

**Minutes**

DVD No. 101

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, May 17, 2004. Mayor Peggy Dunn presided.

**Councilmembers present:** Jim Rawlings, Debra Filla, Louis Rasmussen, Scott E. Gullede, Mike Gill, Gregory Peppes, Gary Bussing and James E. Taylor, Sr.

**Councilmembers absent:** None

**Staff present:**

Scott Lambers, City Administrator  
Ben Florance, Chief, Fire Dept.  
Sid Mitchell, Chief, Police Dept.  
Mark Andrasik, Info Systems Director  
Jeff Cantrell, Neighborhood Serv. Admin.  
Deb Harper, City Clerk  
Emily Gleasure, Deputy City Clerk

Patricia A. Bennett, City Attorney  
Joe Johnson, Public Works Director  
Chris Claxton, Parks & Rec Director  
Mark Klein, Senior Planner  
Kathy Rogers, Finance Director  
Kim Curran, Sup't. of Recreation  
Colleen Browne, Human Resources Dir.

**1. PLEDGE OF ALLEGIANCE**

212 **2. APPROVAL OF AGENDA**

Mayor Dunn advised that Items "7G" and "14B" had been revised. She also noted there would be a Staff Report under Item "10." Councilmember Gullede made a motion to approve the Agenda. Councilmember Gill seconded the motion, and the motion was approved unanimously, 8-0-0.

300 **3. CITIZEN COMMENTS**

Robert Sjolín, 3217 W. 82 Terrace, addressed the new Ward One Councilmembers. He invited them to attend the Ward One homes associations meetings.

1005 **4. PROCLAMATIONS**

On behalf of the Fire Department's EMS team, Chief Florance accepted the **Emergency Medical Services Week, May 16-22, 2004** proclamation from Mayor Dunn.

Mayor Dunn also proclaimed **Dr. David L. Benson Day, June 3, 2004** in the City of Leawood.

1325 5. **PRESENTATIONS/RECOGNITIONS**

A. **RESOLUTION NO. 2210 OF APPRECIATION TO WARD ONE COUNCILMEMBER SHELBY STORY**

Mayor Dunn read Resolution No. 2210 into the record. Councilmember Gill made a motion to approve the Resolution. Councilmember Taylor seconded the motion, and the motion was approved unanimously, 8-0-0. Mayor Dunn presented Shelby Story with a framed copy of the Resolution, an Outstanding Service Award plaque, a framed painting of City Hall by J.R. Hamil, and a key to the City of Leawood.

Mr. Story addressed the Governing Body, stating he was proud of the City and the direction it was going. His interests in Public Safety, streets, and stormwater had been confronted and progress was being made. He thanked the citizens of Ward One for allowing him to serve them for the past five years.

2304 6. **SPECIAL BUSINESS**

A. **Public Hearing for 2005 Community Development Block Grant [CDBG] Program; Johnson County Interfaith Hospitality Network, Inc.**

Mayor Dunn declared the Public Hearing open and called for citizen comments.

Councilmember Bussing left the Council Chambers at 7:57 P.M.

Erica Kratofil, 11902 Lowell, Network Manager for the Interfaith Hospitality Network, spoke briefly on the program. She stated there were firm commitments from 25 area churches, three of those in Leawood (Leawood Baptist, Curé of Ars, and Leawood Presbyterian). Church of the Nativity and St. Michael's, also in Leawood, were considering joining as well.

Councilmember Rasmussen made a motion to close the public hearing. Councilmember Gullledge seconded the motion, and the motion was approved, 7-0-0; Councilmember Bussing was not seated for the vote.

Councilmember Bussing returned to the Council Chambers at 8:00 P.M. Ms. Kratofil stated the proposal was due to be reviewed by the County on June 5<sup>th</sup>; from there it would go to the U.S. Department of Housing and Development.

2538 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. Approval of Appropriation Ordinance No. 998
- B. Accept Minutes of the May 3, 2004, Governing Body meeting
- C. Accept Minutes of the April 13, 2004, Park and Recreation Advisory Board meeting
- D. Accept Minutes of the April 13, 2004, Historic Commission meeting

- E. Approve Renewal of Retail Liquor Store License for Wolff's Fine Wines & Spirits, located at 11841 Roe Avenue
- F. **Resolution No. 2224** designating Leawood City Hall Courtyard as a portion of the Leawood Community Center to conduct the Taste of Leawood fundraising event on June 12, 2004, in accordance with Code § 3-207
- G. Mayoral Appointment of Barbara Holzmark to the Historic Commission
- H. Certification of final project costs for 133rd Street from Roe to Mission [133<sup>rd</sup> Street Benefit District] [Project # 179]
- I. Approve purchase for an amount not to exceed \$17,000.00, to U.S. Foodservice, pertaining to the resale of concession supplies at the Leawood Aquatic Center, 10601 Lee Boulevard
- J. Approve purchase in the amount of \$17,197.00, to Gades Sales Company, Inc., pertaining to the purchase of traffic signals poles and mask arms for the intersections of 135<sup>th</sup> & Briar [CIP # 193] and 135<sup>th</sup> & Roe [CIP # 194] in conjunction with the Cornerstone and Church of the Resurrection Benefit District Projects, respectfully
- K. **Resolution No. 2225** approving a final plat for Parkway Plaza located at the northwest corner of 135<sup>th</sup> Street and Roe Avenue- *[Continued from the May 3, 2004, Governing Body meeting]*
- L. **Resolution No. 2226** approving Final Site Plan and Final Plat for LeaBrooke, 1<sup>st</sup> Plat, located at approximately 145<sup>th</sup> Street and Kenneth Road *[from the April 27, 2004, Planning Commission meeting]*
- M. **Resolution No. 2227** approving Final Site Plan for Bank of Blue Valley signs to be located at 13401 Mission Road *[from the April 27, 2004, Planning Commission meeting]*
- N. Police Department Monthly Report
- O. Fire Department Monthly Report
- P. Municipal Court Monthly Report

Councilmember Gullede made a motion to approve the Consent Agenda. Councilmember Gill seconded the motion, and the motion was approved unanimously 8-0-0.

Subsequently, Councilmember Taylor indicated his need to recuse himself from the vote on Item "7J," due to a possible conflict in interest. The Mayor then pulled Item "7J" from the Consent Agenda. Councilmember Bussing made a motion to approve, seconded by Councilmember Rasmussen. The motion was approved 7-0-1, with Councilmember Taylor recusing for reasons stated.

2738 **8. MAYOR'S REPORT**

- A. Attended the DARE graduation at Curé of Ars School with Chief Sid Mitchell. The keynote speaker was former DARE Officer Mike Pelger.
- B. Attended the Council of Mayors meeting of all governing bodies in Johnson/Wyandotte Counties with Councilmembers Peppes, Rawlings, Gill, Gullede, Bussing and Rasmussen. Bi-State II was discussed.

- C. Attended the National Day of Prayer at the Church of the Nativity with Councilmember Taylor.
- D. Attended the Council of Advisors meeting for the United Community Services of Johnson County. She advised that a copy of the Human Needs State of the County Study was included in the Council packets.
- E. Participated in the Walkers on Watch (WOW) Walk at Ironwoods Park. Participants included Councilmember Rawlings and his wife, Chief Mitchell, Chief Florance, Chris Claxton and Girl Scout Troop #44.
- F. Attended a ribbon-cutting ceremony sponsored by the Greater Kansas City Chamber of Commerce, the Mid-America Regional Council and the Kansas City Area Development Council for the renaming of State Line Road to One KC Way for one week. Other mayors from area cities also attended.
- G. Signed the Declaration of Interdependence, sponsored by the One KC Campaign Leadership Forum. Fifty area communities signed this declaration.
- H. Attended the ‘Lllooppi’ sculpture dedication at City Park. Also in attendance were Councilmember Rasmussen, artist Nate Fors, Ann Kenney, Mary Tearney, Jerry Snider and Ms. Claxton.
- I. Noted that David Basse and the City Light Orchestra would be performing at the City Hall Courtyard 11:30 – 1:00 P.M. on May 20<sup>th</sup>.
- J. Announced the “Get Out and Get Fit Walk” campaign for National Employee Fitness Day on May 19<sup>th</sup>. Employees could participate in the walk from City Hall to I-Lan Park and back, with a healthy lunch served upon their return.
- K. Noted that the Leawood Stage Company would present “Annie Jr.” in the Oak Room on June 25-27. This production could also be seen at Starlight Theater on June 22<sup>nd</sup>.
- L. Stated that the “Art on Loan” sculpture “Boogaloo” by the artist, Stretch, was currently on display at City Hall.

3655 **9. COUNCILMEMBERS’ REPORT - None**

3701 **10. STAFF REPORT**

Mr. Lambers stated he had attended the 3-day annual Kansas University City Managers Conference in Lawrence, Kansas last week. A pre-seminar conference he attended covered citizen-driven performance measurement. A survey had been conducted that indicated citizens did not perceive their cities in the macro sense that Governing Bodies did, but were more interested in specifics as they related to their neighborhoods and services they received. He stated that cities willing to participate in a follow-up study would look at how the cities were measuring their service delivery and how the citizens would like for them to measure them, in an effort to bridge the gap between the two groups. Mr. Lambers indicated Leawood would take part in this study, and details of the study would follow at a later time.

**COMMITTEE RECOMMENDATIONS**

*[from the April 7, 2004, Public Works Committee meeting]*

3949 **11. A. Public Works Committee Recommendation regarding sidewalk and traffic concerns in and around the Pavilions Subdivision**

Councilmember Bussing stated this was more an issue about improving access to Ironwoods Park than to the Pavilions subdivision. Joe Johnson added the project would consist of a temporarily installed sidewalk that would cost approximately \$19,000.00, with funds coming from the decision package for the 2005 Budget.

Councilmember Taylor made a motion to approve the recommendation. Councilmember Rawlings seconded the motion, and the motion was approved unanimously, 8-0-0.

4230 **12. PLANNING COMMISSION**

*[from the April 27, 2004, Planning Commission meeting]*

**A. Ordinance No. 2060 amending § 16-4-1, of the Leawood Development Ordinance [LDO] pertaining to Accessory Uses in Residential Zoning to allow outdoor kitchenettes and fireplaces [Roll Call Vote]**

Mark Klein, City Senior Planner, gave a brief overview of the reasons behind the amendment to the LDO concerning outdoor kitchenettes and fireplaces.

Councilmember Rasmussen confirmed with Mr. Klein that the 5' setback would be from the building line (the vertical wall of the main structure). Additionally, if the structure had a roof, the Planning Commission had amended the proposed Ordinance to read it needed to meet the full setbacks of the district. The dimensions of the kitchenettes were not specified in the Ordinance, with the exception of a 15' height limitation. The structure would also need to be located in the rear yard.

Councilmember Gill asked that language be added to the Ordinance allowing the Planning Department to require additional screening of the kitchenettes from neighboring lots. The screening would have a 10' threshold on height, with the Planning Department having the discretionary ability to approve additional screening. Councilmember Peppes suggested giving discretionary power to the Planning Department to require additional landscaping around the kitchenettes to soften the look of the outdoor structures.

Councilmember Rawlings questioned the 15' height of a kitchenette next to a ranch-style home, and the possible problems with smoke draw out of the chimney. He also questioned whether a roof would need to be required for a detached structure of this sort. Mr. Klein replied a building permit would need to be pulled for this type of structure, with the Fire Code dictating the separation between the main structure and the fireplace. In the proposed Ordinance, the roof for a detached structure would need to meet the full setback requirements that the main structure had to meet.

Councilmember Filla confirmed with Mr. Lambers that the building permit would be sufficient unless landscaping was an issue. At that point the Building Department would forward the plan to the Planning Department, who would determine if landscaping was necessary.

Councilmember Rasmussen voiced his concern about the accessory use of kitchenettes being higher than the gutter lines of homes. Mr. Klein confirmed this could happen.

Councilmember Bussing stated he endorsed Councilmember Gill's suggestion to allow the Planning Department discretionary authority over additional landscaping. He expressed his concern over whether these types of detached structures might become too large. Mr. Lambers stated he felt the issue was if the structure might become an extension of the house itself. In that case, it would become subject to the building line restrictions.

Citizen Emanuel Greenberg, 3116 W. 86<sup>th</sup> Street, discussed his neighbor's building of a kitchenette using an at-risk permit. He suggested the kitchenettes as proposed by Ordinance might become attractive nuisances, fire hazards, too large in size or be uncomplimentary in design or materials next to the homes on the lots.

Councilmember Gill confirmed with Mr. Lambers that issues concerning the Fire Code were covered by the 10' restriction as to placement of the kitchenettes.

10727

Councilmember Gullede stated he felt the landscaping issue would fall under the proposed "Article 4, Item 6H" provision for sport courts of the LDO [*A landscape plan shall be submitted at the time of application indicating plant material, size, location and spacing proposed*]. He confirmed with Councilmember Gill he would support the language.

Councilmember Taylor stated he felt the kitchenette being built by the neighbor of Mr. Greenberg was large and the materials used could have been more aesthetically appealing with the house design, but overall it was an attractive structure. He agreed with Councilmember Gill to require landscaping as screening around these types of structures.

Councilmember Rawlings suggested requiring the addition of chimney caps to the outdoor kitchenette fireplaces. Chief Florance stated he felt the kitchenettes would be safe if built proportionately and at the required setbacks. He stated the chimney caps would be a good addition.

Councilmember Filla made a motion to approve the Ordinance as amended by Councilmembers Gullede [added language on landscaping] and Rawlings [the addition of chimney caps]. Councilmember Gill seconded the motion. A Roll Call vote was taken, with the following results: Yea: Councilmembers Filla, Rawlings, Gill, Gullede, Taylor, Peppes and Bussing. Nay: Councilmember Rasmussen. Councilmember Rasmussen stated he had concerns about an accessory use permit for something generically characterized as a "kitchenette." He felt the Ordinance should be more specific as to height and length of the structures. The motion was approved, 7-1-0.

11814

**B. Ordinance amending § 16-2-10.3B, of the Leawood Development Ordinance [LDO] pertaining to Materials and Colors to allow vinyl soffits and vinyl siding [Roll Call Vote]**

Councilmember Rasmussen made a motion to approve the recommendation of the Planning Commission *[to deny the proposed LDO amendment that would allow for vinyl siding and vinyl soffits. The Planning Commission would review vinyl soffits at a later date after Staff had more time to review the products and to have a specific amendment to the ordinance similar to the vinyl windows]*. Councilmember Gullede seconded the motion.

Citizen Ahmed Awad, 3904 W. 142<sup>nd</sup> Drive, stated that when he built his house, his architect recommended a commercial vinyl soffit be used to reduce maintenance costs. At the time he was not aware that vinyl soffits were prohibited for residential usage, but now asked that the Ordinance be amended to approve them.

Mayor Dunn stated that when Mr. Awad's case went before the Planning Commission the issue of using vinyl soffits was bundled with vinyl siding. When the vinyl siding was not approved, the soffit issue was not looked at separately. However, it was later determined that if Staff came before the Planning Commission with vinyl soffit samples, there would be a better comfort level. It was asked that a time parameter be put on the review of the soffit issue. Councilmember Bussing confirmed with Mr. Awad that he had a Temporary Certificate of Occupancy [TCO] for 30 days. Mr. Lambers stated Staff had agreed that this issue fell under the same category as vinyl windows, and should be favorably considered by the Governing Body. Staff would extend Mr. Awad's TCO until there was a favorable conclusion to this issue.

Councilmember Taylor stated the product was the key to his approval, and he asked for specifications of the vinyl soffit material. He stated he would accept Staff's recommendation for approval, but would suggest remanding the issue back to the Planning Commission to see which vinyl soffit materials could be approved by the City.

Councilmember Gill stated he felt the City needed to look at materials other than wood for soffits. He said he would support Mr. Lamber's suggestion to extend Mr. Awad's TCO until the Planning Commission could come back to the Governing Body with products for approval.

Mayor Dunn, Councilmember Rasmussen and Mr. Lambers restated the motion, asking that only the vinyl soffits be remanded back to the Planning Commission for approval. Mayor Dunn stated there would not be a Roll Call vote as it was not an Ordinance amendment at this time. The remand was approved unanimously, 8-0-0.

13330 **13. OLD BUSINESS - None**

13333 **14. NEW BUSINESS**

**A. Resolution No. 2228 pledging the intentions of the Governing Body of the City of Leawood, Kansas, if the City is authorized by the electorate to levy an additional one-eighth of one percent [.125%] city retailers' sales tax**

G. Gordon Thomas, 10516 Mohawk Lane, commented on the poor turnout of voters during election time which caused the minority vote to win the election and promote issues that the majority was against.

Mayor Dunn restated that the issue before the Governing Body was a reauthorization of a tax that was already in place and being collected. Councilmember Rasmussen made a motion to approve the Resolution. Councilmember Gullede seconded the motion, and the motion was approved unanimously, 8-0-0.

**B. Ordinance No. 2061C adding a new Section 12-213A of the Code of the City of Leawood, 2000, pertaining to Park Regulations, specifically to prohibit boating on city lakes and greenways [Roll Call Vote]**

Mayor Dunn advised that this item had been revised after Councilmember Rasmussen had noted toy boats would be prohibited on city lakes and greenways in the proposed Ordinance that was submitted. Councilmember Rasmussen made a motion to pass the Ordinance. Councilmember Peppes seconded the motion, and the motion was passed unanimously, 8-0-0, after a Roll Call vote.

13931 **C. Ordinance No. 2062C amending Code §15-302 of the Code of the City of Leawood, 2000, pertaining to Stormwater Management, specifically, 'Incorporating Design Criteria for Storm Drainage Systems Facilities'; and amending Code § 15-306, of the Code of the City of Leawood, 2000, specifically, 'Procedure for Approval of Stormwater Management Plan; and repealing existing Sections 15-302 and 15-306 and other sections in conflict herewith [Roll Call Vote]**

Councilmember Rasmussen made a motion to pass the Ordinance. Councilmember Rawlings seconded the motion, and the motion passed unanimously after a Roll Call vote, 8-0-0.

**D. Ordinance No. 2063C amending Code § 15-519 of the Code of the City of Leawood, 2000, pertaining to Stormwater Management, specifically, 'Design Criteria and Performance Standards,' and repealing existing Section 15-519, and other sections in conflict herewith [Roll Call Vote]**

Councilmember Rasmussen made a motion to pass the Ordinance. Councilmember Rawlings seconded the motion, and the motion passed unanimously after a Roll Call vote, 8-0-0.

14148

**E. Request to expand parking facilities at I-Lan Park, 12601 Nall Avenue**

Mr. Lambers stated it had become apparent that the parking at I-Lan Park had become insufficient to provide for the demand at the park, and the Staff would like approval to go ahead with the design and bid process to expand the parking. It would then bring back its recommendation to the Governing Body.

Councilmember Rasmussen confirmed with Kathy Rogers that there was \$99,000.00 available in the Park Bond Issue that had been approved by the voters. Councilmember Rasmussen asked if additional parking had been eliminated from the original plan. Ms. Claxton responded that the parking had been reduced from 24 to 15 spaces, two of which were handicapped spaces. Mr. Lambers added the plan was to maintain a buffer from Nall Avenue, adding an additional 12 to 15 spaces.

Mayor Dunn stated she had received numerous complaints from citizens regarding the lack of sufficient parking spaces.

Councilmember Taylor gave a brief history of the development of I-Lan Park. He stated he had not observed a parking problem at the park except for one instance. He stated he would be voting against additional parking as per the desires of his constituents.

Councilmember Gill stated he felt the park plan had exceeded expectations and that the City needed to accommodate the need for additional parking warranted by the park users. He stated the only complaint he had heard was of the lack of parking.

Mayor Dunn confirmed with Mr. Lambers that the proposed parking would be near the shelter house and at a distance the furthest away from neighboring houses.

Councilmember Gill made a motion to approve the request. Councilmember Peppes seconded the motion, and the motion was approved, 7-1-0, with Councilmember Taylor opposed for reasons stated.

Mayor Dunn called upon Joyce Galbreath, 12664 Sherwood Drive, who had requested to speak on the subject. Ms. Galbreath stated she was part of the contingency that had originally opposed the large parking lot. Early in the planning it had been agreed that there be limited parking facilities, no restrooms to encourage vandalism, and shoebox lighting. She also mentioned there had been flooding in their neighborhood during the past storm, and she believed it was due partly to the developed parkland.

15644 **15. OTHER BUSINESS - None**

**ADJOURN**

There being no further business, the meeting was adjourned at 9:33 P.M.

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Debra Harper, City Clerk

Emily Gleasure  
Recording Deputy City Clerk