the Ironhorse golf course property for construction of storm sewers for The Reserve at Ironhorse subdivision.**
Motion by Campbell, second by Peppes. Subject to inclusion of accurate legal description, approved unanimously on roll call vote of Council.

OTHER BUSINESS

#1865 **Discussion of notification to the public of Plan Commission and other openings.**
Dunn suggested, in the interest of attracting the most highly-qualified people for Plan Commission and other committees, that notification of openings in the press would be in order. The Mayor agreed, subject to the deadline of Friday (April 19) for responses to her; she asked Kessler to have forms available for Plan Commission applicants. LaHue asked about the law requiring one Plan Commissioner to be from outside the City. The Mayor explained it is no longer an obligation to appoint an out-of-city commissioner, and it is her intention to appoint a Leawood resident. Campbell said he concurs that a story in the SUN Newspaper would get the word out and provide a fair process.

#1880 **Discussion of special solicitations in the streets.**
Council discussed Chief Cox's letter requesting clarification of Council's intentions regarding on-street solicitation. Clawson said she was at a couple of intersections where Rotarians selling newspapers were lunging out into the street from all four corners; she concurs with Cox's recommendation to discontinue this type of solicitation; she also pointed out that Overland Park concurs with Cox; the people she observed at 103rd and Mission were not operating in a very safe fashion in that traffic. Mayor Rinehart asked

Cox whether it puts him in a difficult position when the Rotary is granted permission to solicit in the streets yet he denies the applications of other groups who want to do the same thing. Cox asked whether Council is planning to approve solicitation by the Rotary in the future. The Mayor feels Council will decide annually, as the application to solicit is submitted. Garofano clarified that it is the Downtown Rotary Club #13, not the Leawood Rotary Club, that is the subject of this discussion. Dunn thinks Council should be consistent with approvals and denials; she had an experience similar to Clawson's, unsafe actions at 119th and State Line.

Clawson moved that the City not allow organizations to solicit in public streets for donations; second by Dunn. Patterson asked whether this is a new motion, not a motion to reconsider. Wetzler agreed; he thinks the Chief is asking for a statement of future policy; the previous motion is a moot issue as it was approved and the solicitation has occurred. The motion is to deny any solicitation by any group in public streets. LaHue said there was a local newspaper selling papers on street corners, and the City stopped that; he is not in favor of people selling items in the street; he thinks it is a responsible action to establish a policy that there will be no solicitation nor sales by either charitable or commercial concerns in the public streets or public right-of-way. Wetzler said the City has certain ordinances that permit sales activity in the streets, but not by people who are on foot, and that is the point the Chief is trying to address. Wetzler feels the Chief finds it unsafe to have people between the curbs trying to sell merchandise or ask for contributions from motorists.

Cox said the standard traffic ordinance the City adopts annually as its backbone reads, in part "no person shall *stand* on a highway for the purpose of soliciting... " Wetzler said the language should prohibit anyone from engaging from sales while standing in a public street or highway. Clawson restated her motion to include "by a person standing in a public street or highway." Motion approved unanimously by Council. Mayor Rinehart strongly suggested that Chief Cox issue notification in all the newspapers and also notify the Downtown Rotary Club and any other group which has approached him to solicit in this manner.

Mayor Rinehart offered the Council's congratulations to Sgt. Pat McCarthy upon becoming a Police Captain.

#2330 **Adjourned.** At 8:45 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk
/crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

May 6, 1996

Minutes Summary

Audio Tape No. 356

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, May 6, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ron LaHue, Gregory J. Peppes, Peggy Dunn, Louis Rasmussen. Doug Patterson was absent.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Chief of Police; Ben C. Florance, Fire Chief; Julie Hakan, Human Resources Director; Harry Malnicof, Finance Director; Robert McKay, Director of Planning & Development; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/ Special Projects Coordinator; Martha Heizer, City Clerk; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#161 The Agenda was approved unanimously on motion of Clawson, second by Dunn, after the addition of five items:

1. Discussion of neon lighting on a Town Center Plaza restaurant;
2. Discussion of letter from the Blakes about retaining wall at 80th & Wenonga;
3. Schedule executive session to discuss two matters of pending litigation;
4. Discussion of memo about pedestrian walkway/bridge from High Drive to Leawood Country Club;
5. Discussion of letter from Dewey Towner re water pooling in street.

#232 CITIZEN COMMENTS

Susie Parker, 2404 W. 104th Terrace, re Tennis fees: Asks reconsideration of change from season pass to punch card/daily fee for tennis. She and others play 4-5 times weekly; the change in fee structure will increase their cost approximately 700%, from $36 season pass to $242 (110 days of play @ $2.20/day). This increase is out of line with pool fees which are $40 for a season pass, and with the cost of the pool operations and upkeep, which is considerably higher than for tennis courts. Last year's use of tennis courts was very light; the new fee structure will result in even less use and, therefore, less income.

Mayor Rinehart said there have been several phone calls to this effect; the Parks & Recreation Advisory Board intends to address this issue at its meeting on Tuesday. It is, of course, an open meeting; she suggests Ms. Parker attend.

Jerry Healey, 9006 High Drive, re pedestrian walkway and bridge at 9018 High Drive: He represents 75 homeowners. Bridge was put in by Kroh Bros. In 1967 or -68, and for 28-29 years has been a pedestrian walkway, bike and jogging path, and access point for City to maintain sewers under the bridge. Recently the passageway was found to be on private property owned by Robert Pierce; Mr. Pierce closed the bridge in February because of his liability for accidents or harm to anyone using the bridge and his responsibility for maintenance and upkeep. Mr. Gene Kroh as agreed in writing that the intent of Kroh Bros. was to deed this pathway and bridge to the City upon completion of development and that failure to do so was an oversight. Healey has met w/ Ron Brandt; he requested the city take legal possession of the walkway and bridge.

Mayor Rinehart noted that Peppes requested this be discussed briefly under other business; it will probably be assigned to the Public Works Committee.

Dave Blake, 8026 Wenonga Road, re retaining wall along creek: He submitted photographs in support of his letter. He noted that the development of Somerset and what Prairie Village has done north of the creek have contributed to greatly increased water flow, especially in large storms. Joe Frye, KC Master Companies, who has inspected the wall, reported he discovered several problems and the wall has been undermined by water; present conditions cause an extremely dangerous situation.

PROCLAMATIONS

#561 The Mayor proclaimed May 12-18, 1996, as Police Week and May 13th as Peace Officers Memorial Day. Cox introduced Sgt. Pat McCarthy who will be promoted to Captain next month; Officers John Dickey and Doug Heaton who put themselves at great risk during the ice rescue; Officers Dickey and Rob Nichols who were involved in the car chase after the robbery at North American Savings Bank and who were fired on a number of times; Corporal Scott Barton and Officer John Mulcahy who will receive awards for valor from the Kansas Association of Chiefs of Police for their disarming of a mentally deranged man threatening a person with a hatchet The officers introduced their families; Mayor Rinehart added her thanks and appreciation for their bravery and dangerous work.

Student Achievement Week, ~~May~~ April 22-28, 1996;
Letter Carrier's Food Drive Day, May 11, 1996;
Blue Valley North High School Appreciation Day, April 19, 1996;
National Public Works Week, May 19-25, 1996.

CONSENT AGENDA

#780 The following items were approved unanimously on motion of Peppes, second by Rasmussen:

1. Minutes of the April 15, 1996, Council meeting;
2. Minutes of the April 9, 1996, Leawood Arts Committee meeting;
3. Appointment of Presiding Officers for Council meetings in the Mayor's absence;)attached as
4. Appointments to committees and commissions;----------)part of the
5. Application for Cereal Malt Beverage License renewal, Hallbrook Farms Country Club; record.
6. Pay Request No. 6 (Final) 91st Street rehabilitation; $11,357.85, Seal-O-Matic Paving Company;
7. Award bid for shelter site preparation and construction at Leawood Park; $47,992.76 to K.L.C., Inc.

Bold commended the Mayor for a very fine job of selecting committee and commission appointees from a great many applications.

The Mayor introduced David Imhoff, new plan commissioner. She announced that Janice Auvinen, not present, is the second new plan commissioner.

The Mayor recognized Leawood Lions Club members and recognized them for their contribution to the new park shelter.

PLAN COMMISSION

#850 **Request for special use permit for sales trailer for Reserve At Ironhorse, SE corner of 151st and Mission.**
The temporary permit was granted for one year on motion of LaHue, second by Campbell, and unanimous vote of Council.

871 **Request for special use permit for model home temporary parking lot at Steeplechase, 145th & Mission.**
The temporary permit was granted for one year on motion of LaHue, second by Clawson, and unanimous vote of Council.

#881 **Resolution No. 1306, attached as part of the record, relating to revised preliminary plat and site plan for Hallbrook Farms Patio Homes, 3rd Plat, 114th & Overbrook.**
Representing applicant: Harry Wigner, Lathrop & Gage; Mel Lavery, Hallbrook Farms Associates; Phil Gibbs, CCC Engineers; Greg Davis. Wigner explained the request was turned down by Plan Commission because Hallbrook and residents of Phase One of Hallbrook Villas had not reached an agreement whereby either (a) there would be only one homes association to pay for streets in both phases of the villas, or, (b) there would be an agreed upon connection between the two phases on High Drive. Written agreement has now been reached with the homeowners. Wiger requested approval of application as the

May 3, 1996

TO: City Council

FROM: Mayor Rinehart mr

SUBJECT: Appointment of Presiding Officers

I hereby appoint the following presiding officers who shall preside at Council meetings in my absence:

Greg Peppes	May-July, 1996
Marnie Clawson	Aug.-Oct., 1996
Peggy Dunn	Nov., 1996-Jan., 1997
Doug Patterson	Feb.-Apr., 1997

May 3, 1996

TO: City Council

FROM: Mayor Rinehart *mr*

RE: 1996-1997 Appointments

The list of mayoral 1996-1997 appointees to Leawood committees and commissions is as follows:

	Reappointment	**New**
Alarm Appeals Committee- (Info. only, formerly Property Maintenance Code Appeals Board) Downsized to 3 members	Richard Webber, Chr. (1997) Shirley Davidson (1997) Paul Converse (1997)	
Alcohol Planning Council- Leawood rep. (Info. only, previously approved)	Janet O'Neal (12/31/97)	
Arts Committee	Mike Eggleston (1999) Loretta Allebach (1999) Marnie Clawson - Council liaison (1997)	Mary Tearney (1998)
Board of Zoning Appeals	Sally Reicher (1999) Wes Welch (1999)	
Budget & Finance (1997)	Dale Putman	James Azeltine Bill Miskell Al (Barry) Rubin M. John Jorgensen III

NOTE: This committee will consist of the entire Governing Body as a committee of the whole plus the names listed above. The Mayor will chair the committee.

	Reappointment	New
Building Code Board of Appeals - Wes Welch, Chr.	Harold Mitts (1999)	
Debt Management Awareness Council (Jo. Co.) - Leawood rep.		Adam Bold
Emergency Preparedness Coordinator	Bettie Bridges (1997)	
Golf Course Advisory Board - Dick Fuller, Chr.	John Campbell (1997) Charles Lewis III (1999) Lou Rasmussen (1997)	

Note: 3-year staggered terms for non-council members. Council appointees are annual.

Golf Course Review Committee	Cal Spradley (1999)	
Historic Commission	Jody Craig, Chr. (1999) Debbie Welch (1999) Peggy Dunn - Council liaison (1997) Marcia Rinehart, ex officio	Len Williams (1999)
Kansas City Area Development Council-Leawood rep.	Marnie Clawson (1997)	
Leawood Foundation	Peggy Dunn-Council liaison	Adam Bold-Council liaison

	Reappointment	New
Parks & Recreation Advisory Board	Greg Peppes-Council liaison (1997)	Mark Vlasic (2000)
Plan Commission	Lucy Daniels (1999)	David Imhoff (1999) Janice Auvinen (1999) See attachments
Public Building Commission	Ron LaHue (2000) Jerry Underwood (2000)	
Public Officer for Property Maintenance Code	Bob McKay	
Public Works (1997)	Marnie Clawson, Chr. Paul Bennett Phillip Collingwood Peggy Dunn Adam Bold Tracy Smith Greg Peppes	Wm. A. Mallory Randy Viot
Sister City Committee (1997)	Teresa Chien Nancy Garland Tom Hammonds Ann Leitner Alice Putman Dick Reicher Jill Domoney Cecilia Thompson Barbara Gadd-Alley Sophie Lin Sharon Morash	Greg Peppes-Council liaison

	Reappointment	**New**
Stormwater Management Advisory Council - Leawood rep. (For info. only)	Ron LaHue (12/31/97)	
Stormwater Ad Hoc Committee - (For info. only)	Doug Patterson, Chr. John Campbell Lou Rasmussen Ron LaHue Janice Auvinen Bill Bowden Bill Fagan John Jenks Cal Spradley	

May 3, 1996

TO: City Council

FROM: Mayor Rinehart MR

RE: Plan Commission Appointments

As you know, I am re-appointing Lucy Daniels for another term on the Plan Commission. For the other two positions I considered the previous applications for Plan Commission that were on file, plus the fifteen (15) new submittals. In all, there were around thirty applicants to consider!

I narrowed the applications to six and conducted telephone interviews with those six finalists. My selections for the two remaining positions are as follows:

> David Imhoff - 2037 W. 96th St. (66206)
> 381-8350 (home); 642-3835 (office)
> David is a CPA who has previously served on Leawood's Budget and Finance Committee and on the Leawood Estates Homes Association Board of Directors.
>
> Janice Auvinen - 12501 Sagamore Road (66209)
> 451-8968 (home)
> Janice has served on the Board of Directors of the Royse subdivision and is currently on the Leawood Stormwater Management Review Committee. She worked for many years in health care marketing and consulting and was with Touche Ross as an actuarial and benefit consultant.

I have included copies of David and Janice's submittals. Please call me at 649-2188 if you have any questions.

MR/mh

DAVID L. IMHOFF, CPA, P.A.

CERTIFIED PUBLIC ACCOUNTANT
6420 WEST 95TH STREET, SUITE 202
OVERLAND PARK, KANSAS 66212
(913) 381-8350
FAX (913) 381-7589

RECEIVED
APR 19 1996
LEAWOOD/ADMIN

April 18, 1996

Mrs. Marcia Rinehart
Mayor, City of Leawood
4800 Town Center Drive
Leawood, KS 66211

Dear Mayor Rinehart:

Thank you for considering me for an appointment to the Leawood Planning Commission. This would be an excellent opportunity for me to give something back to our Leawood Community. I know there are many challenges ahead of us as we continue to plan and develop the City of Leawood to benefit all our citizens.

Please find attached to this letter a completed Planning Commission application form. Additional information which may be of interest is my educational background. I have a Bachelor's degree in Agricultural Economics and a Master's degree in Accounting. In addition, the substantial business acumen obtained through years of owning my own company and guiding a wide variety of business clients would enable me to contribute to growth of Leawood.

Once again thank you for considering me for this position.

Very truly yours,

David L. Imhoff, CPA

enc.

RECEIVED
APR 19 1996
LEAWOOD/ADMIN

PLAN COMMISSION

Name David L. Imhoff

Address 2037 W. 96th St, Leawood, KS 66206

Phone (home) 913-642-3835 (office) 913-381-8350

How long have you lived in Leawood? 13 years

How long have you lived in Johnson County and/or the metro KC area? 22 years

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues: Business skills developed through owning a small business and guiding many small business clients. I have travelled and visited many communities throughout my life and have observed those communities characteristics.

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do: Certified Public Accountant - I have assisted my construction and home builder clients in tax & financial matters and guiding their growth.

Do you have experience or training in public policy issues? I have no specific training, however, I've had an interest in such matters. I've had debates with friends & colleagues and discussions with elected representatives on various matters.

Describe examples of previous public service, including any committees in Leawood: Budget & Finance Committee - Leawood; Leawood Estate Homes Assn - Board of Directors; Boy Scout Troop 282 - Leawood United Methodist Church; Shawnee Mission East Fund of Arts - upcoming Treasurer; Leawood Rotary Club - Charter Member.

State your personal goal and purpose for wanting to serve on the plan commission: I want to be a part of the continued growth and development of the City of Leawood. I want Leawood to be a liveable city now and into the future. I believe the present approach to growth in Leawood is a very good model.

Describe your attitude toward development activity in Leawood. Please consider the following:

Residential Continued growth - high quality, very people oriented - sidewalks, parks, trees, etc (GREEN SPACE)

Commercial Quality offices and retail development is good; there need to blend into the residential character of Leawood as much as possible.

PLAN COMMISSION

Redevelopment This needs to be done when older properties are being maintained; the city needs to work with the owners as much as possible.

Services As needed for the citizens of Leawood; done with taste; adds to our tax base; sales tax dollars stay in Leawood

Character or ambiance need to keep up tree lined streets; parks - lots of green space; buffers of green

Mix of uses again a balanced approach makes the most sense; our citizens would like to live & work in the same community.

What should be Leawood's position in the community? Consider the following:

Type(s) of residential and business development

mid to upper level types of residences & business facilities

Transportation maintain city streets & highways as needed for a progressive community

Employment opportunities available for our young people (teens) and others

Community facilities (churches, schools, recreation, public, other) Our churches & schools are excellent. We need to keep adding parks & recreation areas.

What are the pressing issues for Leawood in terms of planning?

Continuing the growth in the city - high quality homes, close-in shopping and offices in a balanced, blended manner.

Do you have any other pertinent comments?

Janice M. Auvinen
12501 Sagamore Road
Leawood, Kansas 66209-1388

18 April 1996

Dear Marsha,

Enclosed is my response to the City of Leawood's Planning Commission Questionaire.

Leawood, as you are aware, is currently undergoing a stage of development which is both exciting and pivotal. My husband and I have lived in a number of cities around the nation. One which stands out in our minds for its extraordinary beauty and quaintness is the Philadelphia Main Line. Recognising that Kansas is comparatively new, I believe we have the opportunity to create a certain standard of beauty and charm here in Leawood.

It would be my pleasure to serve on your planning commission.

Janice Auvinen

RECEIVED
APR 19 1996
LEAWOOD/ADMIN

PLAN COMMISSION

Name Janice M. Auvinen

Address 12501 Sadamore Rd.. Leawood

Phone (home) 451.8968 (office) n/a

How long have you lived in Leawood? 6 years.

How long have you lived in Johnson County and/or the metro KC area? 6 years.

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues: see attached biographical sketch.

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do: While professionally employed, I conducted feasibility studies & provided ongoing management consulting for health care firms.

Do you have experience or training in public policy issues? Working with DHHS in health care related issues.

Describe examples of previous public service, including any committees in Leawood: Currently a member of the Stormwater Management Review Committee.

State your personal goal and purpose for wanting to serve on the plan commission: The City has developed a standard of excellence in the metropolitan area which I would like to see further refined & expanded upon in its continuing development.

Describe your attitude toward development activity in Leawood. Please consider the following:

Residential Future residential activity should be held, at a minimum, to the existing standard.

Commercial In terms of tax revenue & public convenience Leawood requires commercial development. However, commercial development should be compatible with & sensitive to community standards & expectations.

Redevelopment As redevelopment occurs, it should conform to existing standards for Leawood.

Services Current levels appear to be adequate, but one should approach this with an open mind.

Character or ambiance In the tradition of K.C., statuary, fountains etc.

Mix of uses If appropriately executed.

What should be Leawood's position in the community? Consider the following:

Type(s) of residential and business development Primarily residential, secondarily commercial

Transportation Appears to be little need at present and little anticipated.

Employment opportunities ~~Few required.~~ Leawood should not seek to become another Overland Pk.

Community facilities (churches, schools, recreation, public, other) Appears to be on target.

What are the pressing issues for Leawood in terms of planning?
Keep commercial development low-keyed. ie. Gas stations should be invisible.

Do you have any other pertinent comments?
Kansas City has a tradition rich in statuary, fountains, greenery. I would like to see the City of Leawood nourish and foster that tradition by example.

Janice M. Auvinen
12501 Sagamore Road
Leawood, Ks 66209

913-451-8968

Education:

Bachelor of Arts, St. Paul's College, University of Manitoba, 1968

Professional Experience:

Touche Ross & Company, Senior Manager, Actuarial & Benefit Consulting 1984-1987
Minneapolis, Mn.

Northwestern National Life Insurance Co., Manager, HMO Consulting 1977-1984
Minneapolis, Mn.

MedCenters Health Plan, Director, Marketing 1972-1979
Minneapolis, Mn.

Civic Activities

Chairman Royse Grounds Committee, 1993-1994

Board of Directors, Royse Subdivision, 1994-1996

City of Leawood, Stormwater Management Review Committee, 1995-present

basis for Plan Commissions denial has been resolved; he recommends adding two insertions to the resolution to read as follows:

WHEREAS, the Plan Commission recommends denial of the application *"because the applicant had not reached an agreement with the homeowners in the first phase of the Hallbrook Villas dealing with either the creation of a single homes association for both phases of the Hallbrook Villas or for a gate between the two phases,"* and
WHEREAS, *"the applicant has since reached a written agreement with the homeowners so that"* the Governing Body disagrees with the recommendation of the Plan Commission.

Rasmussen moved for approval with revisions. Bold asked about the stub street as far as ability of fire apparatus to get through. McKay and Florance gave their O.K. Wigner said these are a continuation of private street in Phase One, and it is a gated community. LaHue questioned why Rasmussen approves private streets now after voting negative last month on another application for private streets. Rasmussen said he does not favor private streets, but because Council has refused to remove private streets as a possibility, and because they had the design for the total area which included private streets, Council is in the situation of having to approve it. Clawson said she is adamantly against allowing more private streets; however, she also sees this as a continuation of something Council has already enabled. Dunn asked about homes associations. Wigner said the residents agreed on a gate rather than on one homes association over both phases.

Peppes sought McKay's comments about Plan Commission's concerns of compatibility of the new phase with existing development. McKay said staff does not share those concerns. Some residents had objected to exterior construction materials and cost differences; the second phase is less dense; these homes will be comparable and will cost the same or more than existing development. Bold asked about Fire Department and Police Department access through the gates. McKay said a Knox box will be required; Florance explained the Knox box and said Fire Department is comfortable with its access to the subdivision.
Motion by Rasmussen, second by Clawson. Rinehart said technically this would be an override which takes 2/3 vote, and the mayor can vote to bring it to 6 if necessary. The Council voted unanimously to approve with two changes; override of Plan Commission. The Mayor asked McKay to convey Council's reason for override.

#1292 **Resolution No. 1307, attached as part of the record, relating to revised preliminary site plan for John Hancock Building, 11301 Ash in Leawood Commons.**
Don Bozich, project architect, represented applicant; asking to construct building for insurance agency; parking for 72 vehicles; single story he explained facades, roof, gables, other features; it is identical to other buildings the Leawood Commons project and will reflect a Williamsburg Colonial appearance. Plan Commission had concerns about the ability of berming to screen headlights; they now have 3' high berm that will take care of that concern; applicant agrees with staff comments and agrees to abide by them.

LaHue sought clarification of Plan Commission's stipulation that all landscaping must be installed prior to certificate of occupancy. McKay said the approval sought is for preliminary site plan, and additional landscaping will be brought in at final approval. In response to a question by Clawson, McKay said landscaping will be consistent with what is further down to the south; the city's landscape architect is working with them to assure consistency and screening trees, not just landscape trees. Dunn asked about the soffitt sign not meeting Leawood's criteria. McKay said Plan Commission noted that deficiency for developer and applicant to correct prior to returning for final approval. On motion by Clawson, second by Rasmussen, Council voted unanimously to approve.

#1452 **Resolution No. 1308, attached as part of the record, relating to revised preliminary site plan for Dr. Swanson Building at 11413 Ash in Leawood Commons.**
McKay said this is a preliminary plan. Project architect is Peterson & Associates. On motion by LaHue, second by Peppes, Council voted unanimously to approve.

#1517 **MAYOR'S REPORT**

1. **United Community Services celebration.** The Mayor attended the UCS celebration at which David Adkins received the Distinguished Service Award. She called Cox's attention to UCS's intake and assessment center.

2. **Report about Arts Event.** At the Mayor's request, Clawson reported on the Leawood Arts Committee-sponsored tour of Nick Vedros' photography studio. Clawson spoke of the very nice turnout; people were stunned and thrilled to see his amazing photographs and studio in a converted fire station building, the fabulous view of the downtown skyline. Hereford House provided food for the reception. Next tour is of Jim Hamil's studio and space is limited; recommends early reservations.

3. **Curt Shavers.** The Mayor noted that former councilmember Curt Shavers died recently.

4. **Arbor Day.** Last week Arbor Day was celebrated. The Mayor and Parks Supervisor Mike Noll attended Brookwood School's observance; a Redbud tree was planted in the front yard by Parks employees, and Redbud saplings were distributed at the school. Whitaker gave a sapling to each councilmember. Clawson said the tree her daughter received as a second grader at Brookwood School is now 9' tall. Whitaker hopes this will be an ongoing celebration involving Arbor Day and the schools.

NEW BUSINESS

#1647 **Authorize interlocal agreement with KDOT to remove K-150 from state highway system.**
Motion by LaHue, second by Campbell. At Dunn's request, Brandt explained impact on the City. Approved unanimously by Council.

#1695 **Authorize modification to engineering contract with HNTB for K-150 landscaping, $9,900.00.**
On motion of LaHue and second by Peppes, Council authorized the contract. In favor - LaHue, Peppes, Bold, Campbell, Dunn; opposed - Rasmussen; Clawson abstained to avoid the appearance of a conflict of interest.

#1720 **Authorize contract with HNTB for engineering and inspection services for K-150 landscaping, $16,800.00.**
Rasmussen inquired about prairie band concept. Contract authorized on motion of Campbell, second by Dunn, by majority vote of Council. In favor: LaHue, Peppes, Bold, Campbell, Dunn; opposed - Rasmussen; Clawson abstained to avoid the appearance of a conflict of interest.

#1757 **Authorize modification to engineering contract with HNTB for Constitution Court (park access road) landscaping, $19,600.00.**
Rasmussen moved for approval; second by Dunn; Clawson again will abstain for the same reason. LaHue inquired whether the landscape plan has been modified to allow for construction of sidewalk on the south side. Brandt confirmed it has. The stakes on the north side of the road are for the irrigation line. The sidewalk will be eight feet wide. Approved by vote of LaHue, Peppes, Bold, Campbell, Dunn, Rasmussen in favor; Clawson abstained.

Authorize sidewalk along west side of Lee Boulevard from 105th Street to Constitution Court.
Clawson said she will again abstain from voting but would like to read homeowners' opinions into the record. She has received several phone calls from people expressing concern about the height of the barriers, and that has been addressed. She also has received calls from parents concerned about how children would get onto the walkway under the bridge. The following are the comments by residents.
Kenje Takada, 105th & Lee: not really in favor of sidewalk but not strongly opposed; would consider sidewalk if well done and street maintenance done at same time.
Kendall Whitley, 10504 Lee: in favor of sidewalk; their children are bide riders.
Leann Fitzgerald, 10512 Lee: home closest to bridge; property in front of her home is the ramp, retaining wall will be required; she doesn't have any problem with sidewalk high on the slope leading to bridge, but has real concerns about retaining wall across property and trying to maintain it.
Brian Ahern, 10508 Lee: has problem with sidewalk north of 105th because of trees, but none of the trees along this stretch are in right-of-way; he doesn't see how else children could safely be conveyed across bridge without sidewalk tied in.

Mayor said it was moved, seconded and carried at Council's November 20, 1995, meeting not to build the sidewalk at this time; she reviewed the discussion and concerns expressed at that meeting and asked Brandt why the issue has been brought back.. Brandt said he has received many phone calls, Public Works has reviewed it several times and

they feel simply putting the sidewalk over the bridge and then moving pedestrians and bike traffic back into the street adds another safety hazard; the only way to carry them along safely is to install a sidewalk to an intersection. Peppes asked about costs. Brandt said this contract is for design only; there will be additional costs for retaining wall construction, fencing and railing adjacent to the slope drop-off, a gate or entry to allow Parks to get in and maintain it.

Rasmussen asked was there a safety hazard with the old bridge and who entered into the contract with HNTB to design the bridge. Brandt said there were sidewalks on both sides, and the bridge elevation has increased; KDOT entered into that contract, not the City. Rasmussen asked to what extent KDOT takes responsibility for the situation they created, i.e. problem with slopes, grades, access to highway. Brandt said the fencing on the north and south sides are under construction at KDOT's cost and they will install the fence at the east barrier wall on the bridge - it is 3 feet high now and KDOT will improve it for safety. Rasmussen informed Council he is very upset with the engineering and KDOT; at the last legislative forum he told Vancrum, Langworthy and Adkins it was disgraceful on KDOT's part to contract with an engineering firm that essentially provided Leawood with a safety problem, and Leawood citizens should not have to pay for this gross mistake. He feels the City should ask KDOT what they will pay to remedy the situation before Council votes to spend taxpayer money to fix it. Brandt said he will convey this to KDOT. Rasmussen recommended this be sent back to Public Works Department to arrive at an agreement with KDOT on the part that goes to the south edge of the last residential lot on Lee Boulevard; that should be accommodated, even an adult would have trouble walking along that particular area.

LaHue said KDOT did spend $1 million installing sound barriers; he's not upset with KDOT, there has always been some degree of safety issue with the bridge and sending it back to KDOT could tie it up; his experience is that going back doesn't result in significant change on this sort of issue; Council has passed the swimming pool remodel which will bring more people into the park; the sidewalk is necessary. LaHue moved to approve engineering and direct Brandt to ask KDOT to consider funding participation in engineering and construction. Second by Campbell. Dunn confirmed Council is authorizing engineering only tonight; she asked about figures on construction. Brandt said they believe the trail will be $120,000, and this sidewalk won't be nearly that much.

The Mayor reminded Council of letter from Patterson requesting discussion of this at the next meeting. Dunn said one of Patterson's concerns was condemnation proceedings with the neighbors on Lee south of 105th Street; Clawson's comments indicate most of them will be in favor. Clawson agreed, if it's done properly, neighbors are agreeable; Mrs. Fitzgerald has a very steep bank and something must be done to mitigate the potential visual damage from her house. Brandt said the City has sufficient right-of-way, only temporary construction easements will be necessary. Rasmussen asked when Brandt would seek Council's authorization for construction expenditures, and should we use HNTB? Brandt answered 60 days; he feels HNTB is the best and most qualified firm to

engineer this project. Campbell requested the design be shown to homeowners for their comments. Brandt is committed to work closely with them.

Council voted in favor of the motion; Clawson abstained. LaHue asked Wetzler about Clawson's abstention relating to appearance of conflict. Wetzler said technically she could vote, but he feels Clawson is doing the right thing because Council has felt it is important to avoid even the appearance of a conflict. Clawson, for the record, stated her husband is director of the bridge department in HNTB's main office which designed the major bridges across the interstate. His office has no involvement at all on this project - they did not design the Lee Boulevard bridge; that was done in the Overland Park office.

#2647 **Award bid for 1996 Residential Street Improvement Program, $978,225.26 to Seal-O-Matic.** The Mayor said there have been questions about the subcontractors. Brandt agreed the sod sub used bad sod on 95th street, but Seal-O-Matic made good on it. Campbell questioned ending up with a $322,000 surplus based on the $1.3 million allotted for residential streets in 1996. Brandt explained that pavement replacement will not be the only expense in 1996; slurry seal, striping, and other components will make up the difference. LaHue suggested beginning the bidding process earlier in the year rather - bids were opened April 25. Brandt agreed, however delays were caused by waiting for additional soils testing results in north Leawood to determine some of the cracking; they don't intend to go to bid later in the season as it results in higher prices and possibly not finishing in the year.

Mayor asked about 89th Street , could resurfacing be delayed until 83rd Street has opened so there is a cross street open. Brandt said 89th Street is not a detour for 83rd Street. The Mayor said it would make people's lives easier if they could hold off just a little bit. Brandt said if it hadn't rained, 83rd Street paving would have started Thursday, but now it will be 2-3 weeks until it dries out. The City has insisted that once Seal-O-Matic moves in and starts 89th Street, they stay on it until completion. Motion by Rasmussen, second by Bold, approved unanimously.

#2843 **Ordinance No. 1578C relating to Alarm Appeals Committee.**
The Appeals Committee will now consist of 3 people instead of 5 and will no longer be called Property Maintenance Code Appeals Board. Motion by Rasmussen, second by Peppes, approved unanimously on roll call vote of Council.

#2860 **Approval of appropriation ordinance No. 782.**
Dunn questioned the following:
#44980 to Froelich, Leitner, Carlisle. Wetzler said Martin Leitner was retained to give expert testimony in recent litigation; he authored the special development district.
#45185 to Southwest Legal Foundation, police expense regarding promotion. Cox said it was for testing.

#45187 to SUN Publications. Malnicof said that is in payment of several advertisements all billed at the same time.
Motion by Peppes, second by Campbell, approved unanimously by Council.

OTHER BUSINESS

#2955 **Schedule executive session.** Motion by Campbell for executive session after other business, not to exceed 30 minutes, regarding 2 litigation items. Second by Rasmussen. Approved unanimously by Council

#2980 **Discussion of High Drive pedestrian walkway.** Rasmussen moved to refer the pedestrian walk way issue to the Public Works Committee for study; second by Peppes. LaHue asked if Wetzler would be available as it involves questions of liability. Phil Gibbs said these are the neighbors directly west of his office building and Mr. Healey has asked Gibbs to look at it; he will review it, not for fee; the engineering is probably simple, but the legal problem will be trickier because of the liability issue. Gibbs said they need some no fee legal help too. Council voted unanimously to refer it to Public Works Committee.

#3086 **Discussion of retaining wall at approximately 80th and Wenonga.** Dunn moved the item be referred to Public Works Committee, second by Peppes. LaHue said he looked at it; asked Blake who put in the wall. Blake said it was built in the 1950's by the developer. LaHue asked Brandt whether this section of creek has been submitted to SMAC. Brandt said it has, in the 83rd to Somerset portion, for 5 to 6 years or longer. LaHue asked whether it can be stabilized it to keep it from dropping into the creek and obstructing water flow. Brandt responded, commenting from the back of the chamber without mike - inaudible. LaHue told Mr. Blake Council likes to have approval of neighbors when they approve requests such as this. A neighbor said they agree it is a problem. Council voted unanimously to refer it to the Public Works Committee.

#3280 **Discussion of letter from Mr. Towner about pooling water on the street by 8108 Sagamore.** LaHue said apparently there is a violation of the fillet policy, a fillet appears to be obstructing water flow. Council directed staff to respond to residents and Council.

#3350 **Discussion of neon lighting at On the Border restaurant, Town Center Plaza.** Dunn has received several comments about the neon lights on a restaurant in Town Center Plaza; she asked about the City's restrictions on neon. McKay said they have to go through the plan approval process; if they feel certain neon signage makes the project better, they can approve it as part of the lighting plan and sign plan. At On the Border, the neon was a detail that showed up on the plan and was discussed at Plan Commission.

#3495 **Recessed.** At 9:17 p.m. Council recessed.

Executive session. At 9:22 p.m. Council convened in executive session with the same members present.

At 9:45 p.m. Council returned to regular session.

#3545 **Adjourned.** At 9:46 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk
crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

May 20, 1996

Minutes Summary

Audio Tape No. 357

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:38 p.m., Monday, May 20, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Peggy Dunn, Ron LaHue, *Doug Patterson, Gregory J. Peppes, Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; J. Stephen Cox, Police Chief; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources (and in absence of City Clerk); Robert McKay, Director of Planning & Development; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/ Special Projects Coordinator; Cynthia Pitts, Human Resources Specialist; and Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#92 The Agenda was approved unanimously on motion of Peppes, second by Clawson, after the addition of five items:

1. Discussion of property at 15015 Mission Road;
2. Discussion of Towner request and Public Works staff report re same;
3. Update on Leawood Meadows sidewalk request;
4. Update on the house being moved from High Drive to 95th Street;
5. Schedule executive session to discuss personnel matter.

*Councilmember Patterson arrived at 7:48 p.m.

RECOGNITION OF MARY TEXTOR

Parks & Recreation Advisory Board member Mary Textor was recognized for her 19 years of volunteer service to the City. Lenette Crawford, on behalf of the Advisory Board, presented Mary with a plaque and noted that Mary was the instigator of the City pool. Whitaker said Mary is staff's dream volunteer and they will miss her; he presented a certificate of appreciation from the City. Mary said her proudest moment was seeing the greenway trail come into being during her chairmanship of the recreation committee.

RECOGNITION OF NELSON AND PAM MANN

The Mayor presented a certificate of appreciation to Nelson and Pam Mann for their leadership and efforts as the Leawood Foundation's first chair couple. The Mayor thanked the Manns for getting the Foundation off to a great start; their contributions included formation of the board of directors, creation of by-laws, accomplishment of the trees and bricks projects. Dunn expressed her appreciation for their commitment and dedication. Garofano added the City is fortunate to have volunteers such as the Manns in this community. The Manns said it was collaborative effort between the public and private sectors and shows how we can work together to get something really good accomplished for the City.

CITIZEN COMMENTS

Diane Teal, 15015 Mission Road: Explained the unsightly condition of and changes to the drainage ditch on her property as a result of Mission Road widening. The houses to the north were not left with ditches; they were left with culverts that are covered over with grass; she has an open ditch with steep sides that will be difficult and dangerous to mow and into which motorists are tossing trash. Mrs. Teal requests a covered culvert ditch treatment similar to the properties north of her. Brandt said this is a funding problem, he does not have in his budget the $3- to 4,000 to enclose the ditch. Mrs. Teal passed out photographs of the properties in question and asked Council for the same fair and equitable treatment given her neighbors. Mayor Rinehart explained that Bold has asked to discuss this under "Other Business."

G. Gordon Thomas, 10516 Mohawk Lane: Thomas said a local newspaper reported last week that Clawson spoke with homeowners south of 105th Street regarding a sidewalk; he would like to know her purpose and whether she plans on speaking to homeowners on the east and west sides of Lee from 103rd to 105th Street. Clawson said she will respond to Mr. Thomas after the meeting.

PROCLAMATIONS

The Mayor proclaimed May 15, 1996, as Hereford House Day. Clawson, Dunn and Rinehart attended the ground breaking; Clawson said the Hereford House at Town Center Plaza will have a second floor dining room facility for private banquets.

CONSENT AGENDA

#623 After removal of one item for discussion, the following items were approved unanimously on motion of Dunn, second by Bold:

1. Minutes of the May 6, 1996, Council meeting;
2. Departmental reports (Fire, Planning & Development, Police);
3. Change Order No. 1; $6,985.00, Reno Construction for Town Center Drive construction;
4. Resolution No. 1309, attached as part of the record, relating to changes in tennis fees in 1996;

5. Authorize agreement for production of commemorative book sponsored by the Leawood Historic Commission to celebrate Leawood's 50th anniversary.

Item removed for further discussion:

#835 **Parks & Recreation Advisory Board minutes of May 14, 1996 re fitness center.**
Rasmussen objected to the fitness center based on earlier Council's decision not to have it to avoid competing with others in the community who run fitness centers; he and others felt it was not an appropriate use. He asked what is included in the plans for the lower level finish. Whitaker responded that no equipment is included in the proposal before Council; however, the plans include a room one of the uses for which could be a wellness area, not to compete with local businesses but to provide service on a smaller scale for the public. This might include youth dance classes, gymnastics, and could also put in wellness equipment in the future for the use of the public and others. Rasmussen said based on this he would not be able to vote on the whole amount requested for the lower level finish. Garofano clarified that this is a community center area and plans presented by the architects are preliminary; all rooms in the design are multi-purpose rooms; one concept presented is for a wellness area meaning that Council decides to equip it in the future for a wellness center, that is the space where the wellness equipment would go; it really should be designated as a multi-purpose center.

Patterson said he feared it would be a shower facility for employees. Garofano explained the showers would be a facility for aerobics classes, dance classes, and so forth. Clawson said she is in favor of some type of wellness program in City Hall because this type of programming would appeal to older kids, the ages that fall between the children and adult activities currently provided. On motion of Peppes and second by LaHue, the Parks & Recreation Advisory Board minutes were approved unanimously by Council.

PLAN COMMISSION

2116 **Resolution No. 1310, attached as part of the record, relating to revised preliminary site plan for Uptown Café, Lot 2, Town Center Plaza.**
Applicant represented by Brick Owens, Ocshner Hare & Hare; Richard Sailors representing owner Uptown Corporation; David Settle, architect with the Walker Group, St. Louis; Terry McEwen, Poag & McEwen development firm. Owens gave an overview of the concept for a family-oriented restaurant with home cooked food geared to the sophisticated customer and providing a one-hour quality family experience in an upscale setting. He showed the site plan and features including parking access, height of the site, orientation of building, nestling of restaurant into the ground, landscaping maximizing green setting, corner entry, green areas created for waiting. He detailed building features such as elevations, 4-sided structure with no back, waistband of ceramic tile all around, projections which create depth, marquee with overhang and clock tower, a.c. equipment surrounded by roof wall, exterior finishes. He explained the proposal for use of neon which is trendy and an important architectural detail; lavender and green neon will emphasize the architectural shape of the building; it will complement Town Center Plaza as a small diamond in front of the Town Center.

Mr. Settle said this project was conceived as a punctuation mark to the whole center; it has an appealing sense of joy and spontaneity; the rich, deep and beautiful color adds a level of interest; this approach, in which the total whole of it is more important than any one of the parts, constitutes the art of architecture; it will create memories; good business and good design together relate to something good for people.

Terry McEwen said he is part of the team that oversees the selection of stores and restaurants that come in to Town Center Plaza; much thought has gone into the selection in the attempt to provide a good mixture of uses that flow together and support each other. They have tried to have high quality architectural standards that add interest. This Uptown Café fits into both categories. The concept is a family diner, not a trendy diner, that serves family food, has a soda fountain, and serves breakfast, lunch and dinner. He visited the restaurant in Branson, sampled everything, had a great experience, and loved the concept. McEwen feels the Uptown Café will be a nice addition to everything else going on in Town Center Plaza.

LaHue asked about the hours of operation, and Sailors' answer was not picked up by a microphone. Clawson asked whether the hvac systems on the roof will be visible from the parking as the building is nestled down into the site. Peppes asked McEwen's view about the Uptown Café being akin to Planet Hollywood as something visitors to Kansas City will want to see. McEwen said it will be primarily a restaurant with the main emphasis on dining and not much emphasis on selling memorabilia. Rasmussen asked about the north side entrance for pick-up orders; it seems like a drive-through to him. Owens said there will be a market for carry-out due to the quality of the food; this is not 50's style diner food; rather it is a neo-classic café. Rasmussen asked about the neon bands and the sign face material. Settle said the horizontal band around the top is edged in lavender neon, and the vertical features by the entry are accented by vertical green neon bands; the dryvit material of the sign is a stucco system, a textured stucco panel.

Patterson questioned how the building can have four fronts. Owens explained they have skewed the building on the site which leaves no obvious perceived back side; the materials - tile, stucco - and service go around the entire building. Dunn asked to see where, exactly, the neon will be. Owens traced the neon on the rendering pointing out the lavender neon on the roof line and the green on the marquee. Rasmussen said this is an interesting concept but experience elsewhere in the country proves that neon requires a great deal of maintenance, and unless properly maintained it is detrimental to the entire area; he asked McEwen what agreement he has with the architect and/or owner to maintain the neon features they are using to sell the project. McEwen agreed and said maintenance is the obligation of the restaurant owner, not the developer. McKay said it is the City's responsibility to ensure maintenance of the property, including structure and lighting, under Leawood's property maintenance code. Bold inquired about the retaining wall as a potential problem for children falling 15 feet. Owens said they propose an evergreen hedge at the top of the wall to screen the fronts of cars, and the developer is

proposing a wrought iron rim across the top; also, the 15-foot drop is terraced, into 5-foot sections; thus it is not actually a 15-foot wall or drop.

Patterson said his family saw the restaurant in Branson and its appearance compelled them to go in; it was a neat place to eat with affordable food, beautiful, substantial, with quality construction; you could tell the owner was proud of it; a place for breakfast will be a great addition in Leawood. LaHue said he is excited that Sailors, the owner, is a longtime Leawood resident and with this investment he probably will keep the lights working. LaHue moved for approval, second by Bold. The motion was passed on a 7 to 1 vote of Council. In favor: Bold, Campbell, Clawson, LaHue, Patterson, Peppes, Rasmussen. Opposed: Dunn. She said it's a wonderful addition and great design, but she voted nay due to the extensive use of neon.

2801 **Request for authorization of land use study and Ordinance No. 1579 deferring development applications for 135th Street corridor.**

Plan Commission and planning staff request the Governing Body to authorize a land use study for the K-150 (135th Street) corridor, during which study development applications will be deferred. LaHue does not want undue delay for fear developers will go elsewhere; he feels six months is stretching it, and historically delays get extended. McKay feels it will take six months, or before the end of the year; he agrees that is a long time but 135th Street is an important corridor and Plan Commission feels this is the time to get through the process and involve the objectors in arriving at a plan that reflects what everyone has agreed on, that will meet the City's intentions; such a land use study and resulting document will also be good for the development community. Campbell spoke in favor of the idea and does not feel it will significantly delay development along 135th Street. Dunn said it is a wonderful idea and she approves of including residents from the homes associations in the process; she wondered whether the Jamison tract will be included in the study. McKay said Jamison is part of it. Peppes asked for a ballpark idea of costs for land planning. McKay estimated $30-50,000; he hopes the "review crew" will develop a request for proposals. In response to the Mayor's question, McKay said he does not have those funds within his budget, it would have to come from contingency fund. Rasmussen asked why McKay does not feel this study and plan can be handled by Plan Commission. McKay believes this has gone beyond Plan Commission; this project would monopolize Plan Commission's time, it isn't a once-a-month meeting, rather he sees a 9-member committee working 3 nights in a row on it and feels this would be a better way to attack it.

Regarding appointments to the "review crew," Bold suggested including a representative from the commercial real estate development community to get input and ideas from that sector. He thinks the study is a fantastic idea and will enhance the City's ability to develop the 135th Street corridor. Patterson agreed with Bold. LaHue likened this study group to the old Budget & Finance Committee meetings: 2 Council members sat on the committee, they received input from everywhere, considered it all and agreed on it; then when they took it to Council, nobody would approve it. Thus, LaHue feels it would be

beneficial to include one Council member from each ward on the review crew, to get a consensus to take to Council. Although he sees it as a legitimate way to try to solve the land use problems, LaHue feels it is not going to stop the problems; it will just delay them; even if a few people from Waterford, for example, are on the review crew and agree, it won't avoid hassles such as Price Chopper, because another 150 people from Waterford may disagree, and without several Council members having reached consensus with the review crew, the Council will not support the resulting plan. Mayor Rinehart said the role of the 2 Council/crew members might be to poll their colleagues and keep them informed; the reality is it still would have to go through Plan Commission and Council for approval. Patterson said he is going to attend review crew's meetings and make recommendations whether or not he is appointed as a member

Campbell moved the review crew be formed as proposed with 2 Councilmembers, 2 Plan Commissioners, and one member each from the Waterford, Wilshire, Greenbrier, Leawood Meadows, and Leawood Falls subdivisions; second by Clawson. Campbell said it will be important that the 2 Councilmembers reflect Council's thinking at the meetings. The Mayor said the 2 Councilmembers will be responsible for communicating with Council, keeping them informed; she suggests they solicit the input of their colleagues; she asked for their input as to who they want to represent them on the review crew.

#2881 Bold made the following amendment to the motion: to add to the review crew a commercial real estate member who is also a Leawood resident. Second by Campbell. The amendment passed on a 5 to 3 vote of Council. Aye - Bold, Campbell, Clawson, LaHue, Peppes. Nay - Dunn, Patterson, Rasmussen. The Mayor said she agrees with those who voted nay.

Campbell proposed that the affected subdivisions be responsible for selecting and submitting someone for appointment to the review crew. The Mayor also prefers this method so that the subdivisions will feel they are properly represented; she said if the motion is approved McKay should send a letter to the subdivisions seeking their selection. LaHue again stated his opinion that having just 2 members of Council on another committee will not give sufficient weight to the final proposals the review crew brings to Council; he has never before received 135 letters on a single issue, as he did about Price Chopper, and an issue this controversial requires some degree of unity at the Council level.

LaHue made the following amendment to the motion: to add 2 more Councilmembers to the review crew so there is one from each ward for a total of 12 members of committee. Second by Patterson. The amendment failed. Aye - Bold, Clawson, LaHue, Patterson. Nay - Campbell, Dunn, Peppes, Rasmussen, Rinehart.

The Council voted unanimously to approve formation of review crew committee with 2 Councilmembers.

#3304 Motion by Campbell to approve the ordinance deferring consideration of development applications; second by Dunn. Peppes asked what, if anything, is in process and would be affected by this action. McKay said the only thing in process is the law suit re Price Chopper proposal at 135th & Mission. He said the K-150 (135th Street) Corridor includes all that was in the master plan and adjacent areas which would be buffers. Rasmussen asked whether this study will review the alignment of 137th Street, both sides of the access roads and the location of the access roads. McKay said yes. Council voted unanimously to approve the ordinance.

MAYOR'S REPORT

1. **DARE Culminations.** DARE culminations will be held at Brookwood, Cure of Ars, and Nativity Schools this week and next.

2. **Music on the Courtyard.** The first 1996 concert on the courtyard last night brought nearly 300 people. It was a lot of fun with children playing, people having picnics, and good music. The support of Commerce Bank is appreciated.

3. **KCADC report by Clawson.** Clawson noted recent articles in Fortune and other business magazines about the favorable business climate in Kansas City area. KCADC will celebrate the Harley Davidson factory in the area soon.

OLD BUSINESS

#4041 **Golf Course Committee request for $35,000.**
Whitaker said Golf Committee Chair Dick Fuller and member Mike O'Connell are in the audience for questions. The request is based on $30,000 for electrical installations for fans to keep the greens cool, $3,000 for temporary solution to provide access at the 18th tee, and $2,000 for bank stabilization near #17. Dunn said $30,000 to keep the grass alive on 2 greens seems expensive; she asked why not just re-sod these two greens annually. Whitaker responded that bent grass is difficult to get in sod, and even a re-sodded green will not necessarily last all summer; re-sodding won't work well because in this severe climate and without air motion greens can be lost literally overnight. The problem is circulation and the Golf Course Committee's recommendation is for the fans; the many trees, while achieving aesthetics, do prevent air circulation and fans are needed; they have them at Deer Creek, Loch Lloyd, and Hallbrook courses. The majority of the cost is for running an underground line about 200 feet. Dunn asked what revenue is estimated for 1996. Whitaker noted Malnicof is not present but Whitaker expects $200,000, weather permitting.

LaHue said this reminds him of his father's words: "Do you think I'm made of money?" He heard the lady and gentlemen needing work on their frontage on Mission Road being told the City does not have the money, yet Golf is asking for the money like it's a done deal and he's not sure he wants to approve money for the jewel in these circumstances. He asked Whitaker if this is a loan. Whitaker said yes, and Malnicof is keeping track of it. Fuller said possibly it would be repaid this year. Fuller said the committee had never

come before the Council for money without intending to repay it; they don't like to come before Council asking for money, but they had lots of problems last year with weather.

Campbell emphasized that the funds requested are the bare minimum needed and there are many other things at the course they could spend money on; they are simply trying to preserve a $6 million investment. He made the analogy that we want to complete the courtyard in front of City Hall but don't have the money; however, if the roof sprung a leak, we would have the money to get it repaired. Bold said maybe there should be a special fact-finding mission of Councilmembers to find out whether this is or is not a problem. Although the $3,000 and $2,000 projects have to be done right away, he agrees with LaHue about the expense. He said at Deer Creek they use very long extension cords running out to the greens for fans. Fuller replied that they used fans and power generators last summer, and in two weeks the greens were dead; the temporary fans don't work correctly; the risk is of losing the greens overnight, then they are gone for the summer and there will not be any play. Bold said the juice from an extension cord is the same as that which would come from underground wiring. Whitaker said this becomes a liability issue. Motion by Rasmussen for approval; second by Campbell. LaHue reiterated to Whitaker that this is a loan; he said the roof leaking analogy does not apply because the golf course is set up to generate income and pay for itself; this money being advanced is coming out of citizens' pockets and could be used for something else. O'Connell said this is going to be a permanent problem, so an extension cord probably wouldn't work. The Council unanimously approved the $35,000 loan.

NEW BUSINESS

#4129 **Authorize exclusion/annexation agreement with Overland Park.**
Motion by LaHue, second by Dunn. Approved unanimously by Council. Wetzler said this authorizes the agreement, and there will be an ordinance eventually.

#5089 **Ordinance No. 1580 authorizing improvements to Leawood City Hall.**
Garofano said in the CIP, this project calls for completion of City Hall and includes lower level finish, 4th quadrant finish, expanding the parking lot, and court parking. During the design process for those elements, a landscape architect was retained and an ad hoc committee formed to work with the landscape architect in rethinking the courtyard concept and design. The committee included representatives of Council and of the Foundation, Arts Committee, Parks & Recreation Advisory Board, and staff. Those groups want to see the courtyard finished as soon as possible, because it will be difficult to stage the events envisioned for that space if it is continually under construction or delay. The ad hoc committee recommends completion of the courtyard at an estimated cost of $225,000. $1,429,300 is the amount to be bonded for the entire project (parking lot, quadrant, lower level, and courtyard).

Clawson elaborated on the plans, pointing out the center green mound with water feature and electricity and landscaped with shade trees; the bricks will be laid down in three rows around the center circular steps, and more engraved bricks can be added later. The stage

(front doors of City Hall area) will be visible from the flag pole area with view unimpeded by green mound or trees; portable lighting would need to be brought in for a theatrical production. Dunn said she wished the entire Council could have seen the variety of plans the architect submitted; the committee did all agree on this plan; it's nice the entire courtyard will not be brick because of heat; that problem was eliminated the result will be at half the price to construct the original design. Garofano said the irrigation will be extended.

Clawson said they would like the Sister City wood display to be outdoors and asked about its finish. Garofano said it is red cypress wood, and a wood expert has advised it will dry out from the center out, regardless of location. Although it will require occasionally refinishing, the wood expert said it would be better outside as the elements would help preserve it from drying out. $25,000 is estimated for a Plexiglas cover; Council is not asked to approve $25,000 at this time. Rasmussen asked about court needs and prosecuting attorney space in the expenditure. Garofano explained all the court-related facilities and space for the prosecutor and staff; he said this completes all the interior space in the building. In response to questions by LaHue and Peppes, Garofano said that this will bring the total investment in City Hall to $6.5 million which includes site preparation, parking lots, everything but furnishings. This work is expected to be completed by the end of 1996.

On motion of Patterson and second by Clawson, Council approved the ordinance authorizing $2,039,300 for the finish of City Hall. Aye - LaHue, Peppes, Clawson, Patterson, Campbell, Dunn, Rasmussen; Bold abstained as there is the possibility his firm will bid for the bonds. The Mayor asked Wetzler whether Bold must abstain any time he thinks his firm might bid on bonds. Wetzler replied that he should if there would be the appearance of conflict of interest. Bold said his firm did buy the last bond issue.

#5575 **Authorize supplemental agreement for construction inspection services for 83rd Street construction project.** Mayor Rinehart said she would have to abstain if she had to vote, as her husband is employed by Black & Veatch, although not in that department. LaHue asked whether Black & Veatch has been responsible for the delay. Brandt said he cannot attribute it to Black & Veatch; they held meetings and the utilities would not attend; all cities are experiencing this problem with utility companies. Dunn and Rasmussen both asked what Black & Veatch personnel were supervising during the construction delay. Brandt said they were coordinating with the utility companies about where to put the utilities, where to move them, supervising the moving of box culverts and other little projects, and whatever they could do to keep the project moving; there was work in progress nearly continuously. Brandt confirmed it is Black & Veatch, not the contractor, asking for the additional fee. Campbell asked about the contract, whether the City contracted to pay them an additional fee; if not required by the contract, he doesn't want to pay it; if it is a "not-to-exceed" contract, Black & Veatch assumed the element of risk when they bid on the project.

Campbell moved to defer action on this request until Wetzler has reviewed the contract; second by Peppes. Vote was unanimous.

#5600 **Ordinance No. 1581 accepting deeds of dedication for public right-of-way; improvement of Mission Road from approximately 146th to 148th Street.**
No discussion. On motion of Dunn and second by Clawson, approved unanimously by Council.

#5619 **Approval of appropriation ordinance No. 783.**
No discussion. On motion of Rasmussen and second by Dunn, approved unanimously by Council.

OTHER BUSINESS

#5646 **Schedule executive session.** Motion by Clawson to hold executive session after other business, not to exceed 30 minutes, regarding a personnel matter. Second by Peppes. Approved unanimously by Council.

Update by Public Works staff about Towner request. Relative to the pooling of water on the street by 8108 Sagamore, Brandt advised Council that Mr. Towner has constructed an asphalt wedge between the curb and gutter and his driveway; the combination of the fillet and slurry seal are preventing water from draining away in the gutter.

#5746 **Discussion of Teal property at 15015 Mission Road.** Bold moved to refer this to the Public Works Committee; second by Dunn. Brandt estimates the cost to put the drainage ditch underground will be $4,000; he feels the work is not necessary and said the bottom of the ditch has actually been raised one foot. Bold rescinded his motion. LaHue moved to approve the $4,000 to put the drainage underground similar to the two properties to the north of Teal's; second by Dunn Brandt asked Council if he has the same authority to continue the covered ditch when the property owners to the south of Teal request the same for their property. Dunn recommended that Council wait until there is a request and consider future requests on a case-by-case basis. The Council voted 6-2 to approve $4,000 for improving the ditch. Aye - Bold, Campbell, Clawson, Dunn, LaHue, Patterson; nay - Peppes and Rasmussen.

Update on Leawood Meadows sidewalk request. Brandt received a letter from Leawood Meadows Homes Association seeking Brandt's recommendation and requesting sidewalks. He expects to make a proposal in the 1997 budget.

Update on house being moved from High Drive to 95th Street. Regarding the letter from Mr. Alburty, McKay advised that his staff is in the process of starting property maintenance enforcement activities.

#6403 **Extend meeting.** Prior to recessing for executive session, Dunn moved to extend the meeting until 11:30 p.m.; second by LaHue. Unanimous.

Recessed. Council recessed for two minutes to clear the Council Chamber in preparation for an executive session.

#6430 **Executive session.** Council convened in executive session with the same members present.

At 11:03 p.m. Council returned to regular session with the same members present.

#3545 **Adjourned.** At 11:05 p.m., there being no further business before the Council, the meeting was adjourned.

Fran Kessler

Fran Kessler, Acting City Clerk

/crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

June 3, 1996

Minutes Summary

Audio Tape No. 358

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, June 3, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, Jr., Marnie S. Clawson, Peggy Dunn, Ron LaHue, Doug Patterson, Gregory J. Peppes, Louis Rasmussen. John R. Campbell, Jr. was absent. mk

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Ronald Brandt, Director of Public Works; Sid Mitchell, Police Captain; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Robert McKay, Director of Planning & Development; Scott Whitaker, Director of Parks and Recreation; Cynthia Pitts, Human Resources Specialist; Fran Kessler, Acting City Clerk; and Richard S. Wetzler, City Attorney.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

#86 The Agenda was approved unanimously on motion of Peppes, second by Clawson.

#94 TRIAD PRESENTATION

The TRIAD Cooperative Agreement of Leawood, Kansas, was represented by Cecilia M. Thompson, Chair of Crime Prevention Council, Police Captain Sid Mitchell, Community Policing Officer Tony Woollen, and Jennie Bennett of the Police-Community Partnership of Leawood. Mrs. Thompson said TRIAD spoke of the importance to her and other senior citizens in reducing criminal victimization of senior citizens. Captain Mitchell noted the obvious commitment by many people and organizations in formation of TRIAD; he feels it is extremely important and will give good support and programming for senior citizens in the future. Officer Woollen presented the agreement by a partnership of Johnson County's community services (AARP, Elder Rights Coalition, Human Services & Aging, Kansas Legal Services, Kansas Security Commissioner's Office, Johnson County District Attorney's Office, Social & Rehabilitation Services), Police-Community Partnership of Leawood, and Leawood Police Department.

#215 RECOGNITION OF FORMER PLAN COMMISSION MEMBERS

The Mayor expressed Council's appreciation and thanks to Jeannine Fox and Curry Miles. Fox served as a Plan Commissioner from 1991-1996; Miles served from 1990-

1996; Rinehart mentioned his expertise as an architect and devotion to the Plan Commission and said the City was very fortunate to have him as the representative from outside the City.

#301 **CITIZEN COMMENTS**
G. Gordon Thomas, 10516 Mohawk Lane, spoke about propriety in public office.

#487 **PROCLAMATIONS**
The Mayor proclaimed June 14, 1996, as **Pause for Pledge of Allegiance** Day. The meeting opened with the Pledge of Allegiance.

June 4, 1996, was declared **Way to Go '96 Day.** MARC sponsors this event to inform and promote realistic transportation options for KC Metro area citizens and for our environment. June 4th, 11 a.m. to 2 p.m., at 12th and Main, KC,MO.

CONSENT AGENDA
#540 After removal of one item for discussion, the following items were approved unanimously on motion of Dunn, second by Bold:
1. Minutes of the May 20, 1996, Council meeting;
2. Change Order No. 1; $6,640.00; mowing contract with Greenbriar Lawn.
3. Appeal of alarm assessment;
4. Accept grant for $115,000 ($81,765 Federal and $33,235 local matching funds); COPS MORE program;
5. Authorize Police Department purchase of hardware for computer-aided dispatching; $12,529.64;
6. Appoint 135th Street (K-150) Corridor Review Committee. Attached as part of the record. mk

Item removed for further discussion:
Payment for Lions park shelter; $22,178.70, first payment. to KLC, Inc. mk Rasmussen inquired about the payment. Whitaker said the Lions Club previously contributed an amount which purchased the materials for the structure; the Council has authorized a contract for a company to build the shelter; this represents the first payment for construction and is within the cap. Approved unanimously by Council on motion of Clawson, second by Bold.

PLAN COMMISSION
616 **Resolution No. 1311, attached as part of the record, approving preliminary site plan, with Plan Commission's stipulations, for Leawood Dialysis Center, Leawood Commons, Lot 10.** No discussion. Approved unanimously by Council on motion of Rasmussen, second by Clawson

FROM THE OFFICE OF THE MAYOR **CITY OF LEAWOOD, KANSAS**

TO: LEAWOOD CITY COUNCIL

FROM: MAYOR MARCIA RINEHART

SUBJECT: K-150 CORRIDOR AD-HOC REVIEW COMMITTEE

DATE: MAY 31, 1996

I appoint and hereby submit for Council approval the following list of people to serve on the K-150 Corridor Review Committee. It is expected that the committee will study relevant issues and report its findings to the Council before the end of 1996.

COUNCIL REPRESENTATIVES

John R. Campbell, Jr., Ward 3
Doug Patterson, Ward 4

PLAN COMMISSION REPRESENTATIVES

Lucy Daniels
Melvin Henderson

DEVELOPMENT COMMUNITY REPRESENTATIVE

TBA

HOMES ASSOCIATION REPRESENTATIVES

Gary Bussing, Greenbriar
Mark Pilcher, Leawood Falls
Jim McNair, Leawood Meadows
TBA, Waterford
TBA, Wilshire

STAFF

Dick Garofano, City Administrator
Bob McKay, Director of Planning and Development
Diane Brooks, Planner
Deidre Rae Markley, Economic Development Coordinator

Melvin Henderson will serve as the committee's chairperson.

As soon as the TBA participants are determined, an additional page for the City Directory, listing contact information for the committee members, will be distributed.

620 **Resolution No. 1312, attached as part of the record, approving final plat of Hallbrook Villas, 3rd Plat, at approximately 115th and Brookwood.**
Rasmussen asked about the zoning. McKay said it is all RP-4 except the Stultz and Davis properties which are zoned AG. Motion by Clawson, second by LaHue; approved unanimously by Council.

MAYOR'S REPORT

1. **DARE Culmination.** Dunn reported she attended the Cure of Ars DARE culmination in the Mayor's absence, along with DARE Officers Pelger and Woollen.

2. **Tour of Jim Hamil's studio.** Clawson announced the tour on June 6, 1996, sponsored by the Leawood Arts Committee and with refreshments donated by La Dolce Vita.

3. **Special Drug & Alcohol funds.** The Mayor said she has received letters of thanks for the City's contributions of drug and alcohol funds to the post-prom and post-graduation parties.

OLD BUSINESS

#751 **Mission Road Project, 103rd to I-435, Supplemental Agreement No. 2; $53,410.**
Rinehart said the contract is with the Bucher Willis & Ratliff firm; Overland Park pays 49% and Leawood 51%. She asked what the additional amount buys. Brandt said it includes additional survey work, geotechnical investigations, landscaping design, retaining wall design, utility coordination, and final plans, specs and estimate. Brandt explained the need for additional engineering. In response to Dunn's questions, Brandt said it includes Dorset Manor landscaping and irrigation in the right-of-way; the retaining wall is on the Overland Park side and is not in this contract. He explained why the original vertical alignment would need to be changed, depending on the surface selected. Brandt responded to a question from Rasmussen about the plantings or wall for Dorset Manor; the Public Works Committee will meet with Dorset Manor to come to an agreement about the screening. Brandt said Dorset Manor will be responsible for the design and plans for the plantings. Approved unanimously by Council on motion of LaHue and second by Bold.

#1190 **Addendum to interlocal agreement** with Overland Park mk **Mission Road, 385 feet south of 103rd to I-435.**
No discussion. On motion of Clawson and second by LaHue, Council approved the agreement unanimously.

#1200 **Ordinance No. 1582 accepting Kansas Special Warranty Deed.** for golf course land, approx. 151st & Mission mk
Motion by Dunn, second by Patterson. Rasmussen asked about the original survey. Brandt said it was by Green Engineering of Olathe. Rasmussen recalls there was extensive land swapping in that whole area and asked what assurance the City Council has that the rest of the land was surveyed accurately. Phil Gibbs said he thinks all other

tracts have been looked at. On roll call vote, Council approved the ordinance unanimously.

NEW BUSINESS

#1350 **Authorize 1996 curb rehabilitation project; $62,716.90, K & K Concrete.** Brandt said the City has not used K&K Concrete often but have been pleased; they have completed work in a timely manner. Rasmussen said residents frequently are displeased with repairs of 10-foot sections leaving the rest of the street as is. He asked Brandt how he justifies re-curbing the whole street. Brandt said it is warranted as over 60% of the curb is breaking up. Motion by LaHue, second by Peppes. Approved unanimously by Council.

#1388 **Amendment to Ordinance No. 1428C re traffic regulations.** Ordinance No. 1583C mh
Motion by LaHue, second by Dunn. Mayor asked that everyone understand this prohibits use of skateboards and similar devices on City Hall and Pioneer Branch Library premises. Patterson asked if it could be allowed on Sundays. Garofano said the last time the problem arose was on a Sunday as they were preparing for a Music on the Courtyard concert; they don't just use the parking lot, they also use steps, planters. Clawson asked Captain Mitchell what the Police do with the kids when they stop them roller blading in the streets. Mitchell said they are working with signing and enforcing the regulations at Town Center Plaza; they are afraid someone will get hurt. Officer Woollen has worked with the kids and talked with them about it; he said most of the time when a youngster is asked to leave the premises and take the skateboard home, that's the end of it for that day; in one instance when the kids wouldn't leave, the skateboards were confiscated and parents had to go to the Police Department and have a discussion about it. Dunn said since they won't be roller blading on Tomahawk Creek Parkway, she assumes they will be on the trail; she is an avid user of the trail and has observed many near accidents; she asked what the Police Department can do. Mitchell said they plan to have a greater presence of Police on the trail. Approved unanimously by Council.

#1550 **Approval of appropriation ordinance No. 784.** Motion by Rasmussen, second by Dunn. On a roll call vote, Council unanimously approved the ordinance.

Adjourned. At 8:25 p.m., there being no further business before the Council, the meeting was adjourned.

Fran Kessler

Fran Kessler, Acting City Clerk

crp

LEAWOOD CITY COUNCIL

Minutes Summary June 17, 1996

Audio Tape No. 359

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, June 17, 1996. Mayor Marcia Rinehart presided.

Council members present: Adam Bold, Marnie S. Clawson, Ron LaHue, Gregory Peppes, Peggy Dunn, and Louis Rasmussen. *Councilmen John Campbell and Doug Patterson entered at 7:39 p.m.

Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Ronald Brandt, Director of Public Works; Ben C. Florance, Fire Chief; Stephen Cox, Chief of Police; Harry Malnicof, Finance Director; Robert McKay, Director of Planning & Development; Mark Andrasik, Director of Information Services; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk, Deidre Markley, Economic Development/Special Projects Coordinator; Fran Kessler, Finance; and Richard S. Wetzler, City Attorney.

61 **APPROVAL OF AGENDA**

Items to be discussed separately, under Consent Agenda or Other Business:

Rasmussen added house on 95th between State Line and Lee Blvd. to the agenda. Also condition of property adjacent to Brittany Court (the Spears property at approximately 113th and El Monte).

Peppes added property across street from Amoco gas station at approximately State Line and 85th Street.

Garofano added ordinance to annex land around Reserve at Ironhorse, approximately 151st and Mission Road.

Motion by Peppes to approve agenda as amended. Second by Clawson. Unanimous.

*Councilmen Campbell and Patterson entered at 7:39 p.m.

130 **CITIZEN COMMENTS**

Gordon Thomas, 10516 Mohawk Lane, wanted to clarify and add to his statements at last council meeting regarding fitness to serve in public office.

361 **CONSENT AGENDA**

Mayor stated that minutes of June 3rd need small correction - page 3, paragraph 6, change word "ordinance" to "agreement".

Peppes asked to pull Public Works items, Pay Request No. 3 (final) in the amount of $10,196.30 from Vision Construction Company for 1995 Curb Rehab Project, Pay Request No. 3 (final) in the amount of $8,195.98 from Capital Electric Construction Company for Bell Drive Street Lighting Contract, and Pay Request No. 2 (final) in the amount of $8,716.10 from Capital Electric Construction Company for Mission Road Street Lighting Contract south of 151st Street, for discussion.

Motion by Dunn to approve the following with exception of items pulled by Peppes:

*Council Minutes of June 3, 1996
*Departmental Reports
*Alarm Appeals Committee Report (minutes) of June 12, 1996 mtg.
*Acceptance of $200.00 donation to Historic Commission from the Shawnee Mission Belles for restoration of Oxford School building.
*Change Order No. 4; $5,010.00; Leavenworth Excavating Company; Mission Road Improvements, 143rd Street to 151st Street.
*Change Order No. 2; $15,450.00; Reno Construction Company; K-150 Improvements
*Assignment to Public Works Committee-To review Leawood Meadows Homes Association request for curbs, gutters and sidewalk, east side of Roe Avenue, north of 143rd Street
*K-150 Review Committee Membership Revisions-Replacement of Ruth Withey with Jeff Akerly, Wilshire Homes Association; replacement of Lucy Daniels with Plan Commissioner Don Brain..

Second by Bold. Unanimous

Peppes asked Brandt about making final payments before contractors' performance evaluations are done.

Dunn thinks should wait two weeks.

Mayor asked what evaluation report was for. Is there connection between evaluation and payment.

Wetzler replied that contractor must go through evaluation process but final payment is not conditioned upon evaluation. Final payment should not be made before project is completed under terms of the contract. If certification that project is complete has been made, then payment should be made within the specified time frame (30 days).

Brandt stated that June 21st is the payment deadline.

Motion by Peppes to approve 3 payments. Second by Patterson. Unanimous.

604 **PLAN COMMISSION**

Resolution No. 1313, attached as part of the record, approving rezoning from AG to RP-1, Preliminary Site and Preliminary Plat, Reserve at Ironhorse.

Motion by Rasmussen to approve request for rezoning from AG to RP-1, preliminary site plan, and preliminary plat at southeast corner of 151st and Mission Road. Second by Patterson. Unanimous.

617 **Ordinance No. 1584 rezoning from AG to RP-1, Reserve at Ironhorse, 151st & Mission Road.**

Motion by Clawson to approve ordinance rezoning property (Reserve at Ironhorse) from AG to RP-1. Second by Campbell. City clerk called roll. Unanimous.

642 **MAYOR'S REPORT**

Clawson reported on tour of Jim Hamil's art studio.

Mayor reminded everyone that video tapes of K-150 symposium are available.

Budget meetings begin next week, June 24th, 5:30 p.m. until 10 p.m.

OLD BUSINESS

None

NEW BUSINESS:

818 A. **Authorize agreement between Leawood and KDOT for Mission Road, 103rd Street to I-435 south right of way.**

Motion by LaHue to approve. Second by Clawson.

Dunn asked Brandt about city's total share of cost. Asked if that will be shared by Overland Park.

Brandt replied in affirmative; Leawood pays 51%, Overland Park pays 49%.

Rasmussen asked original estimated cost of project.

Brandt stated that cost was originally $1.8 million. Stated that cap ($1.4 million) was imposed by MARC in 1990.

Rasmussen asked if MARC had ever changed its cap. Rasmussen reminded council that KDOT postponed this project in 1994. State is now saying we are going to hold to $1.4 million cap. Council had asked staff to go back to KDOT and asked if they would reconsider cap because of the delay. Feels Leawood residents should not have to make up difference of costs caused by delay. Assuming inflation at 3 1/2 %, it cost city $300,000 to accommodate contractors.

Patterson asked if city could request a raise in the cap.

Brandt replied he did not think that was practical.

Peppes asked if city could ask KDOT to find some help for this.

Rasmussen asked if city had not agreed to delay this project, would city have gotten any money.

Brandt replied that city would have received $1.4 million.

Dunn suggested Brandt go to KDOT and ask for some help.

Motion passed, with Rasmussen voting against approval.

1142 B. **Resolution No. 1314, attached as part of the record, relating to federal aid on highway construction for Mission Road, 103rd Street to I-435 south right of way**

Motion by LaHue to approve. Second by Dunn. Approved unanimously.

1152 C. **Authorize contract for site preparation for Oxford School relocation - Larkin Associates, in amount of $19,000**

Mayor stated that project cost will be wrapped into project of K-150.

Brandt stated that correct amount is $19,000.00, not $17,700.00..

Bold asked exactly what city is paying for.

Brandt stated that Oxford School has been declared an historical landmark at K-150 and Mission Road. Want to save school. Condition of building is deteriorating. Going to move it to safe site (Sharp property at 131st and Mission Road) and historical society is negotiating a 5 year lease to locate school on certain spot. School is being donated by Jameson trust. Need land survey for portion of property where school will be located. Lease will be presented to city council once survey is done. School will be placed on foundation so it will not deteriorate further. Sewer, water, electricity, gas will have to be provided. Need assessment of building to see how it can be used.

Bold concerned that city is spending an awful lot of money for a 5 year lease. If moving building, why not move it to park site.

Mayor said that had been considered.

Dunn stated that city is grateful to Sharps for allowing this to be placed on property and allowing it to be accessible to school children, etc.

LaHue agreed with Bold. Asked if can get assessment of what it is going to cost to move building.

Brandt estimated $20,000 to move building. Could easily have $100,000 in project.

Mayor stated that concern was for security of building and need to find "safe" place.

Wetzler stated that council did approve lease with Sharp family. Lease has not been executed for several reasons. Intent of historical commission when negotiated with Sharps was that at a future date there would be a more permanent arrangement in this general area. Thinks Sharp still is interested in such an arrangement. This 5 year lease is kind of a trial arrangement.

Peppes felt this would not be a problem. Feels it will be more accessible than park at this time.

Bold still concerned; sees $40,000 that will essentially be gone if this arrangement does not work out.

Motion by Patterson to authorize $19,000.00 for Oxford School project. Second by Dunn. Motion passed, with Bold voting against.

1588 D. **Ordinance No. 1585 approving utility easement vacation, Whitehorse, Plat 1**

Motion by LaHue for approval. Second by Peppes. City clerk called roll. Unanimous.

1602 E. **Authorize issuance of temporary notes:**

Malnicof stated that city sold 8 issues, 4 to United Missouri Bank, and 4 to Country Club Bank. These notes are not bank qualified. There were no bids from the other 3 institutions.

Ordinance No. 1586

Project 124-K-150..... $2,900,000.0

Motion by Dunn, second by Clawson for approval. On roll call, unanimous.

Ordinance No. 1587

Project 126-Mission Road, 95th to 103rd.... $ 100,000.00

Motion by Clawson, second by Campbell. On roll call, unanimous.

Ordinance No. 1588

Project 131-Nall Avenue, 119th to 135th..... $ 500,000.00

Motion by Campbell, second by Bold. On roll call, unanimous.

Ordinance No. 1589

Project 137-State Line, Phase IV..... $ 100,000.00

Motion by Dunn. Second by Campbell. On roll call, unanimous.

Ordinance No. 1590

Project 140-83rd Street..... $ 700,000.00

Motion by Peppes. Second by Campbell.

Dr. LaHue asked when this is going to be done.

Brandt replied in July of 1996.

Motion passed unanimously, on roll call.

Ordinance No. 1591

Project 144-Mission Road (103-I435)..... $ 200,000.00

Motion by Campbell. Second by Peppes. On roll call, unanimous.

Ordinance No. 1592

Project 146-Town Center Plaza..... $1,000,000.00

Motion by Campbell. Second by Bold. On roll call, unanimous.

Ordinance No. 1593

Project 160-Leawood Park pool renovation..... $ 700,000.00
Motion by Peppes. Second by Clawson. On roll call, unanimous.

1762 F. **Appropriation Ordinance No. 785**

Motion by Rasmussen for approval. Second by Peppes.

Clawson asked about a police microfilming service payment for filming of records.

Chief Cox replied that department has been catching up with filming of old records; has been a multi-year project.

Bold asked about T-shirts for summer staff.

Whitaker said it also included shirts for t-ball program.

City clerk called roll. Appropriation ordinance passed unanimously.

1845 G. **Schedule executive session re: personnel matter**

Motion by Clawson to approve executive session for 30 minutes at end of meeting, in conference room. Second by Campbell. Unanimous.

1864 **OTHER BUSINESS**

Rasmussen stated that house on north side of 95th Street between State Line and Lee Boulevard that was moved into area has become an eyesore. Asked why house has continued to be in this condition.

McKay stated that city has asked prosecutor to start procedure against homeowner. Homeowner has been written up for any number of violations. City has given him a specific time frame in which he must make changes. That time does not run out until end of this week, but McKay has instructed staff to start legal process to get case on the docket.

Rasmussen asked when this will go to court.

Don O'Malley, 2314 West 95th Street, lives next door to house in question. Says all the homeowners in that area are very concerned. Asked that this item remain on council's agenda until the situation is corrected.

Mayor asked McKay to give regular accounts to council.

2139 Rasmussen stated that city has situation on Spears property abutting Brittany Court, specifically, 11320 El Monte. Asked to what extent city was getting cooperation from Spears to keep property mowed.

McKay stated that Spears has responded to city's requests. Feels that there is no real big problem. Says there is no debris. There is clump of trees which makes it hard to mow around them.

Rasmussen feels that it is strange that city has to do clearing of property. Does not think getting cooperation from Spears.

2304 Peppes asked for update on house at 85th and State Line

McKay replied property is owned by Amoco Oil Co. House will be coming down.

Rasmussen asked if this was ground where there were pollution problems. Wanted to know what is going on with the pumps. Concerned that city has no assurance that when construction is finished, city will have environmentally proper facilities to control the contaminants.

Garofano stated that state will have a say in this.

LaHue asked about pumps in yard of house north of this.

2434 **Ordinance No. 1594 including annexing and incorporating certain land located on the south side of 151st Street.**

Mark Simpson, developer, present.

Wetzler explained addition to agenda of ordinance annexing certain land. In essence, the ordinance permits Mr. Simpson, the developer, to bring several parcels of ground that are in Overland Park, into his existing Leawood subdivision. Overland Park agreed to this.

Motion by Rasmussen to approve. Second by Peppes. On roll call, unanimous.

LaHue asked about July 4th activities; also stated had received letter from Steven Hoostal regarding the circle on Cherokee Lane, at dead-end, south of Somerset Drive.

Mayor Rinehart thought that Public Work's Department was handling the matter, but if not it will be referred to the Public Work's committee.

2547 9:15 p.m. - council went into executive session.

9:45 p.m. - motion by Campbell to extend executive session for 15 minutes. Second by LaHue. Unanimous.

10:00 p. m. motion by Clawson to extend executive session for 15 more minutes. Second by Dunn. Unanimous.

2573 Council returned to regular session at 10:15 p.m. and adjourned.

Martha Heizer

Martha Heizer, City Clerk

MINUTES SUMMARY
LEAWOOD CITY COUNCIL MEETING
JULY 1, 1996

Audio tape #360

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, July 1, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Gregory J. Peppes, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent.

Staff Present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Joe Johnson, Asst. Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Ben C. Florance, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

51 Agenda approved unanimously on motion of Peppes, seconded by Bold, after the addition of 1) a discussion of a letter from resident Dewey Towner, 8108 Sagamore, concerning ponding of water in front of his home; 2) a discussion of a letter concerning replacement of curbing and driveway easement at 2016 Condolea Dr. (Katherine Klemovich); 3) a discussion of a letter from resident Raleigh McCoy, 3207 W. 82nd Terr., requesting removal of the "detour/$50 fine/construction" sign at the west entrance to Leawood on 83rd St.; 4) a discussion of the High Drive pedestrian walkway (bridge) between approximately 90th and High Dr. and the Leawood Country Club; and 5) a discussion of salaries or compensation for Councilmembers.

CITIZEN COMMENTS

None.

CONSENT AGENDA

122 Change Order No. 2, a $633,793 decrease in the contract amount for the Town Center Plaza project; an assignment to the Public Works Committee; Pay Request No. 3 (FINAL) in the amount of $14,584.54 for the 8435 Cherokee Lane stormwater improvement project; and Change Order No. 5 in the amount of $12,795.42 for the 83rd St. improvement project, were removed for further discussion.

The following were approved unanimously on motion Peppes, seconded by Dunn:

1. Minutes of the June 17, 1996 Council meeting;
2. Public Works Committee report (minutes) of their June 12, 1996 meeting;
3. Parks & Recreation Advisory Board report (minutes) of their June 18, 1996 meeting;
4. Acceptance of donations from the Leawood Woman's Club 1995-1996 philanthropic fund to the Police Department ($355.66) and Fire Department ($558.49);
5. Pay Request No. 2 (FINAL) in the amount of $28,304.06 (which included a change order in the amount of $2,490) from KLC, Inc. for installation of park shelter at Leawood Park, 106th & Lee Blvd.

Change Order No. 2, $633,793 decrease in the contract amount, for Town Center Plaza project, construction contract with Walton Construction Co.: improvement of Town Center Drive and permanent traffic signals around the Plaza were removed from the Walton contract, to be bid by the City. After a few questions, the Change Order was approved unanimously on motion of Dunn, seconded by Clawson.

Assignment to Public Works Committee to select an engineering firm to design bank stabilization along Tomahawk Creek adjacent to Bongu property in Berkshire subdivision, approximately 123rd & Roe Ave.: and waive the consulting engineer selection process to enter into a contract with Phelps Engineering. Asst. Public Works Director Johnson said that the contract amount would be approximately $35,000. Phelps Engineering was already working on the Tomahawk Creek flood study. Council unanimously approved the assignment on motion of Dunn, seconded by Campbell. The County's SMAC (Stormwater Management Advisory Council) funding would be available for this project.

400 **Pay Request No. 3 (FINAL) in the amount of $14,584.54 from Pyramid Excavation and Construction Co. for the 8435 Cherokee Lane stormwater improvement project (included Change Order No. 1 in the amount of $6,947.88):** the City and contractor encountered a

major delay on the project due to right-of-way negotiations and litigation with one resident. The final payment did not include any improvements to that resident's property; improvements would be made with available funds once an agreement was reached with the property owner. Council unanimously approved the final payment on motion of Clawson, seconded by Dunn.

454 **Change Order No. 5 in the amount of $12,795.42 for the 83rd St. improvement project:** Councilmember LaHue did not mean to pull the item from the consent agenda and moved for approval, seconded by Peppes. Unanimous.

MAYOR'S REPORT

469 The Mayor reported that the Kansas City Golf Foundation gave $10,000 towards the recently opened youth Learning Center at the Ironhorse Golf Club. Council unanimously accepted the donation on motion of Dunn, seconded by Peppes.

City Administrator Garofano, immediate past president of the Leawood Rotary Club, was named a Paul Harris Fellow by the Club for his service. The Paul Harris award is the highest rotarian award. The new president of the Club is Councilmember Doug Patterson, and new president-elect, Councilmember Marnie Clawson.

OLD BUSINESS

532 **A. Public Works Committee report on old, partially collapsed stone wall abutting a bridge at the back of 8026 Wenonga.** Councilmember Clawson, Chairman of the Public Works Committee, reported on the Committee's recommendation to split the estimated $10,000 cost of temporary repair with the property owner, David Blake, until a future SMAC project made permanent repairs on the creek. The City had 2 sanitary sewer lines that crossed the Blake property which could be in jeopardy if the wall had a total failure. The Blakes would dedicate the necessary easements and were in agreement with the terms of the repair. Staff felt the work would be completed by the end of the summer. On motion of Clawson, seconded by Peppes, Council unanimously approved City's share, approximately $5,000, for the temporary repair.

645 **B. Supplemental agreement with Black & Veatch engineering for construction engineering services, 83rd St. improvement project, for an additional $46,879.00.** Due to utility relocation, easements, and weather delays in completing the improvements, the original contract amount was not sufficient to complete the project. The Mayor stated for

the record that if she had to break a tie vote, she would not do so because her husband was employed by Black & Veatch. The original agreement indicated that additional engineering fees for supplemental services could be authorized. Councilmember Peppes felt that firms took advantage of cities with "never ending pockets" (pad their bids up front); the Council should direct staff to look at contract items that gave contractors an opened book to tack on items "down the road" or toward the end of a project, so the City would not be penalized. Councilmember Dunn was also concerned; one of the items in Black & Veatch's contract was to coordinate all utility activities, which had not been very successful. She felt the residents should not have to pick up the whole tab for this problem. Councilmember Clawson said that it would be totally unethical for engineering firms to "pad" their bids up front with hours in excess of what designs would normally call for. Councilmember Patterson felt it was time the City indicated to engineering firms that they should take the risks in a project where they prepared the contract and had the opportunity to plug in the protections for problems they ran into many, many more times than the City. They should take the risk of not preparing contracts or administering contracts the way they're supposed to be prepared or administered, given the fact that the City had a very fixed budget and certain expectations on what projects were going to cost.

Councilmember Campbell said the supplemental agreement had been discussed at the May 20th Council meeting, and he had wanted the City Attorney to review the original contract to see what legal obligations the City had. He had a problem with 60% of the additional fee being for overhead and a built-in fee of 15%. City Attorney Wetzler said he had not reviewed the original contract.

Councilmember Bold felt there were things the City could do to urge utilities to be more cooperative on projects, and that engineers should assume some of the risks, otherwise in order to win a bid, instead of padding the original estimate, they could "come in light" knowing they could make it up on the back end of a project in the form of a supplemental agreement because there was always something that could come up unexpectedly.

Black & Veatch's 83rd St. project engineer Paul Petrich responded to issues. Mrs. Clawson asked about the potential for negotiating with Black & Veatch to reduce the overhead and the fee margin on additional hours and work with the City to get the project completed without taking it so much over the budget. Mr. Petrich said that the overhead rates and percentage of fees were reasonable for a standard engineering contract. Councilmember Dunn would like the utilities, Reno Construction Co., and Black & Veatch to join the City in paying for the additional costs. Mr. Petrich said that some of the utility relocation delays were a result of (the City) not being able to obtain the necessary easements in a timely manner,

especially along the north side of 83rd St. Some condemnations had to be done.

Councilmember LaHue moved to approve the supplemental agreement, seconded by Clawson. Mrs. Clawson felt it would benefit the Council to work with Public Works to better understand contracts for engineering services so they wouldn't find themselves in this kind of situation again. After discussion of deferring a vote until the City Attorney could review the original contract, both second and motion were withdrawn. The supplemental agreement would be considered at the end of the agenda, giving the City Attorney time to review the necessary document(s). See tape meter #2308.

NEW BUSINESS

#1683 **A. Ordinance No. 1595 accepting tracts of land from Overland Park by quit-claim deed in accordance with an exclusion/annexation agreement with Overland Park dated May 20, 1996.** The ordinance was considered and passed on motion of LaHue, seconded by Patterson. On roll call, the vote was: Yeas---Bold, Campbell, Clawson, LaHue, Peppes, Dunn, Patterson. Nays---None.

#1700 **B. Authorize engineering agreement with George Butler Associates for structural inventory and appraisal of bridges in the amount of $8,702.** Agreement approved unanimously on motion of LaHue, seconded by Dunn.

#1719 **C. Ordinance No. 1596 accepting a permanent utility easement from Bernard and Paula O'Donnell for the purpose of delivering water to the east rest station at the Ironhorse Golf Club.** The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---Bold, Campbell, Clawson, LaHue, Peppes, Dunn, Patterson. Nays---None.

#1732 **D. Approval of appropriation ordinance #786.** The ordinance was considered and passed on motion of Peppes, seconded by Campbell. On roll call, the vote was: Yeas---Bold, Campbell, Clawson, LaHue, Peppes, Dunn, Patterson. Nays---None.

#1810 **E. Executive session.** On motion of Dunn, seconded by Peppes, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a personnel matter.

OTHER BUSINESS

#1827

1) When Katherine Klemovich, 2016 Condolea Dr., sent the County Treasurer a check for the 1995 second half of her real estate taxes on June 17th, she felt those taxes should be used for replacement of curbing and driveway easement at her home. The County Treasurer forwarded her letter to the Leawood Public Works Department. The Department will handle the matter and staff will report back to Council.

2) Dewey Towner, 8108 Sagamore Rd., had written a letter requesting a solution to the ponding of water in the street in front of his home. Public Works will handle the matter and report back to Council.

3) Raleigh McCoy, 3207 W. 82nd Terr., had written to Councilmember Peppes requesting that the $50 fine sign in conjunction with the 83rd St. detour/construction sign be removed from the 3000-3200 block of 83rd St. (west end of 83rd), construction having been completed on that portion of the street. Mr. McCoy was trying to sell his house, but people were reluctant to travel on 83rd with the $50 fine sign in place.

4) Councilmember Clawson reported on the pedestrian walkway/bridge connecting the area of 90th and High Dr. with the Leawood Country Club at approximately 89th and Sagamore Rd. The Public Works Committee had requested additional information from staff and residents by the end of June. The property owner (Mr. Pearce) on whose property the walkway was located had dismantled the bridge much to the dismay of the neighborhood. The residents were working together to see if they could establish another easement, come up with a design, and go to the City with a benefit district proposal.

5) The Mayor reported that there were no ISTEA (Intermodel Surface Transportation Efficiency Act) funds available; the Act had not been reauthorized - perhaps next year. There was money available in the KLINK, (resurfacing, geometric improvements); the City could apply for those funds.

6) Planning Director McKay reported on the code enforcement status of the house on the north side of 95th St. between State Line and Lee Blvd. The property owner had until July 15th to comply with City codes; the property had been cleaned up to a degree. He was scheduled for a municipal court hearing next Tuesday (first hearing); he could receive a 30-day continuance. The Planning Department was in the process of amending ordinances which addressed house moving. Ordinance would require a public hearing to move a house to another area in the City in order to determine if a house would fit in with any particular neighborhood.

7) Councilmember LaHue moved that Council discuss salaries for the Governing Body at the July 8th work session, seconded by Patterson. Unanimous.

#2308 City Attorney Wetzler said he could not give an opinion on Black & Veatch's supplemental agreement for construction engineering services for 83rd St. improvements. It was not a simple issue. The additional fee requested was already a reduced fee from the fee requested at the May 20th Council meeting, and he was not sure Black & Veatch would be willing to reduce it further. He could have an opinion by the July 15th Council meeting. On motion of Clawson, seconded by Campbell, Council voted unanimously to defer consideration of the supplemental agreement to the July 15th meeting. Black & Veatch had no intention of abandoning the project in the meantime.

#2477 9:00 P.M. Council convened in executive session, same members present.

#2556 Council returned to regular session at 9:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

MINUTES
PUBLIC HEARING

Tape No. 361

47 Minutes of a hearing for public comment on the proposed 1997 Budget, held Monday, July 15, 1996, at 7:00 P.M., in the Council Chamber, 4800 Town Center Drive, Leawood, Kansas.

Councilmembers present: Gregory J. Peppes and Louis Rasmussen. Councilmembers Adam Bold, Marnie S. Clawson, John R. Campbell, Jr., Ronald LaHue, and Doug Patterson arrived after the hearing began. Peggy J. Dunn was absent (out of town). Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; Harry Malnicof, Finance Director; Ben C. Florance, Fire Chief; Mark Andrasik, Director of Information Services; Deidre Markley, Economic Development/Special Events Coordinator; and Martha Heizer, City Clerk.

Councilmember Peppes opened the hearing. Mayor Marcia Rinehart was absent (out of town).

There was no public comment.

The hearing was closed at 7:05 P.M.

Martha Heizer

Martha Heizer City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

July 15, 1996

Minutes Summary

Audio Tape No. 361

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:32 p.m., Monday, July 15, 1996. Councilmember Gregory J. Peppes presided in Mayor Rinehart's absence.

Councilmembers present: Adam Bold, John Campbell, Marnie S. Clawson, Ron LaHue, Doug Patterson, Louis Rasmussen. Councilmember absent: Peggy J. Dunn.

Staff Present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Joe Johnson, Acting Director of Public Works; J. Stephen Cox, Police Chief; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Deidre Markley, Economic Development/Special Projects Coordinator; Diane Brooks, Senior Planner; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; Cynthia Pitts; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#150 Added by Clawson to Other Business: discussion of court appearances of two homeowners. Motion by Clawson to approve agenda as amended. Second by Bold. Unanimous.

#179 Mark and Debbie Mazzoni, 9616 Belinder: Mark explained how lowered elevation of road to accommodate new drainage and new sewer has adversely impacted their property. Joe Johnson explained how the 6-inch drop on the plan resulted in a 16" actual lowering of west side of road. Rasmussen moved that Council give consensus that, should other alternatives to correct the slopes be ineffective, staff be authorized to obtain a firm estimate for a retaining wall to correct the problem and bring the estimate before Council at its August 5, 1996, meeting; second by LaHue. Clawson moved to amend to allow staff to proceed with a one-foot retaining wall if slope problem cannot be rectified, as long as the cost differential is no more than $4,000. Motion to amend withdrawn. Council approved the main motion unanimously.

CONSENT AGENDA

#740 Motion by LaHue, second by Clawson, to approve. Unanimous.

1. Minutes of the July 1, 1996, Council meeting;
2. Committee Reports: Parks & Recreation Board minutes of July 11, 1996 meeting; Historic Commission, minutes of May 21st and June 18, 1996 meetings;
3. Department reports;
4. Authorize Data License Agreement with the County relating to geographic information systems;
5. Change Order No. 3 for $6,985 - Town Center Drive improvement;
6. Pay Request No. 1 (Final) for $55,988.82 - 1996 Slurry Seal;

7. Public Works response to Klemovich request for curb work; once curb work for 1996 residential program is completed, Public Works will resume spot repairs and will re-evaluate curbs at 2016 Condolea Drive;
8. Public Works response to Towner request for curb work; after completion of 1996 residential curb repair, Public Works will remove curb at 8108 Sagamore and repair area to drain properly;
9. Resolution No. 1315, attached as part of the record, approving final plat of Reserve at Ironhorse, 2nd Plat; approximately 151st and Mission Road.

PRESIDING OFFICER'S REPORT

752 Peppes thanked the Parks & Recreation, Fire, and Police Departments and staff for the very successful 4th of July celebration and events.

Report on American Revolution Tercentennial Fund certificate of deposit: In 1976 Mayor Eddy accepted a $1,000 c.d., to remain on deposit until 2076, from the Leawood American Revolution Bicentennial Committee. As of June 30, 1996, the value of the Tercentennial Fund c.d. is $4,714.36.

OLD BUSINESS

#808 **Authorize supplemental agreement with Black & Veatch for construction engineering services, 83rd Street improvement project; $46,879.00.**
LaHue said Wetzler's review and advice to Council was excellent; the money is due; it would be inappropriate to hold up payment any longer. Clawson concurs. Patterson suggested future contract terms should be more definitive with regard to changes.

Gordon Thomas, 10516 Mohawk Lane stated the payment of almost $47,000.00 to Black & Veatch is reminiscent of the City approving the payment of some $40,000, which was not required by the contract, to Black & Veatch for 95th Street. Clawson asked Wetzler to respond to Thomas' inaccuracies. Wetzler's opinion letter to Council is protected by attorney-client privilege; however, he said the contract provided that in certain circumstances, the engineer is entitled to additional payment, and those contingencies did occur. The payment was contemplated in the contract, although the amount was not.

LaHue characterized Thomas' remarks as gross inaccuracy and said Council does not give out money that is not owed. Campbell said the contract and amount have been thoroughly reviewed over a two-month time period; Wetzler went through Black & Veatch time records and reviewed the additional services rendered to confirm the additional amount. Rasmussen asked Wetzler if it is his judgment that the funds requested are proper under the terms and conditions of the engineering contract. Wetzler responded in the affirmative. Motion by LaHue, second by Campbell. Unanimous.

NEW BUSINESS

#1017 **Authorize contract for construction of monuments, Mission Road improvement project, 95th Street to 103rd Street; $34,400.00; Harlan Shaver contractor.**
Motion by LaHue, second by Rasmussen. Rasmussen complimented staff's work on this long and difficult project. Rasmussen had questions about the underground service lines to the monument lights at 100th and Mission (Leawood Estates). He also confirmed that

contractor is aware that Saddlewood Homes Association may contact them to build the monument at 103rd & Howe; the contract does not include monument cost.

Responding to Campbell's question about the disparity between the two bids received. Johnson attributed it to insurance and the difference between the cost of statutory bond and maintenance bond. The vote was unanimous to authorize the contract.

#1200 **Approve bid/authorize contract for Rural Road Rehab Project; $313,297.20; 143rd Street, Nall to Mission.**
Motion by Rasmussen, second by Patterson. Discussion was had about whether and how this project might affect future construction of sidewalks, complete renovation, and widening. Bold expects the City to communicate with property owners and keep them advised of plans and timetables, especially regarding the properties with bridges. Council voted unanimously to authorize the contract with Bob Muehlberger Concrete Co.

#1404 **Ordinance No. 1597C relating to Governing Body compensation.**
Motion by Patterson, second by LaHue. Discussion of car allowance versus mileage reimbursement and taxability of same. LaHue advised the audience Council is voting to initiate a salary for councilmembers and mayor, as of January 1997, of $400 per month for Councilmembers and for the Mayor a monthly car allowance of $200 and salary of $800. This is to compensate the significant time commitment required to serve. On roll call vote, ordinance was approved unanimously.

#1760 **Appropriation Ordinance No. 787.** No discussion. Motion by Clawson for approval. Second by LaHue. Unanimous.

OTHER BUSINESS

#1785 **Discussion of court appearances by 2 homeowners.** Relates to houses on 95th Street and 97th, between State Line and Belinder. Both homeowners appeared in Municipal Court on July 10, 1996. The owner of the home on Belinder was fined $2,500 and given 30 days to bring the property into compliance. The change in the code has assisted the City in taking strong action regarding maintenance of property to the level expected.

Rasmussen said, with regard to code enforcement in the budgeting process, one of the options in the budget packet is adding a person to interface with homes associations. He feels that issue needs to be looked into further, and he intends to pursue it.

#1890 **Adjourned.** At 8:30 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk
crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

August 5, 1996

Minutes Summary

Audio Tape No. 362

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:39 p.m., Monday, August 5, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John Campbell, Marnie S. Clawson, Peggy J. Dunn, Ron LaHue, Doug Patterson, Gregory J. Peppes, Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Joe Johnson, Acting Director of Public Works; J. Stephen Cox, Police Chief; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Deidre Markley, Economic Development/Special Projects Coordinator; Bob McKay, Director of Planning & Development; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; Cynthia Pitts; Karl Weinfurter; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#65 Bold added discussion of Wilshire subdivision problems; Rasmussen added discussion of storm drainage into pond at IronHorse Golf Course. Approved on motion of Peppes, second by Bold. Unanimous.

#88 **RECOGNITION OF DONATION BY DOUTHAT FAMILY AND MARNED CORPORATION TO LEAWOOD FOUNDATION**

Roxanne Wu-Rebein represented Leawood Foundation in announcing and accepting $50,000 from the Douthats and Marned to build a fountain in the City Hall courtyard. Wu-Rebein thanked the Douthat family and Marned Corporation for this gift and for their continual generosity.

#146 **RECOGNITION OF POLICE OFFICER MARK CHUDIK FOR POLICE ACADEMY AWARD** Chief Cox introduced Mark Chudik and announced he received the Instructors Award for attributes including loyalty, being an excellent role model, and other laudable personal qualities. He also placed third out of 20 academically at the academy.

#211 **CITIZEN COMMENTS**

Mark Mazzoni, 9616 Belinder, asked the Council for help in resolving issues which arose from street work and, he believes, affect the appearance and value of his property. (To be discussed under "Old Business".)

Others who signed will comment at 9D under New Business.

CONSENT AGENDA

#275 Removed for further discussion:

1. Minutes of July 15, 1996, Public Hearing on 1997 Budget;
2. Change Order No. 3, $105,077, Walton Contract for Town Center Plaza improvements.

The following were approved unanimously on motion by Dunn, second by Clawson:

1. Minutes of the July 15, 1996, Council meeting;
2. Committee Reports: Leawood Arts Committee meeting of May 14, 1996;
3. Application for retail liquor occupation license renewal, Faust's Retail Liquor Store, 11841 Roe Avenue;
4. Acceptance of Federal grant to fund police bicycle patrol;;
5. Pay Request No. 5 (Final) for $22,798.04; Seal O-Matic Paving; 1995 Street Rehabilitation;
6. Accept proposal for city hall fountain design services; Larkin Associates; $4,900.00;
7. Accept proposal for city hall fountain construction administration services; Larkin Associates; $3,600.00.

Minutes of July 15, 1996, public hearing on 1997 budget: Patterson requested the minutes be corrected to reflect that he was present at the budget hearing. Mayor said minutes should reflect she was absent because out of town, Dunn was absent, all others were present although some arrived after the meeting opened. Patterson moved to approve with changes, second by Peppes. Unanimous.

Change Order No. 3, $105,077, Walton Contract for Town Center Plaza improvements: Patterson said he will abstain to avoid conflict of interest. Motion by Clawson, second by Campbell. All voted in favor except Patterson who abstained.

PLAN COMMISSION

351 **Request for waiver of deferment currently in place for 135th Street development , to allow application for a cellular tower at 135th and Nall.**

Applicant Sprint Spectrum and property owner Ira Stein were represented by Curtis Holland of Polsinelli, White, Vardeman & Shalton. Holland said Sprint Spectrum would replace Cellular One's existing tower with a new one of same height which will provide a facility for four carriers plus the City and thus eliminate the need for additional towers by competitors. They are on a tight time frame and the "moratorium" is an obstacle. They have been before other cities and obtained approval, and they want to include and cover Leawood. He said Chief Cox is interested in locating new Police Department equipment on the tower.

McKay has no problem with a waiver for Sprint Spectrum; it still has to go to Plan Commission for approval and then back to Council; definitely wants to provide for a tower that is usable by multiple companies. Mayor said technically the City does not have a moratorium in effect; it is a deferment of application. The question to Council is whether or not they favor suspending the deferment for this particular piece of ground.

Holland made clear the current Cellular One tower will remain in place for 4 years; property owner has a lease w/ Cellular One and has sent the City a letter saying he will not renew lease in four years. The City's Police and Fire communication needs typically are provided at no cost. Cox said the Police Department is interested in the new tower site and believes it will meet their needs and improve performance. Patterson moved to waive the deferment currently in place (for 135th Street) for the Ira Stein property to start the application process. Second by Dunn. Unanimous.

#819 **Resolution No. 1316, attached as part of the record, relating to rezoning from AG to R-1, preliminary plat and final plat, for Strawberry Hill, approximately 148th and Mission Road:** McKay said Plan Commission recommends approval of rezoning this 10-acre tract out of the 80 acres the city is purchasing for a park; it would allow for two single family homes to be built.

Rinehart, Clawson, Rasmussen, LaHue, Patterson all expressed concern about future conflicts with homeowners over their proximity to park facilities, activities, traffic, noise, lights, crowds, balls on property, sirens from proposed fire station on the other side of the 10 acres, and any other use that is consistent with a public park or other city uses. McKay said the applicant has been so advised.

Chuck Koehler, applicant, will build a 21,000 s.f. house on one lot and represents both homeowners. They are anxious to build and to this end will agree to any added language or stipulations in the resolution regarding the use of the adjoining land.

Bold moved to approve the resolution with the following additions:

1. "WHEREAS, the Leawood City Council following hearing and listening to the statements of the representative of the applicant determines that its action approving this application should also include the following finding and stipulation: At the time of platting the city Council and staff notified the applicant that applicant's property adjoins a public park that is planned to maximize public use as an active park. The applicant was also notified that use of the property as an active public park may subject this property to lighting for athletic fields, to noise attendant to the multiple anticipated public uses and to noise from a municipal fire station that is to be constructed in the near future."
2. "BE IT FURTHER RESOLVED that the stipulations as set forth herein shall be reflected on the plat."

Seconded by Patterson and approved unanimously by Council.

#1244 **Ordinance No. 1598 rezoning from AG to R-1, Strawberry Hill.**
Clawson moved to pass the ordinance, second by Patterson. With the assent of the Council, Resolution No. 1316 and amendments to said resolution, were considered and acted upon unanimously before Ordinance No. 1598 was acted upon.

LaHue wants to add language to the plat and the resolution to prevent homeowners from opposing a sewer benefit district when sewers become available there. LaHue moved to

reconsider Resolution No. 1316 rezoning Strawberry Hill, and add a stipulation to the resolution and plat; second by Rasmussen. Unanimous. Applicant Koehler said he is willing to stipulate to that condition as part of the rezoning.

LaHue moved to amend the resolution to include the stipulation, seconded by Rasmussen. Unanimous.

Bold moved to approve Resolution No. 1316 with the earlier additions (above) as well as the following: "WHEREAS, the property owner has stipulated that the property will be connected to a sewer line at such time as sewer lines become available to serve the property." Seconded by LaHue. Unanimous.

Ordinance No. 1598 (rezoning) was approved unanimously.

#1476 **MAYOR'S REPORT**
The Mayor had no report.

OLD BUSINESS

#1480 **Discussion of estimate for retaining wall and tree well at 9616 Belinder.**
Joe Johnson said staff's recommendation is to regrade the property to a 4:1 to 6:1 slope without additional easements and not to build a wall within existing right-of-way easement. This should eliminate cars bottoming out on the driveway; it eliminates the tree wells. A retaining wall would cost approximately $7,000. LaHue thinks the Mazzonis were inadvertently misled by the drawings. He moved to spend approximately $7,000 for a retaining wall at the edge of the City's right-of-way as suggested by the Public Works Department at an earlier meeting to reestablish the grade as the Mazzonis understood it was to be. Second by Clawson. Mayor and Patterson said they have looked at the property and it looks acceptable. Mazzoni said the appearance and value of his property have been adversely affected. Clawson and LaHue voted in favor of the motion; all others opposed. Motion failed. Staff's recommendation will be accepted.

NEW BUSINESS

#2035 **Approval of 1997 Budget; 25.447 mill levy; $28,338,114 expenditures.**
Malnicof said the budget includes tax levy of $6,984,988 and a mill levy of 25.447 based on current assessed valuation. Council worked as a body of the whole and with five citizen members of the Budget Committee. LaHue and Rinehart pointed out it represents the group thinking on what is necessary for 1997 year to support needed services. Rasmussen said it reflects a consensus and does not mean each councilmember agrees with every item In his years on the Council, no more than one person has ever appeared at a budget public hearing. Usually, as was the case this year, no one came. He thinks if there is to be criticism, the public hearing is the proper place for that; without input from the public, all Council members can do is vote the authority the public gave by electing them.
Motion by Peppes, second by Clawson. Unanimous.

#2208 **Authorize contract for engineering services relating to Leawood Sewer System transfer to Johnson County Wastewater District; George Butler Associates, Inc.**
No discussion. Motion by Clawson, second by Dunn. Unanimous.

#2223 **Approve bid/authorize contract for Gabion Basket Rehabilitation Project; Wenonga near 81st Terrace, Belinder near 86th Street; Wiedenmann and Godfrey Construction Co.; $59,888.**
Just one bid was received; it is well below engineers estimate of $70,492. Patterson wants to obtain permanent easements for areas where the City expends public monies to maintain facilities. Wetzler said these baskets are necessary to protect existing sanitary sewer lines; the City's floating easement would cover the situation. Dunn feels it would be a breach of the agreement for a temporary easement to now go back and require a permanent easement; she suggests requesting it and leaving it for the property owner to refuse. Rasmussen asked staff to make their best effort to get easements, but not to go to condemnation should attempts fail.

LaHue suggested submitting the plan and cost to SMAC for approval; then when the project comes up and has been approved in advance, the funds can be awarded. He feels that any credit the City receives for monies spent should be returned to the property owner.
Motion by Rasmussen, second by Clawson. Unanimous.

#2800 **Resolution No. 1317, attached as part of the record, establishing a policy for considering and approving commercial tax increment financed projects.**
LaHue moved to approve the resolution, seconded by Clawson.
Two citizens commented on the policy:
Gordon Thomas, 10516 Mohawk Lane: Thinks the TIF policy should be renamed the "IF policy."

Fred Hulen, 10330 State Line (Audio Mart building): He advised Council that the redevelopment situations are causing lost business and confusion with his customers. He is worried about the blight study being revived now that he has committed funds and improved his property. This is the basis for his concern.

Mayor and LaHue explained this policy is for the City to pay for the public elements, such as street lights, etc., of a redevelopment project. It benefits the entire project area, and once the public improvements are paid for that increment, the taxes then accrue to the entire city. Markley explained the conservation district allowance; an area does not have to be blighted but could become blighted in the future. In a conservation area, the City could not condemn the property but would have to work with the developer and get them to improve the property. Clawson told Hulen what he's done with his building is a shining example of creating new value in an old area.

Patterson moved to amend the motion so that Section 4b would read "Any special obligation bond issued under this policy will utilize a maturity schedule payable over a period as short

as financially practicable." Second by Rasmussen. Unanimous. Main motion as amended carried; Rasmussen opposed, all others in favor.

#3675 **Ordinance #1599 accepting deed for park land north of College Boulevard through Hallbrook Farms.** No discussion.
Motion by Dunn, second by Rasmussen. Approved unanimously.

#3697 **Ordinance No. 1600 granting permanent drainage easement in Stone Ledge subdivision.** No discussion.
Motion by Rasmussen, second by Bold. Approved unanimously.

#3716 **Approval of Appropriation Ordinance No. 788.**
Motion by Clawson, second by Peppes. Unanimous.

OTHER BUSINESS

#3745 **Discussion of Wilshire problems:**
Mrs. Ruth Withey, 13204 Delmar, President of Wilshire Homes Association appeared on behalf of homeowners. She described and showed photographs of broken steps, drainage problems, bad landscaping, absence of street trees, deteriorated pool fencing, and other problems. She said the third tract was approved without a utility easement in the back yards as required by city codes. She showed the Jenson plans which were the official landscaping approved for Wilshire, and said a local company, Gaebler, actually put in the plantings and the result was stingier and lower quality than that depicted in the original approved plans. She said the developer cut corners and saved money and, as a result, gave neither the City nor the development the quality expected and promised. Withey said homes association officers had started discussions with the developer more than a year ago, and they no longer want to wait. She asked why the City allowed the code violations and approved plans without the utility easements.

Rasmussen said it's an embarrassment to listen to what the Wilshire residents have experienced. He asked if she had asked anyone at the City why the ordinances were not being enforced. Withey said she tried to and she obtained the development code book; her experience has been that if you don't figure it out yourself, no one will tell you.

The Mayor stated she is aware Withey has been in communication with McKay and that he is trying to work with them.

Withey said the homeowners of Wilshire never should have been put in the position of negotiating for what was supposed to be included anyway. She has reviewed all the minutes and audio tapes from relevant Plan Commission meetings. They reveal that Terry Uhl had said from the beginning of the application process that the drainage plan was minimal. She asked the City to direct the developer to do what he promised. Rinehart thanked her for her presentation.

Bold commended Mrs. Withey for her efforts and said she shouldn't have had to do it. He said Council spends a great deal of time discussing minutia because we are proud of our community and hold ourselves to high standards; yet this situation has been allowed in Wilshire. He said the City needs to play hardball with the developer on the code violations; Council should direct McKay to take whatever measures are necessary to make sure to enforce the ordinances and codes and to do the things that are required under the codes and ordinances and to do the things the developer agreed to.

Rasmussen agreed with everything Bold said; he asked why, when a code violation is brought to the attention of a city official, action is not taken. He thinks the responsibility should be given to the City Manager and said Council is asking him to enforce the codes of the City.

McKay said his department has been working with the situation ever since it was brought to their attention. There have been a number of developments at the same time and he has a limited staff and can't be everywhere. They are holding up approval of the last two lots of Wilshire until developer does the sidewalks, street trees and other things. They have not sat still and done nothing; he has met with Mrs. Withey's group and with developer several times. The last time they met, developer's attorney asked whether City would be satisfied if developer could work something out with the subdivision. In 9 and ½ years, this is the first time the City has had to go back in and review a subdivision. He agreed the landscaping design by Jenson of Colorado had been changed, and the City required developer to add some additional landscaping. He said they have built what was required on Mission Road; it was never meant to be a solid screen; Plan Commission approved an undulating berm.

Clawson asked about going through the list item-by-item to see what is covered by codes and how to address them. McKay said the silt runoff resulted from a torrential downpour just after the farmer had plowed the adjacent field; the City has no control over utility boxes - Hallbrook has them in front yards also - KCPL may have decided to relocate them out of the low areas.

Garofano suggested conferring with the City Attorney and City Prosecutor to find out if there's anything that needs to be done about non-compliance with ordinances. He said McKay has taken some steps but a bigger hammer is needed, possibly legal action.

Bold moved to direct staff to put forth their best efforts to resolve the problems as expediently as possible, to enforce the City codes, and to report on the actions taken at the next Council meeting. Second by Rasmussen. Unanimous.

#5383 **Discussion of storm sewer drainage affecting IronHorse golf course:**
Whitaker said the Golf Course Committee met on July 25th and discussed the storm sewer drainage from The Reserve at IronHorse into the irrigation lake by the sixth hole. The course superintendent, Dennis Copeland voiced concerns about construction going on and the appearance of the storm sewer being built; it was discussed at length by the Committee.

Johnson said he has reviewed the construction plans; his only concern is how the sanitary sewer would impact the golf course; the suggested redesign and rerouting of water into the creek would cost about $74,000.

Rasmussen attributed the situation to a lack of communications. He said council has been very sensitive to construction around the golf course and tried to coordinate the requirements of protecting golf course property from development that might adversely affect it. On July 10, 1996, the plans were approved, and there was concern then because of past experience of pollutants being dumped into lakes. The golf course is a grass-growing enterprise, and there must be great sensitivity to water on the greens. He feels that Council will just have to take the risk and hope no one dumps gas or oil, flushes car radiators in driveways, dumps ethylene glycol into the drainage, or any other possible risks that could occur. He said the City has a very large investment and must coordinate with the neighbors.

Rasmussen moved, with deep regret, to remove the "stop work" order on drainage construction in The Reserve at IronHorse subdivision and allow the drainage to occur as designed; seconded by Patterson.

Garofano said to keep in mind the source of water in the pond; it comes directly from the Blue River, and the golf course is directly downstream from a sod farm and whatever chemicals they use.

Simpson (developer) said, on the issue of silt, before they turned a blade out there, they erected over 2,000 lineal feet of silt fencing, and they have been very vigilant.

The motion to lift the stop order was approved unanimously by Council.

#6062 Dunn moved to convene in executive session for five minutes to discuss a personnel item; seconded by Peppes. Unanimous.

#6116 **Executive Session.** Council convened in executive session at 10:35 p.m. with the same members present.

At 10:40 p.m. council returned to regular session.

Adjourned. At 10:41 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk
crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

August 19, 1996

Minutes Summary

Audio Tape No. 363

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, August 19, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, *John Campbell, Marnie S. Clawson, Ron LaHue, Doug Patterson, Gregory J. Peppes, Louis Rasmussen. Absent: Peggy Dunn.

Staff Present: Richard J. Garofano, City Administrator; Joe Johnson, Acting Director of Public Works; Mark Andrasik, Director of Information Services; Sid Mitchell, Police Captain; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Bob McKay; Director of Planning & Development; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; Cynthia Pitts; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#51 Motion by Clawson, second by LaHue, after Wilshire subdivision report was removed from agenda with understanding that item will come before Council on September 3rd; agenda was approved unanimously.

#243 **RECOGNITION OF SAMANTHA PETERSON, MISS KANSAS AMERICAN PRE-TEEN.** Mayor Rinehart recognized Samantha for her outstanding achievement and wished her success at the national finals. The Mayor presented a proclamation to her in honor of her achievement.

#346 **CITIZEN COMMENTS**

Mark Mazzoni, 9616 Belinder, said he is still unhappy about his property; regarding Bold's suggestion at last meeting, Mazzoni suggested he could obtain the materials for approximately $1,000 and install the retaining wall himself if the City would pay for the materials up to $1,000. Rinehart suggested a discussion of this proposal be added to the agenda under Other Business. Rasmussen moved to add it to the agenda, second by Patterson. Unanimous. Rasmussen suggested Mazzoni stick around until the item comes up later in the meeting.

G. Gordon Thomas, 10516 Mohawk Lane, quoted from the 17th century drama, The Spleen, to advance his theory that no news is good news and good news is no news. He suggests reporters be issued press packets only if they attend the council meeting, so that they can hear citizen comments and public concerns voiced at the meeting and report on same, rather than skip the meeting and call the mayor to fill in the meeting results. Mayor Rinehart pointed out representatives of the Outlook and Sun newspapers in attendance.

CONSENT AGENDA

#672 Removed for further discussion:

1. Minutes of August 5, 1996, Council meeting;
2. Planning Department report;
3. Pay Request No. 4 (Final); $25,136.30; 1995 sanitary sewer manhole rehab.

The following were approved unanimously on motion by Peppes, second by Bold:

1. Committee Reports: Leawood Historic Commission meeting of July 16, 1996; Public Works Committee meeting of August 13, 1996;
2. Department Reports: Police Department for June/July; Fire Department for July;
3. Declaration of surplus property - Police Department; vehicles: 1994 Chevrolet Caprice VIN's 9515, 9603, 9933, 9910, 9606; 1990 Chevrolet Caprice VIN 6874; 1990 Chevrolet S-10 pickup VIN 4010; 1993 Ford Crown Victoria VIN 4645;
4. Declaration of surplus property - computer equipment; for Olathe auction to be held September 14, 1996;
5. Pay request No. 2 (Final); $224,839.65; Insituform Missouri, Inc.; 1995 sanitary sewer rehab.

Minutes of August 5, 1996, Council meeting: Mayor wants to correct minutes of August 5, 1996, to reflect, under Ordinance rezoning Strawberry Hill from AG to R-1, that "with the assent of the Council, Resolution No. 1316 and amendments to said resolution, were considered and acted upon unanimously before Ordinance No. 1598 was acted upon." Motion by LaHue, second by Peppes, to approve minutes with the addition. Unanimous.

Pay Request No. 4 (Final); $25,136.30; 1995 sanitary sewer manhole rehab; Dobson-Davis Co.: Clawson commented that one of the defective manholes was in her yard and she happened to be there when it was repaired; the contractor did excellent work and contractor was timely in notifying property owners where repairs were to be done. Motion by Clawson, second by Peppes, approved unanimously.

*Campbell arrived at 8:00 p.m.

Planning Department report for July: Approved unanimously on motion by Rasmussen, second by Clawson, after Rasmussen asked for and received interpretation of code enforcement inspection graph.

PLAN COMMISSION

#847 **Authorize RFP for K-150 development study.** Rasmussen questioned scope of study and expense; noted that over 6-7 years the City has spent thousands of dollars for studies in the same area; asked whether design elements of 135th Street, landscaping, reverse frontage road, turns, location and size of building and other such elements will be revisited and re-opened.

McKay said this study would take the K-150 guidelines and make them more detailed and concrete; will look at buffering throughout the corridor, possible alterations in frontage roads; study will result in a package which will give developers very clear directions under which to proceed. Landscape elements previously approved will be left intact.

Mayor said it is the K-150 Review Committee's request that a consultant be hired. Bucher, Willis & Ratliff Corporation, the consultant, expects to complete the services by year end for a fee not to exceed $52,000. On motion of LaHue, second by Campbell, approved unanimously.

#1244 **Resolution No. 1318, attached as part of the record, relating to rezoning from AG to CP-O, preliminary site plan and preliminary plat, and Master Development Plan Map amendment, for Tomahawk Creek Office Park, southwest corner of College Boulevard and Tomahawk Creek Parkway.**
Applicant Paul Goehausen introduced architect Curry Miles who described the overall plan, site, scale and materials of buildings and plan; he and Goehausen are comfortable with staff's stipulations that were approved by Plan Commission. Discussion was held about sidewalks, architectural/landscaped gateway, forecast for project completion with all buildings built, flood plain and new FEMA study. Goehausen told Council he has received a letter from Tony Kostusik, President of Longwood Forest Homes Association, saying they will not oppose this development as long as their conditions are met.

CITIZEN COMMENTS on this issue:
Al Armstrong, Longwood Forest representative said Kostusik's letter also included the request that the entire Gordon tract on the Master Development Plan be completed as one package. He cited concerns that the Goehausen tract will be used as a buffer for apartments; they are opposed to that and don't see necessity for changing master plan just for this 8-acre parcel; they want a tangible buffer between this area and Longwood Forest. He said Longwood Forest group will withdraw its objection to the office zoning if the entire large (Gordon) tract is planned at once and the entire tract changed to office zoning, but the request currently before Council is for spot zoning.

McKay advised that Goehausen is working with the other property owners to try to gain control of those properties. Wetzler said this is just one of three ownerships on the former Gordon property; Plan Commission shares Armstrong's concerns; staff was directed to bring back a master plan covering all three tracts.

Joe Borich, Longwood Forest, said he represents people of Longwood Forest with dissenting opinion. They seek not to oppose but to be protected. They want development that makes sense - not just developers who are speculating.

Rasmussen moved to approve the resolution with stipulation #'s 5, 6 and 8 changed as follows:

1. "All development must be built 1'0" above the new 100-year floodplain as determined by the flood study expected to be completed in December 1996.
2. "Sidewalks must be installed along Tomahawk Creek Parkway at the same time as construction of the first building.
3. "The applicant is to provide an architectural/landscaped 'gateway' along the perimeter of the property, College Boulevard as well as Tomahawk Creek Parkway, to be in concert with the Tomahawk Creek Parkway, i.e. large trees, berms, monumentation, etc."

Second by Patterson. Approved unanimously.

#3190 **Ordinance No. 1601 rezoning from AG to CP-O, Tomahawk Creek Office Park.**
No discussion. Motion by Clawson, second by Patterson. On roll call vote, approved unanimously.

#3216 **Ordinance No. 1602 adopting amendment to the 1993 Master Development Plan Map - Tomahawk Creek Office Park.** No discussion. Motion by Campbell, second by Clawson. On roll call vote, approved unanimously.

#3245 **Ordinance No. 1603 amending the Leawood Development Ordinance by adding section relating to Planned Rural Density Single Family Residential District; along Mission Road south of 143rd Street and west of Mission Road along 143rd Street.**
McKay said this establishes zoning that would allow one home to be placed on 10-acre parcels which would not be further subdivided without council approval of additional rezoning. Bold said he has spoken with a number of homeowners in the area and found a general consensus of homeowners in favor of this action. Wetzler said this is simply creating a zoning classification.
Motion by LaHue, second by Bold. Approved unanimously on roll call vote.

#3657 **Ordinance No. 1604 Amending Section 4-1.3b(2) of the Leawood Development Ordinance relating to Accessory Uses - Satellite Dishes.**
Motion by LaHue to Approve, second by Peppes.
McKay said this change allows for only satellite dishes in excess of one meter to be regulated. On roll call vote, approved unanimously.

#3804 **MAYOR'S REPORT**

1. Mayor reminded Councilmembers of the vacancy on the Public Works Committee and asked for names if they have any to submit.
2. Mayor reminded Council of the joint Council/Plan Commission work session on August 26, 1996 at 7:00 p.m. regarding floor area ratios in a special development district.
3. Mayor has heard from several residents about the annual street rehab, regarding the timing of components of those projects. She said Council and staff understand the contractor bids the job based on performing all of one type of work at one time, then going back to each area for the next part of the job. She suggests that next year the contractor notify residents of that procedure and of the stages and flow of the work.

4. Harry Malnicof has successfully met the requirements of the Professional Certification Board of the Association of Government Accounts as an expert government financial manager and has been granted the designation of Certified Government Financial Manager (CGFM). The Mayor congratulated Malnicof on this certification.

OLD BUSINESS

#3973 **Report from Public Works Committee on curb-sidewalk request from Leawood Meadows subdivision.** Clawson reported that Leawood Meadows Homes Association requests concrete streets and gutters and sidewalks along Roe between 137th to 138th Terrace. Joe Johnson said the estimated cost is $342,219.00 and the project would have to be added to the CIP due to limited funding in the arterial/collector street fund. Motion by Clawson to approve the item for inclusion into the CIP list and to slot it in as soon as practical.

CITIZEN COMMENTS on this issue:

Mary Watson, 13716 Fontana, said she and Wayne Johnson were at the Public Works Committee meeting. She asked that the money not spent on the Lee Boulevard sidewalk south of 103rd St. to Leawood Park that wasn't approved be applied to this project. The Mayor said this will have to wait and go into the CIP. Monies currently available must be spent on the sewers which must be put in.

Wayne R. Johnson asked why 5-foot sidewalks are required for this location although others such as Worthington and the apartments across Roe from Hawthorne have 4-foot sidewalks.

Rinehart said those apartments are in Overland Park. As for Camelot Court, Joe Johnson explained ADA requirements and explained the consistency in residential areas. LaHue suggested Wayne Johnson attend the meeting in September at which the CIP is to be reviewed.

Motion by Clawson, second by Peppes, to add this to CIP as soon as practicable. Unanimous.

#4562 **Authorize supplemental engineering design agreement for Mission Road improvements, 103rd to I-435; $14,776; Bucher, Willis & Ratliff.** Motion by LaHue, second by Clawson to approve. The request is to increase the engineering costs to modify the construction plans, to build a concrete paved surface instead of asphalt. Rasmussen asked about the additional costs resulting from KDOT's delay in building the bridge over Mission Road; the Mission Road improvement project has been postponed at KDOT's request, and he asked whether City taxpayers are expected to pay to accommodate the delay or is KDOT paying the additional amount resulting from the delay. Joe Johnson said the funding was capped by MARC in 1991 at $1.4 million; construction costs have gone up since then but there's no way to go back in and adjust for inflation. Rasmussen is disturbed that because of the City's willingness to accommodate KDOT's construction schedule by delaying Mission Road

improvements, Leawood residents will pay an additional $300,000. Garofano said the project is shared with Overland Park; Leawood will not pay all of the additional amount. Joe Johnson said the $14,776 is to make the change from asphalt to a concrete street plus provide more backflow preventers necessitated by relocation of the water main. Leawood will pay 51% and Overland Park 49%. Approved unanimously.

NEW BUSINESS

#4822 **Accept bid and authorize contract for construction of stormwater project - Sagamore, 97th/98th (includes 97th Street rehabilitation); $699,906.41; Seal-O-Matic Paving (low bidder).**
Motion by LaHue, second by Clawson to approve. Rasmussen asked about stormwater problems at the 98th Street bridge. Johnson said the culvert on 98th Street is to be replaced. Clawson asked about the sanitary sewer lines that cross just south of 97th and just south of 98th Streets. Malnicof explained the effects of the cash basis law on funding. Mayor Rinehart said the City has the funds on hand for its share. Patterson said the Stormwater Committee is stalled on the cash basis/funding issue.

The main motion was approved unanimously.

Patterson moved to direct the city attorney, finance director and auditors to write opinion letters or to request an Attorney General's opinion as to whether or not the City's annually appropriated funds under County interlocal agreement complies with the cash basis accounting method. Second by Clawson. Unanimous.

5318 **Ordinance No. 1605 establishing the 1997 annual sewer assessment.**
No discussion. Motion by Clawson, second by Bold. Unanimous on roll call.

5344 **Approval of appropriation ordinance No. 789.** No discussion. Motion by LaHue for approval. Second by Peppes. Unanimous.

5384 **Schedule Executive Session.** Motion by LaHue, second by Peppes to schedule executive session not to exceed 30 minutes at the end of the meeting to discuss two items of litigation. Approved unanimously.

OTHER BUSINESS

#5407 **Mazzoni property, 9616 Belinder.** Bold moved to reconsider the retaining wall issue from the last Council meeting; second by Campbell. Unanimous. Clawson said Mazzoni came to Council for help with bringing his property back to its original condition. She supports his request for building the retaining wall himself with city-paid materials, because he granted the City the easement believing the construction and effects on his property would be as originally presented to him. Clawson moved to grant Mazzoni reimbursement for materials, up to $1,000, for building the wall himself on his own property. Second by Rasmussen. Unanimous.

#5708 **Executive Session.** Council convened in executive session at 10:25 p.m. with the same members present.
At 10:55 p.m. Council returned to regular session.

Adjourned. At 10:57 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk
crp

Regular Meeting

THE LEAWOOD CITY COUNCIL

September 3, 1996

Minutes Summary

Audio Tape No. 364

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Tuesday, September 3, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, *John Campbell, *Marnie S. Clawson, Ron LaHue, Doug Patterson, Gregory J. Peppes, Louis Rasmussen, Peggy Dunn..

Staff Present: Richard J. Garofano, City Administrator; Joe Johnson, Acting Director of Public Works; Mark Andrasik, Director of Information Services; J. Stephen Cox, Police Chief; Ben C. Florance, Fire Chief; Julie Hakan, Director of Human Resources; Harry Malnicof, Finance Director; Bob McKay; Director of Planning & Development; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#60 Approved unanimously on motion by Peppes, second by Dunn, after addition of a discussion of state and/or federal ethics laws.

* 7:37 P.M. Councilmembers Campbell and Clawson arrived.

#109 **RECOGNITION OF HALEY HANNAH, MISS LEAWOOD KANSAS AMERICAN PRINCESS.** Mayor Rinehart recognized Haley for her outstanding achievement and wished her success at the national finals, the Miss American Princess Pageant, in Orlando, Florida Thanksgiving week. She will compete for the National Queen title, as well as for talent and speech awards. The Mayor presented a proclamation to her in honor of her achievement.

#204 **ACCEPTANCE OF DONATION TO THE POLICE DEPARTMENT TO HELP ESTABLISH A BICYCLE PATROL.** On motion of Bold, second by Peppes, Council unanimously accepted a $4,000 donation from Poag & McEwen, developers of Town Center Plaza at 119th and Roe Ave.

CITIZEN COMMENTS - see end of meeting (Gordon Thomas).

#384 **PROCLAMATIONS** - The Mayor proclaimed:

1. October 10, 1996, as "Double Tenth Day" for Sister City I-Lan, Taiwan, in honor of the 85th anniversary of the Republic of China on Taiwan;
2. October 6-12, 1996, as "National 4-H Week";
3. November 17-23, 1996, as "American Education Week and America Goes Back to School: Get Involved!"

CONSENT AGENDA - appointment to the Public Works Committee was removed for further discussion.

The following were approved unanimously on motion by Clawson, second by Peppes:

1. Minutes of August 19, 1996 Council meeting;
2. Committee reports: Historic Commission meeting of August 20, 1996; Arts Committee meetings of July 22, 1996, and August 27, 1996;
3. Assignment to Nuisance Alarm Appeals Committee to hear an appeal of an alarm assessment;
4. Change Order No. 1 not to exceed $19,411.65 to allow Muehlberger Concrete Co. to extend street construction on Meadow Lane further south to improve street drainage to the storm sewer system - Meadow Lane street and storm sewer rehabilitation project (JB-04-006);
5. Acceptance of third grant in the amount of $10,000 from the Kansas City Golf Foundation to cover the cost of the Ironhorse Golf Club junior learning center.

Appointment of Julie Cain, 12813 Delmar, to the Public Works Committee (to replace Paul Bennett): Councilmember Rasmussen asked about Mrs. Cain's qualifications for serving on the Public Works Committee. The Mayor said she did not submit information about every committee nominee; she didn't feel it was necessary. Councilmember Bold suggested a general application or interest form be created for all committee and commission applicants. Mr. Rasmussen moved that the Council receive information on Plan Commission and Public Works Committee appointments (due to the major importance of their decisions), second by Patterson. Motion carried; Campbell opposed, all others in favor. Mrs. Clawson and Mr. Patterson will work on a general form. On motion of Rasmussen, second by Peppes, Council unanimously approved Mrs. Cain's appointment.

PLAN COMMISSION

#638 **Ordinance No. 1606 amending Section PM 302.0 of the "Property Maintenance Code" to correct a conflict dealing with environmental enforcement procedures.** On motion of LaHue, second by Clawson, Council unanimously passed the ordinance on roll call vote.

#736 **MAYOR'S REPORT**

1. Joe Johnson, Acting Director of Public Works, gave an update on the 83rd Street improvement project. The street should be entirely open from State Line to Mission by September 16, 1996.
2. The Mayor asked if Council was interested in helping to pay for the costs of the "Taste of Johnson County" which would be part of the annual League of Kansas Municipalities meeting in Overland Park on October 7th, 5-6 P.M. A Leawood restaurant could be represented or showcased at the reception with the associated food costs covered by the City. Overland Park suggested funding for 85 people. Councilmember LaHue moved to authorize the City to provide up to $1,000 funding for 85 people with a Leawood restaurant participating, second by Patterson. Councilmember Bold felt such an expenditure seemed insignificant compared to the Mazzoni's request over the last several Council meetings to have a retaining wall constructed at their home, 9616 Belinder. Mr. Bold couldn't see spending taxpayers' dollars to impress League delegates. Dr. LaHue's motion carried; Bold, Rasmussen opposed; all others in favor.

OLD BUSINESS

#985 **Discussion of Wilshire subdivision:** Councilmember Bold said that the Wilshire Homes Association and developer Jeff Ashner had reached an agreement. The Homes Association focused on 6 items of conern that the developer agreed to take care of:

1. street trees would be planted as required by City ordinance;
2. all mulch sidewalks would be replaced with concrete sidewalks as required by City ordinance;
3. painting would be done in the pool area, particularly the fence around the pool;
4. irrigation on one island on 132nd Terr. was not hooked up because one property owner would not provide right-of-way for irrigation lines across his yard; the Homes Association will continue to work with the property owner; if they are successful, the developer will hook the irrigation line up;
5. the entrance to the subdivision on Roe will be made easier to mow;
6. monuments and entrance on Roe will be enhanced.

The drainage issue was determined to be a separate issue and excluded from the agreement; it is being studied by several groups to find a solution to the drainage problem.

#1170 **Authorize amendment to interlocal agreement with Johnson County for stormwater management project known as improvements on Dykes Branch: High Drive-Lee Blvd., vicinity 93rd Street (DB-04-020) - to increase County's funding commitment from $363,000 to $685,204:** Council unanimously approved the amendment on motion of LaHue, second by Campbell.

#1410 **Authorize amendment to interlocal agreement with Johnson County for stormwater management project known as improvements on James Branch: Belinder to Manor (JB-04-005) - to increase County's funding commitment from $149,000 to $248,033:** Council unanimously approved the amendment on motion of LaHue, second by Clawson.

#1423 **Authorize amendment to interlocal agreement with Johnson County for stormwater management project known as improvements on James Branch: Manor to vicinity of 96th Street (JB-04-006) - to increase County's funding commitment from $185,000 to $300,233:** Council unanimously approved the amendment on motion of Clawson, second by LaHue.

NEW BUSINESS

1440 **Approval of appropriation ordinance No. 790.** On motion of Dunn, second by Peppes, Council unanimously approved the ordinance on roll call vote.

OTHER BUSINESS

#1463 A work session will be held Monday, September 9, 1996, 7:00 P.M. to discuss the proposed Capital Improvements Program.

Discussion of state and/or federal ethics laws: Councilmember Dunn asked on behalf of a constituent if Leawood had an ethics law similar to Kansas City, Missouri which prohibits lobbying by ex-public sector employees on behalf of their private sector interests for a period of one year after leaving that particular public sector. City Attorney Wetzler didn't think there was such a law in Kansas, but will research the matter and send an informational memo to Council by the next Council meeting.

#1515 Resident G. Gordon Thomas, 10516 Mohawk Lane, commented on the amendment to the property maintenance code that had been passed earlier in the meeting.

The Mayor asked if Councilmembers were interested in discussing the City becoming a city of the first class at the September 9th work session. Councilmember Campbell wanted to review staff's study done last year before any discussion takes place. All Councilmembers will received a copy for review.

#1765 **Adjourned.** At 8:35 p.m., there being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

September 16, 1996

Minutes Summary

Audio Tape No. 365

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, September 16, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: *Adam Bold (7:45 p.m.), **John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Doug Patterson, ***Gregory J. Peppes (8:45 p.m.) , Louis Rasmussen, and Peggy J. Dunn..

Staff Present: Richard J. Garofano, City Administrator; Joe Johnson, Acting Director of Public Works; Mark Andrasik, Director of Information Services; J. Stephen Cox, Police Chief; Ben C. Florance, Fire Chief; Harry Malnicof, Finance Director; Bob McKay, Director of Planning & Development; Scott Whitaker, Director of Parks & Recreation; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

#78 Approved unanimously on motion by Clawson, seconded by Dunn, after addition of the acceptance of a donation from the Leawood Lions Club, and deletion of an ordinance vacating a portion of 115th Street, Leawood Country Manor subdivision.

** Councilmember Campbell arrived.

#123 **ACCEPTANCE OF DONATION FROM THE LEAWOOD LIONS CLUB.** Members of the Lions Club presented a $12,000 check to Scott Whitaker, Director of Parks & Recreation, the Club's final portion of funding of the new shelter house at Leawood Park at 106th and Lee Boulevard. Club members requested that the shelter be designated the "Leawood Lions Club" shelter. On motion of Dunn, seconded by Clawson, Council voted unanimously to accept the donation.

CITIZEN COMMENTS. See tape meter #1017.

#228 **PROCLAMATIONS** - The Mayor proclaimed:

1. September 17-23, 1996, as "Constitution Week";
2. October 7-13, 1996, as "Temporary Help Week".

CONSENT AGENDA - the Capital Improvements Program and Police Department monthly report for August were removed for further discussion.
The following were approved unanimously on motion by Campbell, seconded by LaHue:

1. Minutes of the September 3, 1996 Council meeting;
2. Committee reports: Parks & Recreation Advisory Board report (minutes) of their September 10, 1996 meeting;
3. Departmental reports: Fire (for August), and Planning (for August);

4. Pay Request No. 6 (FINAL) by Leavenworth Excavating and Equipment Co. (LEXECO) for $108,235.24 for Mission Rd. improvements, 143rd St to 151st St.;
5. Public Works Department recommendation regarding citizens' request for City to construct a temporary asphalt sidewalk (estimated cost of $19,632.00), north side of 143rd St. between Granada and Mission Rd. - to be constructed as part of the Mission Rd. improvements between 135th St. and 143rd St. in 1997.

Discussion of Capital Improvements Program (1997-2001). Staff clarified that design and construction of a possible future sidewalk between 103rd and 105th Streets was not included in the $950,000 cost of the improvement of Lee Boulevard scheduled for 1998.

* 7:45 P.M. Councilmember Bold arrived.

Any consideration of a sidewalk would take place at the time of the design of Lee Boulevard improvements. On motion of Clawson, seconded by LaHue, Council voted to forward the CIP to the Plan Commission for adoption; Rasmussen opposed, all others in favor.

Police Department report for August 1996. In response to Councilmember Dunn's question about the increase in nuisance alarm calls, Chief Cox said there had been no significant decrease in false alarms since the new alarm ordinance became effective several months ago. On motion of Dunn, seconded by LaHue, Council unanimously accepted the report.

PLAN COMMISSION

#540 **Resolution No. 1319, attached as part of the record, approving a special use permit for a Sprint Cellular Tower at 135th and Nall Avenue.** Councilmember Rasmussen moved to adopt the resolution, seconded by Patterson. John Peterson representing Sprint Spectrum explained that a monopole had been selected over a lattice tower because it was more aesthetically pleasing and could handle 4 users or carriers plus the City's police antenna. He also stated there would be no charge to the City for its access to the tower. Councilmember Bold moved to amend the motion to add a stipulation to the resolution that the existing monopole be removed from the property at the end of the property owner's lease with Cellular One, seconded by Rasmussen and carried unanimously. (A letter from the property owner Ira A. Stein, so indicating this removal, was read by Mr. Peterson and given to the City Clerk.) Mr. Rasmussen's motion as amended to adopt the resolution carried unanimously.

#1017 **CITIZEN COMMENTS.** Relative to the Capital Improvements Program, Charles Russ, 10330 Lee Boulevard, Chairman of the Leawood Committee, expressed opposition again to construction of sidewalks on Lee Boulevard between 103rd Street and 105th Street. An impact study done previously indicated that sidewalks were not necessary. He also expressed concern about the effect sidewalks would have on the trees.

#1285 **PLAN COMMISSION (CONTINUED)**
Resolution No. 1320, attached as part of the record, approving the revised preliminary site plan of Outlot #7, Town Center Plaza, approximately 117th and Roe Avenue. Councilmember Rasmussen moved to adopt the resolution, seconded by Clawson. Architect Steve Rees gave a presentation. Councilmember LaHue felt that more definition was needed on the north side facing Town Center Drive; as planned, it looked like the back side of a building. Motion to adopt the resolution carried unanimously.

#1900 **Ordinance No. 1607 amending Section 4-3 of the "Amendment of the Leawood Development Ordinance" to provide for moving structures as a special use.** The ordinance was considered and passed on motion of Rasmussen, seconded by Bold. Roll call was unanimous.

#1913 **Ordinance No. 1608 amending the 1993 Master Development Plan Map** - redesignating a tract approximately 40 acres in size located on the southwest corner of College Boulevard and Tomahawk Creek Parkway, commonly referred to as the Gordon Tract, from Medium Density Residential-Single Family Attached to Office. Councilmember LaHue moved to pass the ordinance, seconded by Rasmussen. Property owner Marshall Gordon said he was basically in favor of the motion for approval, but expressed some concern about the huge excess of office space nationwide, and the small demand for office space.

*** 8:45 P.M. Councilmember Peppes arrived.

The motion to pass the ordinance carried on roll call; Peppes abstained, all others in favor.

#2170 **MAYOR'S REPORT.** The Mayor had attended a recent Council of Mayors meeting at which they discussed the County's goal to reduce solid waste by 30%, the ozone problem in the metropolitan area, tires being accepted by the environmental department, and heard a presentation by the the Debt Management Awareness Council (DMAC).

OLD BUSINESS

#2257 **Ordinance No. 1609 amending and deferring assessments previously imposed by Ordinance No. 1540 for the purpose of paying the cost of improving State Line Road, Phase II.** The ordinance was considered and passed on motion of LaHue, seconded by Patterson. Roll call was unanimous.

NEW BUSINESS

#2339 **Approve bid/authorize contract for construction of sanitary sewer rehabilitation project #2.** On motion of LaHue, seconded by Clawson, Council unanimously authorized the Mayor to sign a contract with the low bidder Wiedenmann and Godfrey Construction Co. of Belton, Missouri, in the amount of $388,000. The purchase order will indicate an additional $40,000 for change orders and add-ons, for a total of $428,000.

#2553 **Authorize Supplemental Services Agreement No. 1 for construction inspection services for the sanitary sewer rehabilitation project #2 (1996).** On motion of LaHue, seconded by Rasmussen, Council unanimously authorized the Mayor to execute the agreement with George Butler Associates in the amount of $64,490.00.

#2566 **Ordinance No. 1610 accepting 2 traffic signal easements from Sam Wilson's/Kansas, Inc., for traffic signals on 119th Street between Roe Avenue and Nall Avenue.** The ordinance was considered and passed on motion of Dunn, seconded by LaHue. Roll call was unanimous.

#2587 **Ordinance No. 1611 granting a weather station easement to Overland Park, for the purpose of constructing, using, replacing and maintaining a weather instrument on Mission Rd. over Negro Creek.** Overland Park was establishing a flood warning system for Tomahawk Creek, Indian Creek, and Negro Creek, which would require the installation of a weather station and stream monitoring gauge. The ordinance was considered and passed on motion of LaHue, seconded by Patterson. Roll call was unanimous.

#2639 **Approve bid for street striping.** On motion of Campbell, seconded by Clawson, Council unanimously approved the bid from Twin Traffic Marking Corp. for an all solvent marking at the bid price of $19,684.78. A total of $21,653.25 will be reserved in the purchase order.

#2698 **Designation of voting delegates to the League of Kansas Municipalities annual conference in Overland Park, October 6-8, 1996.** On motion of Peppes, seconded by Bold, Council unanimously selected Mayor Rinehart and Councilmembers Dunn, Campbell, and Clawson as voting delegates; Councilmembers Rasmussen, Patterson as alternate voting delegates.

#2771 **Approval of Appropriation Ordinance No. 791.** The ordinance was considered and passed on motion of Peppes, seconded by Dunn. Roll call was unanimous.

#2783 **Executive session**. On motion of Dunn, seconded by Peppes, Council unanimously voted to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a litigation matter and a personnel matter.

OTHER BUSINESS

The October 7, 1996 Council meeting will start at 6:00 P.M. or very shortly thereafter as soon as there is a quorum to conduct business.

Councilmember Peppes had received a letter concerning the bridge removal on High Dr. near the Leawood Country Club. Residents were thinking of rebuilding on private property, rather than public property. Staff confirmed that plans would still need to be approved by a professional architect or engineer to meet standards even though the new construction would be on private property.

#3025 9:15 P.M. Council convened in executive session, and returned to regular session at 9:45 P.M. On motion of Dunn, seconded by Clawson, Council voted unanimously to return to executive session for 5 minutes to continue the same discussions.

9:50 P.M. Council returned to regular sesssion. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

October 7, 1996

Minutes Summary

Audio Tape No. 366

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 6:00 p.m., Monday, October 7, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, *Ronald LaHue (arrived late), Doug Patterson, Gregory J. Peppes, Louis Rasmussen, and **Peggy J. Dunn (arrived late).

Staff Present: Julie Minegar, Public Works Department; Mark Andrasik, Director of Information Services; Captain Sid Mitchell, Police Department; Ben C. Florance, Fire Chief; Nancy Kelley, Finance Department; Bob McKay, Director of Planning & Development; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

58 Approved unanimously on motion by Peppes, seconded by Rasmussen, after addition of a petition for additional street lighting in Leawood South subdivision, and discussion of road construction at 135th & Roe Ave. and 135th & Mission Rd.

CITIZEN COMMENTS. None.

83 **CONSENT AGENDA**

The following were approved unanimously on motion by Rasmussen, seconded by Clawson:

1. Minutes of the September 16, 1996 Council meeting;
2. **Resolution No. 1321**, attached as part of the record, approving the revised final plat of the Estates of Ironhorse at approximately Bell Drive and Ironhorse Drive;
3. Purchase of 2 1996 Dodge Intrepids for the Police Department through cooperative purchasing bids, low bidder Raytown Dodge for a total of $32,666 (to replace 2 1991 Chevrolet Lumina sedans used by division commanders);
4. Pay Request No. 2 (FINAL) by Kissick Construction Co. for $14,179.70 for construction of privacy wall at 128th & State Line Rd.;
5. Pay Request No. 2 (FINAL) by Harlan Shaver for $2,842.50 for subdivision monuments construction project, part of Mission Rd. improvements, 95th St. to 103rd St.

NEW BUSINESS

93 **Authorize construction contract for expansion of City Hall, 4800 Town Center Drive.** On motion of Clawson, seconded by Campbell, Council unanimously authorized a contract (with all alternates) with Haren & Laughlin Construction Company, Inc., in the amount of $1,075,267.00.

144 **Ordinance No. 1612C adopting the 1996 edition of the "Standard Traffic Ordinance".** The ordinance was considered and passed on motion of Campbell, seconded by Rasmussen. On roll call, the vote was unanimous.

158 **Ordinance No. 1613C amending Section 14-201 of the Code of the City of Leawood relating to penalties for violations of local traffic regulations.** The ordinance was considered and passed on motion of Clawson, seconded by Rasmussen. Roll call was unanimous.

** Councilmember Dunn arrived.

168 **Ordinance No. 1614C adopting the 1996 edition of the "Uniform Public Offense Code for Kansas Cities".** The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. Roll call was unanimous.

178 **Ordinance No. 1615C amending Section 11-201 of the Code of the City of Leawood relating to penalties for local public offense violations.** The ordinance was considered and passed on motion of Clawson, seconded by Campbell. Roll call was unanimous.

188 **Ordinance No. 1616C amending Section 11-606 of the Code of the City of Leawood relating to penalties for drug offenses.** The ordinance was considered and passed on motion of Bold, seconded by Peppes. Roll call was unanimous.

198 **Approval of Appropriation Ordinance No. 792.** The ordinance was considered and passed on motion of Rasmussen, seconded by Peppes. Roll call was unanimous.

*' Councilmember LaHue arrived.

208 **Executive session.** On motion of Rasmussen, seconded by Clawson, Council unanimously voted to convene in executive session at the end of the meeting for a period not to exceed 15 minutes to discuss a litigation matter.

OTHER BUSINESS

220 The Mayor reminded Council of a work session scheduled for Monday, October 14th, 7:00 p.m., to discuss the possibility of Leawood becoming a city of the first class.

A petition for additional street lighting in the Leawood South subdivision on Pawnee Lane between 126th St. and 127th St. and on the 16th fairway of the Leawood South Country Club golf course, had been distributed to the Council. On motion of Campbell, seconded by Rasmussen, Council voted unanimously to assign the matter to Public Works staff to review the request.

263 Councilmember Bold was concerned that Roe Ave. north of 135th St. would be closed at the same time as Mission Rd. at 135th St. This would be extremely inconvenient for residents living north and south of 135th St., from State Line Rd. to Nall Ave. It had always been his

understanding that Roe would not be closed until Mission Rd. improvements were completed and the street reopened to traffic.

The Mayor stated it would be beneficial to have both Roe and Mission closed at the same time for approximately 6 weeks with a tentative reopening of both roads on November 15th; if they weren't closed now, one or both would be closed during the winter season for approximately 4 months.

Councilmember Clawson wanted to know if something could be done to improve left turning onto State Line from 135th St. to alleviate a stacking problem.

467 Councilmember Bold moved that construction of Roe north of 135th St. not begin until Mission Rd. was reopened, seconded by Patterson. Motion failed; Bold, LaHue, Patterson in favor; all others (5) opposed.

715 Councilmember Dunn moved that the City Attorney meet with staff to do everything possible to impose a penalty if Reno Construction Co. did not meet the November 15th deadline for reopening Roe and Mission. Motion seconded by Rasmussen and carried unanimously.

815 6:30 p.m. Council convened in executive session. Councilmember Rasmussen left the meeting at 6:40 p.m.

6:45 p.m. Council returned to regular session, same members present, except Mr. Rasmussen. Councilmember Patterson moved that the existing moratorium on yard signs (imposed by the City Attorney) remain in effect until the Council has had an opportunity to review proposed changes to City ordinance as soon after the November 5th general election as possible, and that Council ratify the City Attorney's action in imposing such a moratorium on the timing of the placement of political signs. Motion seconded by LaHue and carried unanimously. All aspects of the sign ordinance, except the timing of the placement of signs, would continue to be enforced.

893 6:50 p.m. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

October 21, 1996

Minutes Summary

Audio Tape No. 367

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 p.m., Monday, October 21, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Doug Patterson, Gregory J. Peppes, and *Louis Rasmussen (arrived late). Peggy J. Dunn was absent.

Staff Present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Joe Johnson, Acting Public Works Director; Mark Andrasik, Director of Information Services; J. Stephen Cox, Chief of Police; Harry Malnicof, Finance Director; Ben C. Florance, Fire Chief; Robert McKay, Director of Planning & Development; Scott Whitaker, Director of Parks & Recreation; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

60 Approved unanimously on motion by Peppes, seconded by Clawson, after the addition of a presentation on the bi-state cultural election issue to appear on the November 5th general election ballot (relating to the restoration of Union Station in Kansas City, Missouri), and a discussion of the sale of firearms at Galyan's Trading Company (sporting goods store) at Town Center Plaza.

92 **RECOGNITION OF FIRE DEPARTMENT CAPTAIN ROBERT HASKIN FOR HIS SERVICE TO THE CITY.** The Mayor presented a plaque to Haskin in honor of his 25 years of service to the City (July 16, 1971-July 16, 1996). He also received a Fire Department plaque from Fire Chief Florance.

222 **PRESENTATION OF A BI-STATE CULTURAL QUESTION TO APPEAR ON THE NOVEMBER 5, 1996, GENERAL ELECTION BALLOT RELATING TO THE RESTORATION OF UNION STATION IN KANSAS CITY, MISSOURI.** Bill Tschudy of the Bi-State Cultural Committee showed a video on the restoration of Union Station in Kansas City, Missouri, which included the creation of a new Science City. Voters would be asked to approve a levy of a retailers' sales tax in the amount of one-eighth of one cent (.125%) to finance a metropolitan culture district.

* Councilmember Rasmussen arrived during the video.

628 **CITIZEN COMMENTS.** Carol Brown, 9310 State Line Road, was concerned about a storm drainage improvement project in the area of 93rd St. and Lee Court near her home. She felt that a large storm drain would adversely affect her property value, and she would not be able to replace some old trees. Residents along State Line Rd. were not notified about the project. (See tape meter #1717, end of the meeting.)

770 **CONSENT AGENDA**

A request to purchase 2 fire trucks was removed for further discussion. The following were approved unanimously on motion by Rasmussen, seconded by Peppes:

1. Minutes of the October 7, 1996 Council meeting;
2. Historic Commission report (minutes) of their September 17, 1996 meeting;
3. Fire Department report for September;
4. Change Order No. 2 to the contract with Teague Electric Construction in the amount of $11,120.00 required to match the existing plan grade on the southwest corner of Town Center Drive and Roe Avenue, Town Center Plaza project;
5. Change Order No. 1 to the contract with Seal-O-Matic Paving Co. in the amount of $57,571.15, 1996 Residential Street Rehabilitation Program;
6. Pay Request No. 2 (FINAL) by K & K Concrete Construction Co. for $7,202.85 for 1996 Curb Rehabilitation Project;
7. Assignment to Alarm Appeals Committee to conduct 2 appeal hearings on false alarm assessments;
8. Appointment of Diane Conner, 2909 W. 94th Terr., to the Arts Committee, to replace Doug Alpert (to fill his unexpired term to 1998);
9. Purchase of swimming pool slide from Whitewater West Industries Ltd. in the amount of $91,533 (part of Leawood Park pool complex renovation project, 106th & Lee Blvd.);
10. Change Order No. 1 to the contract with B.C. Construction in the amount of $7,987 for Leawood Park pool renovation project.

Purchase of 2 Class "A" pumpers for the Fire Department: Councilmember LaHue asked if the height of buildings in Leawood would have any affect on the height that a new pumper could reach. Chief Florance said that mutual aid agreements would take care of that concern. On motion of Rasmussen, seconded by Clawson, Council unanimously approved the purchase of 2 Pierce Class "A" Pumpers for a total of $524,500 from Pierce Manufacturing, Inc., trucks to be delivered in mid 1997.

PLAN COMMISSION

871 **Resolution No. 1322, attached as part of the record, approving a special use permit for an off-site sign for Steeplechase subdivision, southwest corner of 135th and Mission Rd.:** Permit limited to 1 year from the date of Council approval. On motion of Clawson, seconded by Patterson, the resolution was adopted unanimously.

902 **Ordinance No. 1617 adopting an amendment to the 1993 Master Development Plan Map, modifying a 13-acre tract at approximately 126th and Nall, commonly referred to as the McKee property, from Medium Density Residential-Single Family Attached to Open Space-Public:** The ordinance was considered and passed on motion of Rasmussen, seconded by LaHue. Roll call was unanimous.

OLD BUSINESS

959 **Ordinance No. 1618 accepting deeds from the Highlands of Leawood subdivision, converting private streets in the subdivision to public streets:** The ordinance was considered and passed on motion of Rasmussen, seconded by Bold. Roll call was unanimous.

NEW BUSINESS

1007 **Authorize contract for design engineering services for Tomahawk Creek bank stabilization (south bank along Bongu property in Berkshire subdivision, approximately 123rd and Roe Ave.):** On motion of Bold, seconded by Clawson, Council unanimously approved a contract with Phelps Engineering in the amount of $35,680.00, SMAC to reimburse the City 75% of engineering costs.

1104 **Authorize interlocal agreement with Overland Park for public improvements to Mission Rd. from approximately 103rd St. south to the bridge over Indian Creek south of I-435** - Leawood cost share approximately $691,000. On motion of LaHue, seconded by Clawson, Council unanimously approved the agreement.

1131 **Authorize contract for engineering inspection services for stormwater management project, High Drive and Sagamore Road between 97th St. and 98th St., including culvert improvements on 98th St. and storm sewer improvements on 97th St.:** On motion of Rasmussen, seconded by Clawson, Council unanimously approved a contract with Geotechnical Services, Inc. for approximately $40,000 (75% reimbursed to the City by SMAC).

1160 **Consideration of bids for construction of a bike/hike trail along Constitution Court from Mission Road to Leawood Park, and a sidewalk along the west side of Lee Boulevard from 105th St. south to Leawood Park:** One bid in the amount of $303,002 was received from O'Donnell & Sons Construction Co. The engineer's estimate was $188,319.00. Staff recommended rejection of the bid and re-bid of the project the first part of 1997 with construction in late spring. On motion of Rasmussen, seconded by Campbell, Council unanimously approved staff's recommendation to reject the bid and re-bid in 1997.

1217 **Award bid/authorize contract for 1996 Sanitary Sewer Rehabilitation Project No. 2:** On motion of Rasmussen, seconded by Clawson, Council unanimously approved a contract with Insituform Missouri, Inc., in the amount of $343,588.00.

1267 **Approval of Appropriation Ordinance No. 793.** The ordinance was considered and passed on motion of Peppes, seconded by Clawson. Roll call was unanimous.

OTHER BUSINESS

1281 On motion of Rasmussen, seconded by Peppes, Council unanimously approved the City Administrator's appointment of Joe Johnson as Public Works Director.

The City Administrator's annual performance evaluation was scheduled for November 25th, 5:30 P.M.

1382 Discussion of the sale of firearms at Galyan's Trading Company in Town Center Plaza, 119th and Roe Ave.: A letter from Mrs. Pat Keane, 4420 W. 150th St., had been distributed to the Council. Mrs. Keane was concerned that handguns were readily accessible to all customers, including youth, in the sporting goods store. Steve Cohen, General Manager of Galyan's, reported on some changes the company planned to make as a responsible member of the community - 1) develop signage for the department to prohibit access to the department by anyone under 18 years of age; 2) work with the Police Department to have uniformed off-duty police officers help monitor the situation; and 3) reconfigure the department so that handguns would be placed in the rear of the department with signage that people must be 21 years old to view/handle handguns. Mrs. Keane felt that the City should adopt some guidelines for the sale of guns in the City, if it was going to allow such sale.

1717 At the beginning of the meeting (citizen comments), Leawood resident Carol Brown expressed concerns about storm drainage improvements in her area. A public meeting would be held Wednesday evening, October 23rd, to discuss the stormwater improvement project High Drive to Lee Boulevard at 93rd St., and Mrs. Brown was invited to attend.

1876 8:40 p.m. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

November 4, 1996

Minutes Summary

Audio Tape No. 368

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, November 4, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Doug Patterson, Gregory J. Peppes, and Peggy J. Dunn. Louis Rasmussen was absent.

Staff Present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Joe Johnson, Public Works Director; Mark Andrasik, Director of Information Services; J. Stephen Cox, Chief of Police; Harry Malnicof, Finance Director; Ben C. Florance, Fire Chief; Robert McKay, Director of Planning & Development; Deidre Markley, Economic Development/Special Projects Coordinator; Martha Heizer, City Clerk; Richard S. Wetzler, City Attorney.

APPROVAL OF AGENDA

54 Approved unanimously on motion by Peppes, seconded by Clawson, after the addition of an update on Wilshire subdivision and drainage, and an update on 143rd St. improvements.

RECOGNITION OF VOLUNTEER FIREFIGHTER STEVEN L. ANDERSON FOR SERVICE TO THE CITY. The Mayor presented a plaque to Anderson in honor of his 25 years of volunteer service to the City (June 22, 1971-June 22, 1996). He also received a Fire Department plaque from Fire Chief Florance.

RECOGNITION OF VOLUNTEER FIREFIGHTER BILL BASORE FOR SERVICE TO THE CITY. Fire Chief Florance presented a plaque to Basore in honor of his 20 years of volunteer service to the City, May 11, 1976 to May 11, 1996.

300 **CITIZEN COMMENTS.** Jeff Nessel, 12012 Ensley Lane, spoke about a promise made earlier to residents that 1 and 2 story office buildings would be built on the 30 acres next to AMC Theaters at Town Center Plaza, not an 8-story complex that had apparently been alluded to in various discussions several months ago. He felt that Planning staff (in particular, Planning Director McKay) had violated sunshine laws and due process (at the time Price Chopper at 135th and Mission Rd. was discussed) by not permitting people to speak at a public hearing. Mr. McKay said that due process had not been violated - the City Attorney would attest to that - and the developer Whitney Kerr had not submitted an application/plans for the 30-acre tract. Mr. Nessel felt that Plan Commission discussion of a SD District at their work session tomorrow night would "open the door "to such a large complex.

485 **CONSENT AGENDA**
An audit of utility bills and rates was removed for further discussion. The following were approved unanimously on motion by Dunn, seconded by Bold:

1. Minutes of the October 21, 1996 Council meeting;
2. Alarm Appeals Committee report (minutes) of their October 30, 1996 meeting.

Audit of utility bills and rates: After clarification that the audit firm's fee would be 50% of any savings to the City (no fee received if there were no savings to the City), and on motion of Peppes, second by Patterson, Council approved an audit to be performed by Carleton B. Fox Co., Inc., of Kansas City; Campbell and Bold abstained to avoid the appearance of conflicts of interest, all others (5) in favor.

630 **MAYOR'S REPORT.** Fire Chief Florance reported on a recent County urban twister (tornado) exercise which was held for the first time in about 10 years to test cooperation and communications between municipalities. The greatest area for improvement was communications.

NEW BUSINESS

828 **Ordinance No. 1619 authorizing issuance of temporary notes; project 108, College Blvd.; $3,800,000.** Motion to pass by Campbell, second by Clawson. Roll call vote unanimous.

Ordinance No. 1620 authorizing issuance of temporary notes; project 124, 135th St. [K-150], State Line-Nall Ave.; $2,500,000. Motion to pass by Dunn, second by Peppes. Roll call vote unanimous.

Ordinance No. 1621 authorizing issuance of temporary notes; project 126, Mission Rd., 95th St.-103rd St.; $200,000. Motion to pass by Peppes, second by Campbell. Roll call vote unanimous.

Ordinance No. 1622 authorizing issuance of temporary notes; project 128, Old Kenneth Rd.; $600,000. Motion to pass by Bold, second by Dunn. Roll call vote unanimous.

Ordinance No. 1623 authorizing issuance of temporary notes; project 131, Nall Ave., 119th St.-135th St.; $400,000. Motion by Clawson, second by Bold. Roll call vote unanimous.

Ordinance No. 1624 authorizing issuance of temporary notes; project 140, 83rd St.; $1,600,000. Motion to pass by Peppes, second by Dunn. Roll call vote unanimous.

Ordinance No. 1625 authorizing issuance of temporary notes; project 144, Mission Rd., 103rd - I-435; $700,000. Motion to pass by Campbell, second by LaHue. Roll call vote unanimous.

Ordinance No. 1626 authorizing issuance of temporary notes; project 146, Town Center Plaza; $3,200,000. Motion to pass by Bold, second by Campbell. Roll call vote unanimous.

Ordinance No. 1627 authorizing issuance of temporary notes; project 147, City Hall Improvements; $1,500,000. Motion to pass by Campbell, second by Clawson. Roll call vote unanimous.

Ordinance No. 1628 authorizing issuance of temporary notes; project 160, Municipal Pool Complex Improvements; $500,000. Motion to pass by Peppes, second by Bold. Roll call vote unanimous.

995 **Ordinance No. 1629C adopting the 1996 edition of the International Mechanical Code.** Motion to pass the ordinance by LaHue, second by Clawson. Roll call vote unanimous.

Ordinance No. 1630C adopting the 1996 edition of the National Electrical Code. Motion to pass the ordinance by Clawson, second by Dunn. Roll call vote unanimous.

1026 **Approval of Appropriation Ordinance No. 794.** The ordinance was considered and passed on motion of Dunn, seconded by Peppes. Roll call vote was unanimous.

1076 **Work Session.** On motion of Clawson, seconded by Dunn, Council voted unanimously to hold a work session after the Council meeting to discuss SMAC storm drainage projects - Overhill Rd. south of 86th St., and Lee Blvd., State Line to 86th St.; and to discuss the Oxford Hills/Verona Gardens project.

OTHER BUSINESS

1120 Public Works Director Joe Johnson reported on the City's efforts to rectify a drainage problem in Wilshire subdivision, south side (Jameson tract, concern for erosion) and north side of 135th St. The developer of Wilshire will do work on the Jameson property.

Update on improvements to 143rd St.: The project was behind schedule and far from being completed. The road was in bad shape and power had been cut off to residences several times. Councilmember Bold felt the City should start enforcing the liquidated damages part of the contract with Muehlberger Concrete Co. Public Works Director Johnson explained that there had been at least a 3-4 week delay caused by utility companies, and the weather had not been good.

1375 Mr. Johnson reported on the City's debris cleanup efforts from the October 22nd snow storm - contract for additional independent crews, lease and purchase of necessary equipment, hours worked. Cleanup would take about 2 months. Additional funds might need to be authorized by the end of the year. Homes associations would cooperate with the efforts when they could.

1745 Councilmember Campbell moved to authorize staff to expend whatever was necessary for the cleanup (estimated additional $34,000 over a 2- week period), seconded by Peppes. Motion carried unanimously.

1935 8:35 p.m. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

November 18, 1996

Minutes Summary

Audio Tape No. 369

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, November 18, 1996. Councilmember Peggy Dunn presided in the absence of Mayor Marcia Rinehart.

Councilmembers present: Adam Bold, Marnie S. Clawson, Ronald LaHue, * Doug Patterson (arrived at 8:10 p.m.), Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen. John R. Campbell, Jr. was absent.

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

APPROVAL OF AGENDA

61 Having been duly moved and seconded, the agenda was approved unanimously, after the addition of 1) a discussion of a letter from Paul and Carol Brown, 9310 State Line, about their opposition to the stormwater management project Dykes Branch, High Drive to Lee Blvd. at 93rd St.; 2) an update on the intersection improvements at 135th & Roe and 135th & Mission; 3) a status report on College Blvd. improvements; and 4) a discussion of tree limb pickup along private streets after the October 22nd snow storm.

Planning Director McKay told the Council that the Plan Commission had recommended denial of McDonald's revised preliminary site plan for a play place at 119th and Roe Avenue, but McDonald's had a new design that they wanted the Plan Commission to review before the matter was considered by the City Council. Staff had not seen the new design. After discussion of Planning Department procedures and on motion of Clawson, seconded by Rasmussen, Council voted to require McDonald's to submit a new application to the Plan Commission; LaHue and Bold opposed, all others (4) in favor.

419 **CITIZEN COMMENTS.** Residents Anne Larson and Shari Smith, who lived behind and adjacent to the north part of the Ranchmart Shopping Center at 95th and Mission Rd., expressed their concerns about the increase in noise from large delivery truck and trash hauler traffic once a new grocery store was built in the north part of the Center. They also expected an increase in vermin. They expressed a need for a tall and solid barrier or wall to be built as a buffer between their properties and the proposed grocery store; landscaping was not enough.

They also wanted an opportunity to give input at the appropriate time in the planning procedure, including a time later in the evening when a revised preliminary site plan for a grocery store would be considered by the Council. (See Tape Meter #1160)

570 **CONSENT AGENDA**

A resolution to approve the final plat of Cherry Creek 4th Plat and Change Order No. 2 to the contract for the pool renovation at Leawood Park, 106th and Lee Blvd., were removed for further discussion. The following were approved unanimously on motion by Clawson, seconded by Rasmussen:

1. Minutes of the November 4, 1996 Council meeting;
2. Historic Commission report (minutes) of their October 22, 1996 meeting;
3. Parks & Recreation Advisory Board report (minutes) of their November 12, 1996 meeting;
4. Departmental reports;
5. Purchase of 5 1997 Ford Crown Victorias as Police patrol cars through Kansas City area cooperative purchasing in the total amount of $100,890.00;
6. Purchase of a 1997 Shawnee Mission Ford F-150 pickup truck through cooperative purchasing for the Police Department public service officers in the amount of $19,839.00;
7. Application (renewal) for cereal malt beverage license - Hy Vee, Inc., 12200 State Line Rd.;
8. Recommendation of United Community Services of Johnson County (UCS) for distributing/allocating 1997 Human Service Funds - $3,850 Leawood contribution;
9. Declaration of surplus property (equipment) - Asplundh Wood Chipper (Model # C5JZ7275-J) no longer used by the Public Works Department.

Resolution No. 1323, attached as part of the record, approving the final plat of Cherry Creek 4th Plat at approximately 127th and Mission Rd.: Resolution adopted unanimously on motion of Bold, seconded by Rasmussen, with an additional stipulation that the developer make arrangements for the homes to be part of the existing Cherry Creek homes association.

Change Order No. 2 to the contract with B.C. Construction for renovation of the swimming pool complex at Leawood Park, 106th and Lee Blvd., in the amount of $26,500: After discussion that the architect needed to approve the change order, clarification of the additional work to be done to resolve a drainage problem in relation to the existing piping system, and an update on the renovation, Council unanimously approved the change order on motion of Peppes, seconded by LaHue.

OLD BUSINESS

776 **Ordinance No. 1631 accepting a deed of dedication from Pembroke Court Homes Association, converting their private streets to public streets to be maintained by the City:** Councilmember Rasmussen moved to pass the ordinance, seconded by Clawson.

* 8:10 P.M. Councilmember Patterson arrived.

After assurance that sufficient right-of-way existed for placement of street lights if necessary, the ordinance was passed unanimously on roll call.

PLAN COMMISSION

1140 **Request by Church of the Resurrection for a special use permit for a temporary off-site sign at the southwest corner of 135th & Roe Ave.:** On motion of Rasmussen, seconded by Peppes, Council unanimously approved a permit for one year.

1160 **Resolution No. 1324, attached as part of the record, approving a revised preliminary site plan for a grocery store at Ranchmart Shopping Center, 95th & Mission Rd.:**
2229 After a presentation of the plans and discussion of traffic flow, Councilmember Clawson moved to adopt the resolution with an additional stipulation that the Ranchmart entrance or monument sign on 95th St. near McDonald's and small building occupied by a telephone repair shop be removed, seconded by Rasmussen. Motion carried; Rasmussen opposed (motion didn't go far enough to relieve traffic sight impairment; the small building also needed to be removed), all others in favor. The Council asked that the Plan Commission and staff explore types of sound barriers, including landscaping, along the north boundary of the shopping center in the final plan to alleviate the noise problem for adjacent homeowners (see citizen comments, tape meter #419).

3231 **Resolution No. 1325, attached as part of the record, approving the preliminary and final plat for a 10-acre tract, Collina de Vita, approximately 145th & Mission Rd.:** Resolution adopted unanimously on motion of Bold, seconded by Rasmussen.

3404 **Ordinance No. 1632 rezoning property (Collina de Vita) at approximately 145th & Mission Rd. from AG to RP-A10:** The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. Roll call vote was unanimous.

3424 **PRESIDING OFFICER'S REPORT.** Councilmember Dunn recently attended the Alzheimer's Safe Return Program announcement ceremony at City Hall. Leawood will be participating in this new program.

City Administrator Garofano reported on the last Council of Mayors meeting for Mayor Rinehart. Mayors had discussed the CARS program. A revision of the program had been requested whereby funds could be applied to the maintenance of CARS-inproved streets. The matter would probably be delayed until the CARS program returned to its full funding, probably in the year 2000. At their January 1997 meeting, mayors will meet with representatives of various utility companies to discuss project cooperation (relocation of utilities, for instance) on a timely basis.

NEW BUSINESS

3557 **Approval of 1997 employee benefits renewal including health insurance, Life/AD&D and long term disability, employee assistance program, dental program and Section 125 Cafeteria Program**: On motion of Clawson, seconded by Patterson, Council approved the renewal as presented; Peppes abstained (as a dentist, he was a plan provider), all others in favor.

3751 **Ordinance No. 1633 authorizing, ordering and providing for the construction of storm sewers in Oxford Hills subdivision**: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. Roll call vote was unanimous.

Resolution No. 1326, attached as part of the record., approving the Oxford Hills storm sewer project and providing for the issuance of general obligation bonds: Adopted unanimously on motion of Bold, seconded by Clawson.

Approval of Appropriation Ordinance No. 795. The ordinance was considered and passed on motion of Rasmussen, seconded by Peppes. Roll call vote was unanimous.

3900 **Work Session.** Scheduled for January 13, 1997, from 5:00 to 9:00 p.m., to discuss the "K-150 Review Crew's" report and to discuss the Council's annual goal setting.

OTHER BUSINESS

3963 Discussion of a letter from Paul and Carol Brown, 9310 State Line, indicating their opposition to the stormwater management project Dykes Branch, High Drive to Lee Blvd. at 93rd St. Apparently the Browns were not aware that they were part of the project. Their letter indicated they could lose several old trees. Public Works Director Johnson clarified the project and said it could be built without going onto the Brown's property so their landscaping would remain untouched. He will contact them.

4415 Update on intersection improvements at 135th & Roe Ave. and 135th & Mission Rd. Mr. Johnson said that Roe Ave. would be opened tomorrow, Mission Rd. opened next Monday.

Update on College Blvd. improvements. Mr. Johnson said that the street was opened today from Delmar west. Both directions should be open during the winter; only the sidewalks, grading, and landscaping would have to be completed.

4529 Discussion of tree limb pickup efforts on private streets after the October 22nd snow storm. Councilmember Patterson saw the situation as an emergency situation, not so much the usual "street" problem, so he felt the City should pick up limbs piled up along private streets as well as public streets. City Administrator Garofano reminded Council that the City could face some liability if it went onto private property.

4700 Mr. Patterson moved that it be the City's policy not to distinguish between public and private streets in the current limb removal program, seconded by LaHue. After the City Attorney stated that it would be time consuming and difficult to arrange for the City to go onto private property without liability, Dr. LaHue withdrew his second. The motion died for lack of a second.

4931 10:00 p.m. There being no further business before the Council, the meeting was adjourned.

Martha Heizer

Martha Heizer, City Clerk

MINUTES
SPECIAL COUNCIL MEETING

Tape No.

The City Council of the City of Leawood, Kansas, met in special session in the main conference room at City Hall, 4800 Town Center Drive, at 6:10 P.M., Monday, November 25, 1996. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Marnie S. Clawson, Adam Bold, Peggy J. Dunn, Louis Rasmussen, and Gregory Peppes, for the purpose of convening an executive session to discuss a personnel matter. Councilmember Ronald LaHue arrived at 8:25 P.M. Councilmembers John R. Campbell, Jr., and Doug Patterson were absent.

Staff present: Richard J. Garofano, City Administrator.

On motion of Rasmussen, seconded by Clawson, Council voted unanimously to convene in executive session for a period not to exceed 4 hours to conduct a personnel evaluation.

9:55 P.M. Council returned to special session, same members present, except for Mr. Rasmussen who left at 9:12 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

December 2, 1996

Minutes Summary

Audio Tape No. 370

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, December 2, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Doug Patterson, Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen.

Staff Present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Joe Johnson, Public Works Director; Mark Andrasik, Director of Information Services; J. Stephen Cox, Chief of Police; Harry Malnicof, Finance Director; Ben C. Florance, Fire Chief; Robert McKay, Director of Planning & Development; Scott Whitaker, Director of Parks & Recreation; Deidre Markley, Economic Development/Special Projects Coordinator; and Richard S. Wetzler, City Attorney. The City Clerk was absent.

APPROVAL OF AGENDA

94 The agenda was approved unanimously on motion of Campbell, seconded by Peppes.

102 **RECOGNITION OF FIRE DEPARTMENT CAPTAIN ROBERT HASKIN ON HIS RETIREMENT.** The Mayor presented a plaque to Captain Haskin for his service to the City, July 16, 1971 to December 8, 1996. Haskin will continue as a volunteer firefighter. He also received a plaque (shadow box of badges of ranks) from Fire Chief Florance.

262 **RECOGNITION OF PUBLIC WORKS EMPLOYEE WADE BROUSSARD - FIRST PLACE IN AMERICAN PUBLIC WORKS ASSOCIATION SNOWPLOW COMPETITION IN SEPTEMBER.** Howard Mann, Fleet Maintenance/Operations Supervisor, presented a participant trophy to Broussard; Public Works Director Johnson presented the City's trophy to Mayor Rinehart.

423 **CITIZEN COMMENTS.** None.

424 **CONSENT AGENDA**

Consideration of banking services and designation of depositories for City funds were removed for further discussion. The following were approved unanimously on motion by Peppes, seconded by Bold:

1. Minutes of the November 18, 1996 Council meeting;
2. Minutes of November 25, 1996 Special Council meeting;
3. Public Works Committee report (minutes) of their November 13, 1996 meeting;
4. Pay Request No. 3 (FINAL) by Wiedenmann and Godfrey Construction Co. in the amount of $5,341.55 for gabion basket rehabilitation project;
5. Purchase of Racal WordNet logger-recorder (records telephone lines and radio traffic) for the Police Department from Digital Voice Products for $19,675.00;

6. Purchase of 2 GIS (mapping) computers and associated hardware and software for use with computer-aided dispatch, crime analysis, and community policing programs, in the amount of $16,130 less $13,500 grant money, for "out-of-pocket" expenses of $2,630;
7. Proposal (agreement) to retain Acoustical Design Group, Inc., to provide sound and video systems design services for the lower level expansion of City Hall, in the amount of $11,200, not including expenses;
8. Quote from Suhor Industries for brick engraving needs for the City Hall fountain improvements; sandblast names, logos and other artwork on bricks and fill all blasted areas with black paint for a total of $10.25 per brick; and deliver bricks from Tulsa to Leawood at a cost of $1.50 per mile for each load by Suhor Industries' vehicle or out-of-pocket costs for a common carrier;
9. Assignment to Alarm Appeals Committee to hear an appeal of alarm assessments.
10. Employment agreement with City Administrator Richard Garofano for 1997.

Authorize banking services. Removed from the consent agenda only to note the appearances of conflicts of interest. On motion of Patterson, seconded by Campbell, Council approved staff's recommendation that banking services be awarded to Exchange National Bank for 1997 with the possible extension of 2 more years; Rasmussen, Clawson, Dunn abstained to avoid the appearance of a conflict of interest, all others in favor.

Designation of depositories for City funds. Removed from the consent agenda only to note the appearances of conflicts of interest. On motion of Patterson, seconded by Campbell, Council designated the following as depositories for City funds: Exchange National Bank, Country Club Bank, Bank IV, Boatmen's Bank, Valley View State Bank, Commerce Bank, United Missouri Bank of Kansas, World Savings, Inter-state Federal Savings. Rasmussen, Clawson, Dunn abstained to avoid the appearance of a conflict of interest, all others in favor.

OLD BUSINESS

549 **Request for extension of time to complete 135th St. (K-150) improvement project.** The original contract completion date was November 1, 1996. The past construction season had been unusually wet to maintain consistent progress, and there were contaminated soils along 135th Street in Missouri. Councilmember LaHue moved to approve staff's and consultant's recommendation to extend the time based on 1) completion of all median work, street lighting, and grading from Mission Rd. to Nall by April 1, 1997, to allow installation of landscaping, and 2) completion of all major items of work covered by the contract, with the entire roadway open to traffic by June 1, 1997; seeding and other minor work to be completed by September 27, 1997. Motion seconded by Dunn. Councilmember Bold said that one of his constituents had told him that there were many days of good weather when Reno Construction did not work on the project and felt that the project was not a priority for Reno. Public Works Director Johnson addressed the periods of apparent idleness on the project - there were good reasons. Mr. Bold was also concerned about utility delays. The Mayor said that the Council of Mayors was addressing the issue about timeliness and expense of utility relocation. Reno was not happy with the April 1, 1997 completion date for 135th Street from Mission to Nall. Councilmember Campbell felt the Council would not be solving the completion date issue with a vote - it would still be a wide open issue.

Motion to approve carried; Campbell and Rasmussen opposed; Clawson abstained to avoid the appearance of a conflict of interest (her husband was employed by the consultant HNTB); all others (5) in favor.

1315 **Public Works Committee report on Dorset Manor landscaping requests in connection with Mission Rd. improvements, 103rd St. to I-435.** The Public Works Committee recommended approval of evergreen trees and shrubs, minus a fence and posts, with no irrigation system, in an amount not to exceed $19,300.00, to reflect the view that there be consistent landscaping along Mission Rd. The City would do the landscaping in conjunction with the roadway improvements. Public Works Director Johnson said that the landscaping would be maintained by the Dorset Manor property owners. Councilmember Clawson, Chairman of the Public Works Committee, moved to approve landscaping in an amount not to exceed $19,300.00 for homes in Dorset Manor adjacent to Mission Rd. improvements, seconded by Dunn. The Dorset Manor Homes Association was happy with the recommendation. Motion carried unanimously.

NEW BUSINESS

1916 **Ordinance No. 1634C amending sections of the Code of the City of Leawood relating to records management**. The ordinance was considered and passed on motion of LaHue, seconded by Bold. Roll call vote was unanimous.

1989 **Approval of Appropriation Ordinance No. 796.** The ordinance was considered and passed on motion of Dunn, seconded by Clawson. Roll call vote was unanimous.

2093 **Work Session.** Scheduled for the end of the meeting to discuss stormwater management projects Overhill south of 86th St. (DB-17) and 86th & Belinder (DB-18), and if time permitted, present the new GIS (Geographic Information System) which the City had on line through an agreement with Johnson County.

2122 **OTHER BUSINESS.** None.

2227 8:43 p.m. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk

Regular Meeting

THE LEAWOOD CITY COUNCIL

December 16, 1996

Minutes Summary

Audio Tape No. 371

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, December 16, 1996. Mayor Marcia Rinehart presided.

Councilmembers present: Adam Bold, John R. Campbell, Jr., Marnie S. Clawson, Ronald LaHue, Doug Patterson, Gregory J. Peppes, Peggy J. Dunn, and Louis Rasmussen.

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

APPROVAL OF AGENDA

96 The agenda was approved unanimously on motion of Peppes, seconded by Dunn, after the addition of a comment concerning the City's employee safety program, and authorization of expenditures for the City Hall expansion project.

136 **RESOLUTION OF APPRECIATION, ATTACHED AS PART OF THE RECORD, TO RECOGNIZE PUBLIC WORKS AND PARKS MAINTENANCE EMPLOYEES FOR THEIR EFFORTS IN A CLEANUP OPERATION FROM AN UNEXPECTED HEAVY SNOW STORM ON OCTOBER 22, 1996.** Adopted by unanimous consent of the Council.

257 **RECOGNITION OF POLICE DEPARTMENT CAPTAIN RONALD L. ANDERSON ON HIS RETIREMENT.** The Mayor presented a plaque to Anderson in recognition of his dedicated service to the City, October 15, 1973 to December 15, 1996. He also received a plaque and shadow box containing his badge from Police Chief Cox.

517 **PRESENTATION OF DONATION TO THE D.A.R.E. TRUST FUND FROM THE LEAWOOD ROTARY CLUB.** The Leawood Rotary Club recently held its annual golf tournament at Leawood's IronHorse Golf Club and raised approximately $50,000. Members of the Club presented a check in the amount of $10,000 to Police Chief Cox for the City's D.A.R.E. Trust Fund.

662 **CITIZEN COMMENTS.** None.

666 **CONSENT AGENDA**

A resolution designating holidays for 1997 was removed for further discussion. The following were approved unanimously on motion by Peppes, seconded by Clawson:

1. Minutes of the December 2, 1996 Council meeting;
2. Arts Committee report (minutes) on their November 12 and December 3, 1996, meetings;
3. Historic Commission report (minutes) on their November 19, 1996, meeting;
4. Alarm Appeals Committee report (minutes) on their December 11, 1996, meeting;
5. Departmental reports;
6. Application (renewal) for Cereal Malt Beverage License - Osco Drug Store at Camelot Court Shopping Center, 119th & Roe Ave.;
7. Resolution No. 1328, attached as part of the record, declaring the boundaries of the City of Leawood;
8. Allocation of 1997 alcohol tax funds to various agencies as recommended by the Drug and Alcoholism Council of Johnson County - Leawood budgeted $40,000 for distribution in 1997;
9. Authorize expenditure of $30,879.80 to provide computer and phone service for the lower level and 4th quadrant of the City Hall.

Resolution No. 1327, attached as part of the record, designating holidays for 1997: Councilmember Dunn asked why the City had not designated Martin Luther King Day in January. That had been considered before, but because employees were given 2 personal days to do with as they chose, Council decided another holiday was unnecessary. The resolution was adopted unanimously on motion of Clawson, seconded by Dunn.

PLAN COMMISSION

720 **Resolution No. 1329, attached as part of the record, approving the preliminary site plan for Dean & Deluca (gourmet grocery store) located on Outlot #1 of Town Center Plaza, northwest corner of 119th & Roe Ave.** Presentations were given by the architect and landscape architect. Council expressed concern about the safety of the entrance to the outlot near Roe; perhaps the Plan Commission could consider 3 lanes of traffic instead of 2. The resolution was adopted unanimously on motion of LaHue, seconded by Rasmussen.

1604 **Ordinance No. 1635 amending Section 3-12 of the Leawood Development Ordinance relating to Special Development District.** Planning Director McKay asked the Council to approve the Plan Commission's recommendations for passing the ordinance with one modification - return to .45 floor area ratio (FAR) as currently allowed with bonuses, but limit it only to the Office High Rise subdistrict which had no height limitation; the Plan Commission had recommended .35 FAR with no bonuses to go any higher.

Mike Gill, 13016 Falmouth, said that attention to detail in the ordinance was critical so that the public would know exactly what a piece of property would be used for. He wanted an ordinance that would accommodate public input and review. He addressed 4 points of a letter he had written to the Mayor and Council (attached as part of the record).

There was discussion of "permitted" uses versus "conditional" uses.

Mr. McKay reviewed FAR for Office subdistrict and Office High Rise subdistrict.

Councilmember LaHue was opposed to the Plan Commission's recommendation for FAR; their reduction in FAR could reduce the number of projects coming to the City for review and possible implementation. The ordinance should be referred back to the Plan Commission for reconsideration of their position on FAR and consideration of other Council opinions or text amendments suggested by Mr. Gill.

Mr. McKay said he would rather see the ordinance passed as recommended by the Plan Commission with the understanding that staff would review the FAR issue within the next 30 days or at the next Plan Commission meeting so the City could have an ordinance in effect before the end of the year to have an SD district in place to deal with numerous development applications, rather than send the entire ordinance back to the Plan Commission for review; he didn't want to hold up the entire ordinance just for the FAR.

In order to have an SD district in place, City Administrator Garofano suggested leaving the FAR as it currently existed, not going backwards as the Plan Commission recommended, nor jumping forward, until review of the K-150 Review Committee's report, and then perhaps at that point in time request the Plan Commission reconsider their position on FAR.

Councilmember Patterson was concerned about juxtaposing the proposed ordinance with the Master Development Plan, which he felt still needed a lot of work. He did not want a developer to come to the City with an application for SD office high rise in an area that the Council might not feel appropriate for that zoning. City Administrator Garofano said that under the proposed ordinance, the Council would still have sole discretion as to whether or not an application was approved or disapproved. The proposed ordinance gave the Council the opportunity to correct the major deficiencies in the current SD ordinance, but still recognized that FAR's had to be addressed in the future. Mr. McKay said that the Master Development Plan would be coming to the Council soon; the Plan Commission would be recommending that one portion of the current planned business district be changed to SD district.

4003 Councilmember LaHue moved to pass the proposed ordinance as recommended by the Plan Commission with the exception that the FAR for office high rise would remain as it currently existed (staff's recommendation which would mean an override of the Plan Commission's recommendation on FAR), and that immediately following the K-150 Review Committee's report in January 1997, the Plan Commission review all of Mr. Gill's recommendations in his letter to the Governing Body and reassess the FAR. Motion seconded by Clawson.

4295 Councilmember Dunn moved to amend the motion to approve and incorporate in the ordinance all of Mr. Gill's suggestions in his letter except #1 which would have added "(g) Change in Proposed Use" to the list of substantial changes on page 72, Article 3-12(A)(5) (to help protect against "bait and switch" tactics). Motion to amend seconded by Rasmussen. There was discussion about incorporation of all of Mr. Gill's recommendations (#'s 1-11) or just the ones discussed (#'s 1,2,8,10). Councilmember Bold said it was very clear to him that the Council was not ready to vote on the proposed ordinance. The Mayor said that a clearer way to handle Mr. Gill's proposed changes to the ordinance would be to refer them to the Plan Commission. Mr. McKay clarified that he could accept only 2 of Mr. McGill's recommendations, and had recommended that the Plan Commission not accept the others,

Attach to minutes of 12/16/96

M. MICHAEL GILL
13016 Falmouth
Leawood, Kansas 66209
491-5583 (h)
221-0355 (o)

December 13, 1996

Mayor Marcia Rinehart and
All Members of the Leawood City Council
Leawood City Hall
4800 Town Center Drive
Leawood, KS 66211

Re: Proposed SD Ordinance

Dear Mayor Rinehart and Council Members:

The purpose of this letter is to suggest several refinements to the SD Ordinance. Attached to this letter is a marked-up copy reflecting the suggested changes, which are:

1. Page 72, Article 3-12(A)(5), add the following to the list of "substantial changes":

"(g) Change in Proposed Use."

Explanation: This is important from a public input point of view. It will help protect against "bait and switch" tactics.

2. Page 73, Article 3-12(C), (D), and (E), add the following language to define what is required to be a "permitted" or "accessory" or "conditional" use: ". . . and which satisfy the criteria set forth in Section 3-12(F)(1)."

Explanation: If the proposed use does not meet the criteria in a given situation, it should not be approved.

3. Page 74, Article 3-12(F)(1). Approval of "accessory" uses should also be subject to the findings required of other uses.

4. Page 76, Article 3-12(I)(2)(a)(4). Delete reference to "auto dealers." Auto dealers are not a permitted use. If an example is needed, pick another use.

5. Page 77, Article 3-12(I)(2)(a)(10). Trash containment systems should be designed to prevent noxious odors.

6. Page 78, Article 3-12(I)(3). This section deals with studies that may be ordered in the discretion of the Commission or Council. It would be beneficial to have the right (but not the obligation) to require studies dealing with such issues as environmental impact, drainage and watershed, sewers, and public safety.

7. Page 78, Article 3-12(I)(4)(b). This section deals with bonusing. It is only available for subdistrict O. It is not available for any of the other subdistricts. With respect to the retail subdistricts, CR and NCR, it would be good to build an incentive mechanism into the Ordinance. Please consider the following: the FAR (without bonusing) for CR could be reduced to .20 (from its current .25), with the possibility of increasing the FAR up to .25 with bonusing. As a point of reference, Hawthorne Plaza has a .17 FAR. A similar adjustment could be made for NCR.

8. Page 89, Article 3-12(O) and (P). These are the extremely important "Due Process" provisions of the Ordinance. I strongly encourage the Council to replace specific references to "Section 6-2" and "Section 6-3" with "Article 6." This is because the three subparts to Article 6 (Sections 6-1, 6-2, and 6-3) are all interrelated.

9. Page 93, Definitions. Delete "video game arcades" from the definition of "Recreation and Entertainment, Indoor." This is a controversial use which should require a special use permit.

10. Table of Uses, Page 2. The use "Movie Theater-Indoor" should be a "conditional" rather than "permitted." "Shopping Center" should be deleted because it does not constitute a "use." It could become the proverbial "catch all" category.

11. Table of Regulations, Page 97. There should be a height restriction imposed on the high-rise office buildings. Furthermore, there should be criteria setting forth the circumstances pursuant to which a high-rise office is appropriate in Leawood.

Thank you for your consideration.

Very truly yours,

M. Michael Gill

MMG/dmw
Enclosure(s)
cc: Bob McKay
Dick Wetzler
-182805

and the Plan Commission did indeed not accept the others. Motion to amend failed; Dunn, Rasmussen in favor; all others opposed.

The main motion carried; Patterson, Campbell, Bold opposed; LaHue, Clawson, Peppes, Rasmussen, Dunn in favor; the Mayor in favor on the basis that the City would have a new ordinance regarding SD in place (took 6 favorable votes to override the Plan Commission).

4670 **Ordinance No. 1636 amending section(s) of the Leawood Development Ordinance relating to sport courts.** The ordinance was considered and passed on motion of LaHue, seconded by Peppes. All sport courts, including tennis courts, would be permitted only by a Special Use Permit with its requirements, including notification of property owners within 200 feet and final action by the Governing Body. They would no longer be considered accessory uses. Residents with existing sport courts desiring to install lighting would have to apply for a special use permit Roll call vote was unanimous.

4870 **MAYOR'S REPORT**. The Governing Body and department heads to meet with state legislators on December 20, 1996, 11:30-1:30 p.m., at City Hall, to discuss legislative concerns.

OLD BUSINESS

5035 **Award bid/authorize contract for landscaping improvements along 135th St. (K-150).** On motion of Rasmussen, seconded by Dunn, Council unanimously approved a contract with Golf Services, Inc., of Bennington, Nebraska, in the amount of $468,629.36 plus 10% contingency (total of $515,492.30).

5100 **Resolution No. 1330, attached as part of the record, declaring the necessity to appropriate private property for easements required for stormwater management project JB-04-003 (Sagamore, High Drive, 97th and 98th Streets).** The resolution was adopted unanimously on motion of LaHue, seconded by Dunn.

5195 **Ordinance No. 1637 authorizing and providing for the acquisition of private property for easements required for stormwater management project JB-04-003 (Sagamore, High Drive, 97th and 98th Streets).** The ordinance was considered and passed on motion of Campbell, seconded by Dunn. Roll call vote was unanimous.

5223 **Authorize expenditures (proposal requests 3,4,5 to be incorporated in Change Order No. 2) for City Hall expansion project, total amount of $12,484.87, Haren & Laughlin contractors.** On motion of LaHue, seconded by Rasmussen, Council unanimously approved the additional expenditures.

NEW BUSINESS

5373 **Ordinance No. 1638 quitclaiming (conveying) 3 tracts of land to Marshall Long and Betty Clark Long located at Mission Rd. along Indian Creek near the intersection of College Blvd. and Tomahawk Creek Parkway.** The ordinance was considered and passed on motion of LaHue, seconded by Campbell. Roll call vote was unanimous.

5396 **Authorize right-of-way maintenance agreement with developer of Stone Ledge subdivision for street lighting maintenance.** The developer wanted to install street light poles that were not to City standard. The agreement provided the opportunity for the developer to install lighting fixtures to enhance their development while maintaining the minimum lighting requirements established by the City. The agreement outlined the developer's and homes association's responsibility for maintenance of private lighting within public right-of-way and provided protection to the City in the event the poles were damaged by anyone. The agreement would also be used when a developer wanted to construct decorative subdivision monument markers within public right-of-way.

On motion of LaHue, seconded by Peppes, Council unanimously approved the agreement.

5600 **Ordinance No. 1639 vacating a portion of 115th St. between Roe Ave. and Rosewood Ave. and adjacent to Leawood Country Manor 5th & 8th Plats.** The ordinance was considered and passed on motion of Clawson, seconded by Campbell. Roll call vote was unanimous.

5637 **Approval of Appropriation Ordinance No. 797.** The ordinance was considered and passed on motion of Clawson, seconded by Peppes. Roll call vote was unanimous.

5684 **EXECUTIVE SESSION**. On motion of Campbell, seconded by Dunn, Council voted unanimously to convene in executive session following regular business for a period not to exceed 15 minutes to discuss a litigation matter.

5707 **OTHER BUSINESS.** Councilmember Rasmussen thanked staff for their efforts in reducing accidents as part of the City's safety program.

5757 10:30 P.M. Council convened in executive session, same members present, and returned to regular session at 10:45 P.M. On motion of Dunn, seconded by Rasmussen, Council voted unanimously to return to executive session for 10 minutes to continue the discussion of a litigation matter.

5768 10:55 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk