

Minutes

DVD No. 138

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, February 20, 2006. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Lou Rasmussen, Debra Filla, Scott Gullede, James E. Taylor, Sr., and Gregory Peppes.

Councilmembers absent: Mike Gill and Gary Bussing.

Staff present:

Scott Lambers, City Administrator
Chief Sid Mitchell, Police Department
Major John Meier, Police Department
Joe Johnson, Public Works Director
Mark Klein, Senior Planner
Deb Harper, City Clerk
Scott Smith, Internet/WAN Specialist

Patty Bennett, City Attorney
Chief Ben Florance, Fire Department
Kathy Rogers, Finance Director
Chris Claxton, P & R Director
Jeff Joseph, Planner
Christy Wise, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted an amended agenda with continuances for Item Nos. 7S and 7W. A motion to approve the agenda was made by Councilmember Gullede; seconded by Councilmember Peppes. The agenda was approved following a unanimous vote of 6-0.

3. CITIZEN COMMENTS

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

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS Presentation by Major General Todd Bunting, Kansas National Guard, recognizing employees that responded to Gulf Coast

Fire Chief Ben Florance introduced Master Firefighter Mike Knisely, Captain Scott Rutherford, Battalion Chief Louis Dunham, and Deputy Fire Chief Randy Hill followed by Police Chief Sid Mitchell's introductions of Police Officers Dave Jennings, Jason Ahring, Robert Mahon, Phil Goff and Shane Chambers as personnel who aided with relief efforts in Mississippi and Louisiana after Hurricanes Katrina and Rita. Police Officer Shawn Farris was also part of the volunteer group, however could not attend the meeting.

Major General Todd Bunting thanked the Governing Body, families of the men, and the City of Leawood for allowing the volunteers to participate in the relief efforts. He described the devastation caused by the storms and the conditions that were endured by the Leawood employees. He reported that possibly only Arkansas surpassed the state of Kansas in number of volunteers sent to the region.

Mayor Dunn stated it was an honor to have Major General Bunting in attendance to perform the recognitions. She expressed gratitude to the public safety officers for their contributions.

Keith Yoder with Kansas Homeland Security assisted Major General Bunting in presenting the employees with Certificates of Appreciation signed by Governor Sebelius and commemorative coins which were created specifically for individuals who went above and beyond the call of duty. The police officers and firefighters also received a standing ovation.

6. SPECIAL BUSINESS

A. Public Hearing to consider 2007-2011 Capital Improvement Program [C.I.P.]

Mayor Dunn opened the public hearing for comments. There being no individuals in attendance desiring to speak on the matter, Councilmember Rasmussen moved to close the public hearing; seconded by Councilmember Taylor. The motion was approved following a unanimous vote of 6-0.

B. Resolution No. 2535 adopting the 2007-2011 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas

Mayor Dunn noted that Finance Director Kathy Rogers has distributed replacement pages for the C.I.P. reflecting changes made during the Work Session held prior to the Governing Body meeting. A motion was made by Councilmember Filla to approve the C.I.P.; seconded by Councilmember Rasmussen.

In addition to two Work Sessions regarding the program, Mayor Dunn stated the C.I.P. was also presented to the Planning Commission on February 14th. City Administrator Scott Lambers reported the Planning Commission was limited in their ability to review the document due to time constraints, however questions or concerns will be forwarded directly to him. Approval of the document will lock-in year 2007 as part of the operating budget process with years 2008-2011 subject to change if necessary.

The motion to approve the C.I.P. was approved following a unanimous vote of 6-0.

7. CONSENT AGENDA

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

- A. Accept Appropriation Ordinance Nos. 1045A and 1045B
- B. Accept Minutes of the February 6, 2006 Governing Body meeting
- C. Accept Minutes of the January 11, 2006 Public Works meeting
- D. Accept Minutes of the January 10, 2006 Historic Commission meeting
- E. Accept Minutes of the January 10, 2006 Parks and Recreation Advisory Board meeting
- F. Accept Minutes of the November 9, 2005 Leawood Foundation meeting
- G. Accept the resignation of Planning Commissioner J. Paul Duffendack
- H. Approve Mayoral appointment of Ms. Kelly Jackson to Planning Commission for the term ending in 2009
- I. Approve payment for an amount not to exceed \$16,200 to the Kansas City Wizards, pertaining to awards for the Spring Soccer season
- J. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the Variety of Greater Kansas City-Tent 8, for non-profit fundraiser to benefit local agencies for special needs children, to be held at 11701 Nall [AMC Movie Theatre] on Sunday, March 5, 2006
- K. Resolution No. 2536 approving and authorizing the Mayor to execute a Construction Agreement between the City and O'Donnell & Sons, in the amount of \$4,085,191.25 pertaining to the Villaggio Development Improvement Project [CIP # 197 & 198] [CIP # 197: \$3,020,210.25; CIP # 198: \$1,064,981.00]
- L. Approve Change Order No. 1 in the reduced amount of \$214,624.00, to O'Donnell & Sons, pertaining to the Villaggio Development [Stormwater] Improvement Project [CIP # 198]
- M. Approve purchase in the amount of \$43,265 to Dell Computers for the purchase of 45 computer units
- N. Resolution No. 2537 requesting Johnson County, Kansas to participate in the City of Leawood's Five-Year Capital Improvement Program through the 2007-2011 County Assistance Road System [CARS] Program

- O. Resolution No. 2538 approving and authorizing the Mayor to execute a Relocation Agreement in the amount of \$63,550.00, between the City and Water District No. 1 of Johnson County, [WaterOne] for sections of Roe Avenue, and 135th Street & Mission Road, pertaining to the Villaggio Development Improvement Project [CIP # 197]
- P. Resolution No. 2539 accepting a Deed of Dedication from Park Place Developers, L.L.C., to the City for property located at Town Center Drive and Nall Avenue, in accordance with the GASB-34 Guidelines of Reporting Inventory of Assets
- Q. Resolution No. 2540 authorizing the Mayor to execute a Permanent Sanitary Sewer Easement and Temporary Easement to Consolidated Main Sewer District for a piece of real property located in Lot # 1 of Mission Reserve Annex, for the construction of sewer lines on and over a portion of IRONHORSE Golf Course
- R. Resolution No. 2541 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$89,998.00 to KLC, Inc., pertaining to improvements to the Ironwoods Lodge Driveway
- *S. Resolution accepting and approving the Annual Report regarding the Leawood Public Art Impact Fee and providing for no change to such impact fee, pursuant to Code § 12-601 et seq – ***CONTINUED TO THE APRIL 17, 2006 GOVERNING BODY MEETING***
- T. Resolution No. 2542 accepting and approving the Annual Report regarding the Leawood Park Impact Fee and providing for no change to such impact fee, pursuant to Code § 12-401 et seq
- U. Resolution No. 2543 accepting and approving the Annual Report regarding the South Leawood Transportation Impact Fee and providing for no change to such impact fee, pursuant to Code § 13-601 et seq
- V. Resolution No. 2544 accepting and approving the Annual Report regarding the K-150 Highway Corridor [a/k/a 135th Street Corridor] Transportation Impact Fee and providing for no change to such impact fee, pursuant to Sections 13-506 and 13-509 of the Code of the City of Leawood, 2000
- *W. Resolution approving and authorizing the Mayor to execute a Lease/Purchase Agreement between the City and Commerce Bank, in the amount of \$220,000, for the leasing of club cars for a 4-year term for IRONHORSE Golf Club – ***CONTINUED TO THE MARCH 20, 2006 GOVERNING BODY MEETING***
- X. Resolution No. 2545 approving and authoring the Mayor to execute a Service and Funding Agreement between the City and the Leawood Chamber of Commerce pertaining to the filing of annual reports to the City, in accordance with K.S.A 45-240(b)
- Y. Resolution No. 2546 approving a Final Plat for Village of Camden Woods - 87th Plat, located south of 143rd Street and east of Kenneth Road [*from the February 14, 2006 Planning Commission meeting*]
- Z. Resolution No. 2547 approving a Final Plat for Village of Camden Woods - 88th Plat, located south of 143rd Street and east of Kenneth Road [*from the February 14, 2006 Planning Commission meeting*]
- AA. Resolution No. 2548 approving a Final Plat for Village of Camden Woods - 89th Plat, located south of 143rd Street and east of Kenneth Road [*from the February 14, 2006 Planning Commission meeting*]

- BB. Fire Department Monthly Report
- CC. Municipal Court Monthly Report
- DD. Police Department Monthly Report
- EE. Police Department 2005 Annual Report

Councilmember Taylor requested to pull Item Nos. 7K, 7L, and 7O in order to recuse from the vote as well as Item Nos. 7Z and 7AA for discussion. Councilmember Rasmussen requested to pull Item No. 7Q for discussion.

On motion of Councilmember Peppes, seconded by Councilmember Filla, the remainder of the Consent Agenda was approved following a unanimous vote of 6-0.

- 7K. Resolution No. 2536 approving and authorizing the Mayor to execute a Construction Agreement between the City and O'Donnell & Sons, in the amount of \$4,085,191.25 pertaining to the Villaggio Development Improvement Project [CIP # 197 & 198] [CIP # 197: \$3,020,210.25; CIP # 198: \$1,064,981.00]
- 7L. Approve Change Order No. 1 in the reduced amount of \$214,624.00, to O'Donnell & Sons, pertaining to the Villaggio Development [Stormwater] Improvement Project [CIP # 198]
- 7O. Resolution No. 2538 approving and authorizing the Mayor to execute a Relocation Agreement in the amount of \$63,550.00, between the City and Water District No. 1 of Johnson County, [WaterOne] for sections of Roe Avenue, and 135th Street & Mission Road, pertaining to the Villaggio Development Improvement Project [CIP # 197]

A motion to approve Item Nos. 7K, 7L, and 7O was made by Councilmember Gulledge; seconded by Councilmember Rasmussen. Councilmember Taylor left the Council Chambers. The motion carried following a unanimous vote of 5-0 (Councilmember Taylor recusing).

- 7Q. Resolution No. 2540 authorizing the Mayor to execute a Permanent Sanitary Sewer Easement and Temporary Easement to Consolidated Main Sewer District for a piece of real property located in Lot # 1 of Mission Reserve Annex, for the construction of sewer lines on and over a portion of IRONHORSE Golf Course

Councilmember Taylor returned to the Council Chambers.

Councilmember Rasmussen asked if progress had been made regarding the creek bank located on Wastewater District facilities at the golf course. Public Works Director Joe Johnson reported the easements were City-initiated so that construction could occur on the property of resident Don Bell. Future meetings will take place with the Wastewater District in order to discuss the creek bank issue.

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Taylor. The motion was approved following a unanimous vote of 6-0.

- 7Z. Resolution No. 2547 approving a Final Plat for Village of Camden Woods - 88th Plat, located south of 143rd Street and east of Kenneth Road [*from the February 14, 2006 Planning Commission meeting*]
- 7AA. Resolution No. 2548 approving a Final Plat for Village of Camden Woods - 89th Plat, located south of 143rd Street and east of Kenneth Road [*from the February 14, 2006 Planning Commission meeting*]

Councilmember Taylor confirmed with Senior Planner Mark Klein that Camden Woods is west of Kenneth Road. The agenda contains a typographical error in describing the development as east of Kenneth Road. Councilmember Taylor then moved to approve Item Nos. 7Z and 7AA; seconded by Councilmember Filla. The motion carried with a unanimous vote of 6-0.

- 8. **MAYOR'S REPORT** – Mayor Dunn stated there would be no Mayor's Report this evening.
- 9. **COUNCILMEMBERS' REPORT** – None.
- 10. **STAFF REPORT** – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[FROM THE JANUARY 24, 2006 PLANNING COMMISSION MEETING]

- A. Ordinance No. 2153 approving a Special Use Permit for a Sprint wireless antennae to be located on top of the CBIZ building, located at 11440 Tomahawk Creek Parkway [Roll Call Vote]

Sprint representative John Underwood, 11801 Profit Road, Forney, TX, requested approval of the ordinance. He stated two types of antennae will be used, one regular and one Yagi antenna. They will be mounted to the penthouse wall and painted to conceal their location. All remaining equipment will be within the penthouse and out of public view.

A motion to approve the Special Use Permit was made by Councilmember Rasmussen; seconded by Councilmember Gullledge.

Councilmember Peppes verified with Planner Jeff Joseph that a different type of repeater is being used on Mission Road. Councilmember Peppes expressed concern regarding radiofrequency [RF] emissions. Mr. Underwood informed that Sprint is governed by the Federal Communications Commission [FCC] and Telecommunications Act of 1996. Emissions from the antennae are less than what is given off by a microwave.

Discussion took place regarding the aesthetics of the proposed repeaters versus the "pizza box" model to be used on 127th and Mission Road. Differing site locations determine which type of configuration is needed. Provisions are in order to allow possibly changing the model on Mission Road if technology advancements are made and for removal of the device if it proves to be ineffective in this area.

The ordinance was passed with the following unanimous roll call vote of 6-0: Yea: Councilmembers Gullede, Rawlings, Peppes, Rasmussen, Filla, and Taylor. Nay: None. (Councilmembers Gill and Bussing absent).

- B. Ordinance approving a Preliminary Plat, Preliminary Site Plan and rezoning from SD-NCR [Planned Neighborhood Retail and SD-O [Planned Office] to MXD [Mixed Use Development] for Mission Corner, located on the southeast corner of 135th Street and Mission Road [Roll Call Vote]

Staff Comment: *The applicant is requesting that this item be remanded back to the Planning Commission in order to attempt to address the concerns that were expressed at the January 24, 2006 meeting.*

Mayor Dunn noted the Staff Comment associated with the ordinance request. Mr. Lambers stated the item comes before the Governing Body with a recommendation of denial from the Planning Commission. Overall, the Planning Commission was in favor of the new versus original plan, however expressed various concerns. One commissioner objected to the 50% floor area ratio [FAR] discount given by Staff on the residential portion of the development. The allowance given was discussed in a previous Work Session but has not yet been formalized. An amendment to the Leawood Development Ordinance [LDO] is currently in process for this zoning category which will provide an automatic 25% discount for projects with a residential component and an additional 30% to be recommended by Staff. Concerns related to this subject will be alleviated once the amendment is finalized. Another member abstained from voting due to the fact there was not a Planning Commission Work Session held to discuss the significant changes made after Council approval. Two members indicated the plan did not fully represent the urban style mixed-use concept although did not provide specific direction.

Following conversations with Larry Winn, representative of Mission Corners, Mr. Lambers stated the applicant has decided to present the project to the Governing Body this evening but request a remand back to the Planning Commission in order to receive clarification of how to gain their support. Mr. Lambers noted any additions made to improve the streetscape will increase the square footage and density of the project as this is a very small tract of land.

Councilmember Gullede stated he would prefer foregoing a presentation until the remand had occurred. Mr. Lambers explained a super-majority vote will be needed in order to make project revisions following the remand if Council forfeits the presentation tonight.

A motion was made by Councilmember Rasmussen to remand the application back to the Planning Commission on grounds expressed by the City Administrator; seconded by Councilmember Gullede.

Larry Winn, 6201 College Boulevard, reiterated Mr. Lambers' summary of the reasoning behind the remand request, which is to schedule another meeting with the Planning Commission in order to gather suggestions and direction.

Mr. Winn confirmed for Mayor Dunn the presentation given tonight will be the exact plan denied by the Planning Commission.

Mr. Winn informed of a proposed gas facility shown in the northeast corner of the site which will be heard separately at a future meeting in order to obtain the required Special Use Permit.

Henry Klover of Klover Architects presented site plan drawings and elevations of the revised design. He noted changes and improvements made to the project, which were incorporated after the Governing Body Work Session was held regarding the development.

Councilmember Gullede voiced approval of the modified plan.

Councilmember Taylor and Mr. Klover discussed variations in story levels planned for the brownstone buildings.

Mr. Klover reviewed the parking design for Councilmember Filla. He stated there was debate among the Planning Commissioners concerning parking, however he anticipates coming to an agreement during the upcoming Work Session.

Mr. Winn informed Councilmember Taylor of two concerns expressed at the Interact meeting. The first concern regarded installation of the proposed gas facility. The second concern related to the height of the brownstones and was expressed by Rick Oddo, owner of the multifamily development south of Mission Corners.

Councilmember Taylor echoed Councilmember Gullede's approving comments, stating the design was much improved.

Mayor Dunn complimented Mr. Klover for requesting the remand in order to gain direction from the Planning Commission.

The motion to remand the application back to the Planning Commission was approved following a unanimous vote of 6-0.

12. OLD BUSINESS – None.

13. NEW BUSINESS

- A. Ordinance No. 2154 amending Code Section 1-208 of the Code of the City of Leawood, 2000, pertaining to the compensation for the Office of City Councilmember [Roll Call Vote] *-Continued from the February 6, 2006 Governing Body Meeting*

A motion was made by Councilmember Rasmussen to pass the ordinance; seconded by Councilmember Peppes.

Councilmember Rawlings stated he felt adequately compensated for expenses and was initially against the code amendment. He confirmed with Mr. Lambers that a \$45.00 per month increase will be given due to changes in Internal Revenue Service [IRS] regulations for mileage reimbursement rates. The issue will be evaluated on an annual basis and is subject to increase or decrease based upon future IRS calculations.

The ordinance passed with the following unanimous roll call vote of 6-0: Yea: Councilmembers Rasmussen, Gullede, Rawlings, Peppes, Filla, and Taylor. Nay: None. (Councilmembers Gill and Bussing absent).

14. OTHER BUSINESS – None.

ADJOURN

There being no further business, the Governing Body meeting adjourned at 8:35 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk