

Minutes

Audio Tape No. 541

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., on Monday, February 18, 2002. Mayor Peggy J. Dunn presided.

**Councilmembers present:** Scott E. Gulledge, Gary L. Bussing, Jim Rawlings, Patrick L. Dunn, Shelby Story, Mike Gill, Louis Rasmussen, and James E. Taylor, Sr.

**Staff present:**

Scott M. Lambers, City Administrator  
Patricia A. Bennett, City Attorney  
Ben C. Florance, Fire Chief  
Sid Mitchell, Chief of Police  
Mark Andrasik, Information Services Dir.

Joe Johnson, Public Works Director  
Mark Klein, Interim Planning/Dev. Dir.  
Chris Claxton, Parks & Recreation Dir.  
Deb Harper, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

255 **2. APPROVAL OF AGENDA**

The Mayor noted that Item 10.A. would be continued to the February 25, 2002, Special Call Governing Body meeting that would be begin at 7:00 P.M. Item 13.A., an update on the ice storm cleanup efforts, was added. On motion of Taylor, seconded by Story, Council unanimously approved the agenda as amended.

**3. PROCLAMATIONS – None.**

**4. PRESENTATIONS/RECOGNITIONS – None.**

329 **5. SPECIAL BUSINESS**

**A. Third & Final Reading: Ordinance No. 1944 granting to and authorizing to XO Kansas, Inc., a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City**

G. Gordon Thomas, 10516 Mohawk Lane, reiterated comments he made at the February 4, 2002, Governing Body meeting. On motion of Taylor, seconded by Gill, Council unanimously passed the ordinance on roll call vote.

**B. Approving and authorizing the execution of a Public Land Use Agreement between XO Kansas, Inc., and the City of Leawood, Kansas, to install and maintain communications fiber optic cable within existing conduit**

On motion of Dunn, seconded by Story, Council unanimously approved the agreement.

660 **6. CITIZEN COMMENTS**

Robert Sjolín, 3217 W. 82<sup>nd</sup> Terr., wanted to know how much it would cost to bring Leawood up to code regarding the distance between street lights; a newly adopted code allowed for 250 feet between lights, whereas the old code allowed for 500 feet. He also wanted to know how many non-fire and non-police vehicles the City owned, who made the decision as to which departments got those vehicles, and whether they could be driven for private use or were parked at City Hall each night, particularly interested in the numbers in 1999 and 2000. He also wanted more information on Items 7.H. and 7.I. of the Consent Agenda. Mr. Sjolín expressed concern about some dangerous bridge guardrail projections that could impale a car or person.

1080 **7. CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Appropriation Ordinance No. 939
- B. Minutes of the February 4, 2002, Governing Body meeting
- C. Minutes of the February 12, 2002, Governing Body Special Call meeting
- D. Minutes of the January 23, 2002, Public Works Committee meeting
- E. Minutes of the November 28, 2001, IRONHORSE Golf Committee meeting
- F. Renewal of Cereal Malt Beverage [CMB] License for Phillips Petroleum Towne Center 66 located at 11921 Roe Avenue
- G. Renewal of Cereal Malt Beverage [CMB] License for Leawood Hen House located at 11721 Roe Avenue
- H. Change Order No. 1 in the amount of \$41,832.00 from Holland Construction Company, in conjunction with the 135<sup>th</sup> & Roe Avenue Intersection Improvement Project [Plaza Pointe Benefit District; CIP # 174]
- I. Purchase of soccer uniforms in an amount not to exceed \$10,000 from Raytown Screenprinting
- J. Request for Payment in the amount of \$9,840.00 to Employer Health Services for annual physical & medical exams for firefighters

- K. Approve and authorize execution of a Payment Agreement between the City and Government Payment Service, Inc., [GPS], regarding credit posting of municipal court bonds
- L. Approve and authorize execution of Intent to Proceed for Stormwater Management [SMAC] Project DB-04-024-03, Dykes Branch, from 82<sup>nd</sup> Terrace & Wenonga south to Cherokee and 86<sup>th</sup> Street
- M. Approve and authorize execution of Intent to Proceed for Stormwater Management [SMAC] Project JB-04-008, James Branch, between Lee Boulevard and State Line, from 103<sup>rd</sup> Street to I-435
- N. Resolution No. 1667 requesting Johnson County, Kansas, participation in the City of Leawood's 5-year Capital Improvement Program through the County's Assisted Road System [CARS] for 2003 through 2007
- O. Declaration of Fire Department Surplus Property: 1989 Ford Ambulance
- P. Police Department Report for January 2002
- Q. Fire Department Report for January 2002

I Items 7.A., 7.H., and 7.I. were removed for discussion. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the remainder of the Consent Agenda.

7.A. After a question about a payment for airfare and conference registration for the Mayor and City Administrator to attend the National League of Cities Conference in Washington, D.C., in March, and on motion of Gulledge and second by Dunn, Council unanimously approved the Appropriation Ordinance.

7.H. Councilmember Taylor asked Public Works Director Johnson to explain the change order for the benefit of Robert Sjolín who expressed interest in the item under Citizen Comments. On motion of Taylor, seconded by Gill, Council unanimously approved the change order.

7.I. Parks & Recreation Director Claxton confirmed that the cost of the uniforms were included in and recovered through soccer participant registration fees, so the City wouldn't be out-of-pocket for the uniform expense. On motion of Gill, seconded by Taylor, Council unanimously approved the purchase.

1409

**8. MAYOR'S REPORT**

- A. Council of Mayors meeting hosted by City of Lenexa – report on bi-state effort to get a November 2002 referendum for sports complexes and the arts; report that a ¼ cent sales tax proposed for roads and bridges might go to schools instead or a combination thereof
- B. Very successful Chinese New Year Celebration February 13<sup>th</sup> (The Year of the Horse)
- C. 41<sup>st</sup> Annual Mayors' Prayer Breakfast

- D. Spotlight on Leawood at AMC Theaters, Town Center Plaza, February 19<sup>th</sup>, co-sponsored by Leawood Chamber of Commerce and Leawood Arts Council
- E. Exploration of a sister city relationship with the Gezer region of Israel.

**9. COUNCILMEMBERS' REPORTS – None.**

**COMMITTEE RECOMMENDATIONS**

1800 **10. PLANNING COMMISSION**

*[from November 27, 2001, Planning Commission meeting]*

- A. Resolution approving preliminary plat, preliminary plan, and Special Use Permit [SUP] for United Methodist Church of the Resurrection, located south of 137<sup>th</sup> Street and east of Nall Avenue [Continued from January 7, 2002, Governing Body meeting, February 5, 2002, and February 12, 2002, Governing Body Work Sessions]**

On motion of Gulledge, seconded by Gill, Council voted to continue the matter to the February 25, 2002, Special Call Governing Body meeting; all in favor except Taylor who abstained to avoid the appearance of a conflict of interest.

**11. OLD BUSINESS – None.**

**12. NEW BUSINESS**

- 1831 **A. Approve Change Order No. 2 in the amount of \$30,000.00 from Peridian Group, in conjunction with the 2001 Storm Sewer Survey**

Public Works Director Johnson explained the necessity for the change order, and that it was the last expected change order for the project. On motion of Dunn, seconded by Story, Council unanimously approved the change order.

- 2078 **B. Installation of an emergency access gate between Estates of Iron Horse subdivision in Leawood and Hampton Place in Overland Park to restrict traffic from Hampton Place into the Estates of Iron Horse, approximately 157<sup>th</sup> Street east of Nall**

Councilmember Taylor moved to approve the access gate, seconded by Gulledge. Matt Kincaid, 15426 Iron Horse Circle, spoke on behalf of the Estates of Iron Horse Homes Association. He said there would be a traffic safety hazard on Linden Street without the gate. The Homes Association would fund the gate 100%. Councilmember Story stated for the record that as a rule, he was against this type of gating activity. Mr. Story said if the Council approved the gate, it wasn't because there was a goal on their part to limit traffic through Leawood or restrict access to Leawood neighborhoods, but rather approval would be a response to a situation that occurred next to the City's residents that required Council action for public safety. Mr. Kincaid described his subdivision's critical situation because of the density of Hampton Place.

Councilmember Bussing was reluctant to take action on the matter until the City had had the same type of review with Overland Park as it did with the Blackthorne subdivision several weeks ago. He wanted to see the same type of body of information as was available on the Blackthorne issue. Councilmember Gill needed more information before voting - what had been planned, how long had it been planned, what was the planned use of the street on which the Council was being asked to put a gate (it appeared to be a residential street, but he wanted to be sure), information on possible connector streets to Mission Road for some undeveloped land adjacent to Hampton Place, how was Overland Park planning to connect to Mission Road, and were there alternative connector points. Mr. Kincaid said that any connectors relative to the undeveloped land were far in the future.

Mayor Dunn asked that if the gate was approved by the Council, the Fire Chief be involved in selecting the type of gate. Also, Mrs. Dunn recalled that there was some language regarding waiver of liability that was in the conditions and stipulations for the gate that the Council approved for the Hills of Iron Horse, and asked that the same language be included in any gate approval for Estates of Iron Horse.

Councilmember Gulledge asked what the concern was about gating the area if the gate was going to be accessible for police and fire. Councilmember Story wanted the record to be very clear that 1) Fire Chief Florance made it very clear that he felt that no gate was much safer than any gate, but as a compromise, he was willing to live with a gate so long as the gate was of a certain nature, and Police Chief Mitchell said that the Police Department wasn't opposed to the gate so long as access was available in case of an emergency; neither one of those opinions was a reigning endorsement of gating the area, that public safety wasn't as great with a gate; and 2) the Council's first responsibility was public safety, and Council could provide that with the appropriate gate; but there were other issues, one of which he mentioned at the beginning of the discussion, City planning issues involved as to whether or not there were streets that went through to other neighborhoods. Mr. Story said that the request for a gate might be justified, but he didn't feel he had enough information.

Councilmember Gill asked if the City Administrator's recommendation for approval of the gate would be different at full build out, when all connector streets were in. And he felt that staff should talk to Overland Park. Mr. Bussing asked for an assessment from the public safety officers of the traffic safety issues which were inherent in the proposed plat; if there wasn't a gate, what was their opinion of the traffic safety issue of the street connection. Councilmember Rasmussen said that planning for the whole area was very recent, so unless there was something that had changed the street layouts and traffic flow in the area, he didn't see how the planning could be characterized as "poor", so he wanted to know if there had been a change or not; otherwise, the Council would be saying to the planning staffs of both cities that in the last 6 years as developments came in, they didn't take into consideration the safety concerns of citizens, and he doubted that.

Lee Shapiro, 15464 Iron Horse Circle, and Jerry Taylor, 15450 Iron Horse Circle, made comments.

Councilmembers Taylor and Gullede withdrew their motion and second to approve the gate. Mr. Taylor moved to continue the matter to the March 4, 2002, Governing Body meeting, seconded by Gill, in order to obtain additional information. Motion carried unanimously.

**13. OTHER BUSINESS**

6395

**A. Update on ice storm cleanup efforts**

Public Works Director Johnson gave an update on the progress of the cleanup. His staff was in the process of going out for bid for an outside contractor to help with the cleanup. The cost of the cleanup was reimburseable 75% federal and possibly another 10% state, with the City's share 15%-25%.

**ADJOURN**

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There being no further business before the Council, the meeting was adjourned at 9:15 P.M.

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Martha Heizer, City Clerk