

Minutes

Audio Tape No. 489

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, 2000. Mayor Peggy J. Dunn presided.

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

Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Lisa R. Wetzler, Assistant City Attorney; Martha Heizer, City Clerk; Sarah Hilton, Admin. Services Manager; Capt. Scott Barton, Police Dept.; Ben Florance, Fire Chief; Joe Johnson, Public Works Director; Diane Binckley, Planning Services Administrator; Kathy Rogers, Finance Director; Chris Claxton, Parks & Recreation Director; Bob Sadler, Information Services Specialist; Jeff Cantrell, Neighborhood Services Administrator; and Deb Harper, Paralegal.

1. PLEDGE OF ALLEGIANCE.

2. APPROVAL OF AGENDA. A motion was made by Mr. Dunn to approve the agenda. Mr. Gill seconded the motion and the agenda was unanimously approved.

3. RECOGNITION – GENE HUNTER, FIRE MARSHALL; COMPLETION OF EXECUTIVE FIRE OFFICER PROGRAM AT NATIONAL FIRE ACADEMY

This item was tabled to the July 17, 2000 Governing Body meeting.

4. CITIZEN COMMENTS. Citizens were invited to speak to the Governing Body.

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5. CONSENT AGENDA.

- A. Minutes of the June 5, 2000 Council meeting
- B. Committee reports
 - 1. Minutes of Arts Council May 23, 2000 meeting
 - 2. Minutes of Historical Commission May 9, 2000 meeting
- C. Departmental Reports
- D. Resolution approving and authorizing the adoption of franchise applications and non-refundable application fees for the processing of telecommunication and cable franchise applications submitted to use the City of Leawood's rights-of-way.
- E. Approval of lease renewal agreements with ISO for copy machines

Mr. Taylor requested Item 5D and 5E be removed from the Consent Agenda for discussion. A motion was made by Mr. Taylor seconded by Mr. Dunn, to approve the remainder of the consent agenda. The motion carried by unanimous vote.

5D. Resolution No. 1528 approving and authorizing the adoption of franchise applications and non-refundable application fees for the processing of telecommunication and cable franchise applications submitted to use the City of Leawood's rights-of-way.

Mr. Taylor and Mr. Rasmussen had questions regarding the suggested \$13,000 fee. Ms. Wetzler explained the city, as a MARC member has joined with 28 local municipalities to form the Kansas City Regional Telecommunications Consortium, to effectively negotiate franchise agreements with companies proposing to use the city's rights-of-way for telecommunication and cable purposes. The \$13,000 fee is the amount the consortium has agreed to charge each applicant that applies for ROW usage. An applicant would incur other expenses, i.e., gross percentage of their revenue and per linear foot charge, etc., as the application and procedure progressed through negotiations between the applicant and the city.

A motion was made by Mr. Rasmussen and seconded by Mr. Taylor to approve Item # 5D, and was unanimously carried.

5E. Approval of lease renewal agreements with ISO for copy machines.

Mr. Taylor questioned the pros and cons of a leasing program versus the purchase of the copiers. Ms. Kathy Rogers advised the 2 lease [48 month] agreements are for 2 additional copiers needed to upgrade current copiers. The annual cost will be \$14,784.00; with a total term cost of \$59,148. This cost is lower than purchasing the copiers.

Mr. Taylor advised he wasn't convinced the lease programs were a better cost savings in the long run, and made a motion to deny the approval of the lease agreements. The motion was not seconded, thus the motion died.

A motion was then made by Mr. Dunn and seconded by Mr. Story to approve the lease agreements, Consent Agenda Item # 5E. The motion was passed with the following vote: Yea: Councilmembers Rasmussen, Gill, Story, Dunn, Rawlings, and Gullledge; Nay: Councilmember Taylor.

600 **6. PLAN COMMISSION [from 05/23/2000 meeting]**

A. Resolution No. 1529 approving and authorizing a preliminary site plan and preliminary plat for 135th and Roe Development.

Councilmember Taylor advised Mr. Richard Sailors has been a previous client with his firm and therefore recused himself from this agenda item.

Messrs. Brick Owens and David Suttle presented the request to the Council.

Mayor Dunn requested the word "public" be inserted between "an" and "art" in Stipulation No. 6 and throughout the remainder of the Staff Report that was submitted to the Governing Body regarding this item, so as to read ".....development is required to pay a public art fee in the amount"

Mr. Charles Schaefer, 13701 Fontana, area resident, spoke of several concerns, including the potential increase of traffic that would be generated with this development.

After further discussion and questions a motion was entertained by Mr. Gill and seconded by Mr. Rasmussen to approve the request with four [4] stipulations added to the already existing 25 stipulations:

1. The applicant must meet all requirements of the 135th Street Design Guidelines. [1998 Stipulation # 4]
2. Briar will be reviewed, and the Leawood traffic study model conducted by Bucher Willis & Ratliff [BWR] specifically addressing 135th between Roe and Nall shall be followed instead of the Overland Park plan. [combination of 1998 Stipulations # 22 and # 24]
3. The traffic study must be completed prior to each of the revised preliminary plan applications to include internal traffic circulation. [1998 Stipulation # 13]
4. Developer shall pay the installation cost of the traffic lights located at 137th and Roe.

The motion carried by unanimous vote. Mr. Taylor returned to the Council Chambers.

2275 **B. Ordinance No. 1866 amending Section 3-8 of the Leawood Development Ordinance pertaining to Temporary Special Use [seasonal outdoor sales]**

Mr. Jeff Cantrell, Neighborhood Services Administrator, explained this ordinance would assist in safeguarding against Leawood merchants storing large unsightly quantities of merchandise outside their store.

A motion was made by Mr. Gill and seconded by Mr. Taylor to pass the ordinance. The motion carried by a unanimous roll call vote.

2416 **C. Ordinance No. 1867C amending Section 4 of the Leawood Development Ordinance and adding a new Article 5 to Chapter 5 of the Leawood Code pertaining to Massage establishments and therapists.**

The previous amendment to this ordinance did not prohibit a therapist from conducting home massages. Mr. Cantrell advised one of the amendments is to restrict the ability of therapists to conduct home massages in an attempt to safeguard against illegal activity, and to require a medical certification to conduct massages in clients' homes.

Mr. Dunn stated this was a significant modification to the existing ordinance and wants to ensure legitimate home massages for health purposes can still be conducted and would not prohibit therapists from conducting massages when warranted for other medical purposes. After further discussion, a motion was made by Mr. Rasmussen, seconded by Mr. Gill to uphold the Plan Commission's recommendation to amend this ordinance. The motion carried by a unanimous roll call vote.

2690 7. **MAYOR'S REPORT**

- a. County Commissioners failed to adopt the Technical Review Committee's recommendation regarding future transportation infrastructure needs.
- b. Attended a meeting with a delegation of design and construction management persons from Beijing China to study Leawood's planning process.
- c. Attended the memorial services of Frank Barnes, husband of Kansas City, Missouri Mayor Kay Barnes.
- d. Acknowledgment of historic dedication by the Sagamore Chapter of the Kansas Daughter's of the American Revolution of the Herman Voigt's home located at 103 & Lee Blvd.

3010 8. **OLD BUSINESS**

A. Discussion of traffic signalization at 92nd & State Line

Mr. Dunn advised discussions on this project began in 1989. In 1991, the Governing Body approved the funding for the traffic signalization at this intersection; in 1997, the City of Kansas City, Missouri agreed to contribute \$184,000 of federal fund money towards these improvements, with both cities entering into an Inter-local Agreement. Mr. Dunn further advised this intersection is extremely dangerous and the current stop signs at this intersection are not adequate to control the traffic flow and is fearful of serious injury, if not fatal accidents occurring in the near future.

Mr. Dunn made a motion and seconded by Mr. Story for this project to proceed on the City's current CIP 2000 schedule and endorse the Staff's recommendation of proceeding with Alternative Improvement No. # 1.

The County had denied the city's request for C.A.R.S. participation for this project. The majority of necessary right-of-way and easements are located on the east side in Kansas City, Missouri. Correspondence received by KCMO, states they have no additional funds to contribute other than the \$184,000 of federal money, which is to be used strictly for construction costs; and cannot be used to obtain necessary right-of-way from property owners. Public Works Director, Joe Johnson, advised his conversations with KCMO Public Works Department contradicts the written correspondence the City has received. In addition, if this federal money is not used within a specific time period, the federal funding will be withdrawn and the money no longer available.

Mayor Dunn along with Mr. Gill raised concerns regarding Kansas City, Missouri's possible inability to meet its contractual obligations set forth in the inter-local agreement, along with the inability to complete the project if no money is available to acquire sufficient right-of-way, easements, etc., from property owners on the Missouri side. Mr. Gill advised he would prefer to continue this item, to provide adequate time to contact Kansas City Missouri for more answers.

Mr. Taylor is concerned with the additional costs Leawood would have to absorb, with the project costs increasing from \$340,000 to \$517,000. Additionally, he stated the Police Department has advised this intersection is not considered a dangerous area, and does not feel a significant number of accidents have occurred at this location to warrant the enormous amount of funds to be spent for these improvements.

Area residents, Dave Gilmore, Mark Sirokman and Helen Stechshulte, raised concerns, including the potential problem of traffic traveling through the residential neighborhood to avoid the traffic signals at the intersection.

Mr. Gullede called for the question, seconded by Mr. Taylor and was unanimously approved.

Mayor Dunn stated the motion along with a second, was for this traffic signalization project to proceed on the City's current CIP 2000 schedule and endorse the Staff's recommendation of proceeding with Alternative Improvement No. # 1. The motion failed with the following vote: Yea: Councilmembers Dunn, Story Rawlings; Nay: Councilmembers Taylor, Rasmussen, Gill and Gullede.

5450 **B. Parks & Recreation Services Report on Senior Adult / 50 + Recreation Activities.**

A motion was made by Mr. Rasmussen, seconded by Mr. Taylor to accept the P&R Report. The motion was unanimously approved.

5525 **C. Resolution No. 1530 amending Resolution No. 1484 finding as to the advisability and a resolution authorizing the improvement and construction of College Boulevard from Tomahawk Creek Parkway to El Monte, pursuant to K.S.A. 12-6a01 et seq. [continued from the 06/05/2000 Governing Body meeting]**

A motion was made by Mr. Rasmussen seconded by Mr. Gill to adopt the resolution. The motion was unanimously approved.

Mayor Dunn drew attention to the previously approved final plat of the Merrill Lynch building located at College and Tomahawk Creek by Resolution No. 1408, adopted on 07/06/98, specifically, Stipulation No. 9, wherein it states "...all utility boxes located in the interior of the lot or near the building are to be screened with landscaping or wall...". If the overhead lines are not buried, they would be required to properly landscape the area.

5680 **D. Resolution No. 1531 amending Resolution No. 1489 finding as to the advisability of and authorizing the improvement, reimprovement, excavation and repair of the damaged sections of all roads within the Normandy Place Subdivision and certain storm water drainage improvements within said subdivision, pursuant to K.S.A.. 12-6A01 et seq. [continued from the 06/05/2000 Governing Body meeting]**

Mr. William Chiles, 12816 Cedar, President of Normandy Place Homes Association, advised the projected cost for this project is \$303,000, which is approximately just under \$6,000 @ subdivision homeowner. The Homes Association is in favor of this project progressing, however, is appealing to the City for assistance to relieve the homeowners of this financial burden.

Mr. Taylor made a motion, seconded by Mr. Gill to adopt the resolution. The motion was unanimously approved.

Mr. Taylor entertained a second motion, seconded by Mr. Gulledge, to request the staff review current private streets systems policies and for the Public Works Committee to analyze these systems to ascertain whether the City needs to modify its policy to provide financial assistance for these types of projects in the future.

Mr. Gill stated he is opposed to the basic idea of 'private' streets and would be opposed to providing any financial assistance. Mr. Rasmussen stated the current policy was a well thought-out and well written and is opposed to any revision of this policy. After further discussion, the motion failed with the following vote: Yea: Councilmembers Taylor and Gulledge; Nay: Councilmembers Gill, Rawlings, Dunn, Story, and Rasmussen.

6686 **E. Contract Change Order No. 2 with Obermiller Construction Services, Inc., [street & storm sewer improvements] \$144,149.72; regarding the Normandy Place Benefit District Project [continued from the 06/05/2000 Governing Body meeting]**

A motion was made by Mr. Taylor, seconded by Mr. Gill to approve the Change Order. The motion was unanimously approved.

6715 **9. NEW BUSINESS**

A. Approval of Appropriation Ordinance No. 893.

A motion was made by Mr. Rasmussen, seconded by Mr. Dunn to approve the ordinance.

Mr. Dunn left the Chamber. After discussion, the motion was passed after a unanimous roll call vote. Mr. Dunn returned to the Chamber.

6877 **B. Authorize execution of Construction Project Management Services Agreement with ACI-Boland in the amount of \$195,600 regarding the Public Works Facility Project**

A motion was entered by Mr. Taylor, seconded by Mr. Rawlings to approve the agreement. The motion carried by a unanimous vote.

6960 **C. Resolution No. 1532 approving and authorizing the acquisition, construction and installation of a Public Works building in the vicinity of 143rd and Overbrook and providing for the issuance of general obligation bonds and temporary notes to pay the costs of the project.**

A motion was made by Mr. Rasmussen, seconded by Mr. Rawlings to adopt the resolution. The motion carried by a unanimous vote.

7054 **10. OTHER BUSINESS**

A. Discussion regarding Code regulations for detached structures

Mr. Dunn explained a Ward One resident had designed a detached structure for his residence, however, it did not meet city code and the variance was denied by the Board of Zoning Appeals. Mr. Dunn made a motion, seconded by Mr. Story to request Staff review the current code and advise what changes, if any, could be made to allow for such detached structures under proper circumstances.

Mr. Rasmussen is opposed to changing this code and feels tight regulations on these types of structures are necessary to safeguard against abuse of this code.

After further discussion, the motion was passed by the following majority vote: Yea: Councilmembers Gulledge, Rawlings, Dunn, Story, Gill and Taylor; Nay: Councilmember Rasmussen.

7664 **11. EXECUTIVE SESSION**

A. Attorney-client privilege regarding pending litigation

A motion was made by Mr. Gulledge, seconded by Mr. Dunn for the Council to recess into executive session at the conclusion of the meeting for a period not to exceed 15 minutes. The motion was carried by unanimous vote.

A motion was made by Mr. Taylor, seconded by Mr. Story to extend the meeting past 11:00 p.m. The motion carried by unanimous vote.

The public meeting was recessed at 11:00 p.m. and the Council convened into executive session.

12. ADJOURN

The Council returned to regular session at 11:15 p.m. There were no votes or other binding action taken during executive session. There being no further business, the meeting was adjourned.

Martha Heizer, City Clerk

Deb Harper, Recording Clerk