

**Minutes**

DVD No. 145

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, June 19, 2006. Mayor Peggy Dunn presided.

**Councilmembers present:** Lou Rasmussen, Jim Rawlings, Scott Gullledge, Gary Bussing, Debra Filla, Gregory Peppes, and James Azeltine.

**Councilmembers absent:** Mike Gill.

**Staff present:**

Scott Lambers, City Administrator  
Chief Ben Florance, Fire Department  
Joe Johnson, Public Works Director  
Eirene Oliphant, Building Official  
Mark Klein, Senior Planner  
Deb Harper, City Clerk  
Scott Smith, Internet/WAN Specialist

Patty Bennett, City Attorney  
Chief Sid Mitchell, Police Department  
Chris Claxton, P&R Director  
Jeff Cantrell, Neighborhood Serv. Admin.  
Jeff Joseph, Planner  
Christy Wise, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn informed the agenda will include a report from Councilmember Azeltine under Item No. 9, Councilmembers' Report, and a report from Public Works Director Joe Johnson under Item No. 10, Staff Report. A motion to approve the agenda was made by Councilmember Peppes; seconded by Councilmember Gullledge. The agenda was approved following a unanimous vote of 7-0.

**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 National Nursing Assistants' Week, June 15-22, 2006**

Mayor Dunn proclaimed the week of June 15-22, 2006, as National Nursing Assistants' Week.

**5. PRESENTATIONS/RECOGNITIONS Presentation of Temporary Art Pieces**

Dr. Ann Kenney, Chair of the Arts in Public Places Initiative, described two pieces of art the subcommittee is requesting permission to install at City Hall as part of the "art on loan" program.

The first piece is entitled "Koinonia," by Reilly Hoffman, and will adorn the lobby. The artist used flame-cut steel to create the sculpture. The second piece, "Sentinel," is by artist Tex Jernigan and will be placed at the drive entrance to City Hall. This piece is composed of mild steel, copper, and EMT conduit. An honorarium of \$1,500 will be given to both artists.

Regarding security measures, Councilmember Bussing confirmed with Dr. Kenney the outdoor sculpture will be anchored to the ground and insured. Parks and Recreation Director Chris Claxton explained the proposed location of the sculpture is the green space area south of the flagpoles.

A motion to approve a \$1,500 honorarium to artist Tex Jernigan for the temporary placement of "Sentinel" was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved following a unanimous vote of 7-0.

A motion to approve a \$1,500 honorarium to artist Reilly Hoffman for the temporary installation of "Koinonia" in the lobby of City Hall was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0.

**6. SPECIAL BUSINESS**

- A. Consider request for payment in the amount of \$1,636.74 to Shawnee Mission School District for reimbursement of cost of Sales Tax Election

Mayor Dunn stated Shawnee Mission School District [SMSD] Superintendent Dr. Marjorie Kaplan submitted the reimbursement request for election costs associated with the Economic Development Tax. She agreed to present the request for Council consideration as Leawood has received approximately \$2.5-million in revenue from this tax to date, which is in a contingency fund.

Councilmember Bussing asked if there is anticipation of a similar request from Blue Valley School District [BVSD]. City Administrator Scott Lambers reported being at the County Commission meeting during discussion of this matter. The fact there would be no County participation in the election was clearly made and understood by the school districts.

There is possibility that BVSD could make a request, but, they have not done so at this point. By using the same formula of how many Leawood students attend the school district, reimbursement costs for BVSD would be much larger than that of SMSD.

Councilmember Bussing verified with Mr. Lambers that Leawood will have received approximately \$3.8-million by the end of the sales tax term with the revenue allocation formula being two-thirds for the school districts and one-third for cities.

Mayor Dunn relayed that Dr. Kaplan acknowledges the City has no obligation to pay the request, which is why it is presented for consideration. The same request has been made to all other Johnson County cities within the school district with the exception of Fairway as they have already contributed their total dollars generated by the sales tax back to the schools.

Mr. Lambers informed Councilmember Azeltine that if BVSD were to ask for reimbursement, the figure would be 5-10 times higher than the amount solicited by SMSD. Councilmember Azeltine voiced favor for granting the request as the cities have been significant beneficiaries from the election.

Mayor Dunn reported disadvantageous circumstances surrounding SMSD such as an overabundance of students who qualify for food-stamps, a shrinking population, and they do not have building programs that benefit school districts such as Blue Valley and Olathe. She noted the Olathe School District did not lobby the County Commission for the sales tax with their superintendent stating they did not need the money. She stated approval of SMSD's request is not precedent setting and it is not a given that Leawood would entertain an identical proposal from BVSD.

A motion to approve the request was made by Councilmember Peppes; seconded by Councilmember Filla.

Councilmember Bussing suggested a friendly amendment to include language stating approval of this item is a one-time event and in no way establishes precedent in the remittance of election costs. As the motion-maker and second, Councilmembers Peppes and Filla agreed to the friendly amendment.

Councilmember Rasmussen confirmed with Mr. Lambers the election costs are for fees associated with the County Clerk and do not entail costs for informational advertising.

The motion was approved following a unanimous vote of 7-0.

B. **Public Hearing**

'Draft' Ordinance amending Code § 4-121, entitled 'Building and Construction Permits' and repealing existing section

Councilmember Rawlings, Chair of the Building Permit Task Force, recognized other members of the committee as: Councilmember Filla; Lisa Rohlf and Bud Munson, Planning Commission; Linda Kirby, Leawood Homes Association; Meg Gilmore, Leawood Estates Homes Association; and Jake Schloegel and Skip Hensler, remodeling and new build contractors. He stated the draft ordinance amendment will allow notification to interested homeowners associations [HOAs] who would like involvement in reviewing plans for remodeled homes. The HOAs will receive copies of any preliminary plans submitted to the City and will have ten days to respond with any concerns. If there is no response, the City will issue the building permit. If there is a response, the HOA will work with the applicant to resolve any issues. Another option is to notify the interested HOAs of the final plan with a 25-day window for response. The building permit will be issued on the 26<sup>th</sup> day if there is no action by the HOA.

No liability will be held on the City's behalf although the ordinance will slow down the building permit process to allow interested HOAs the opportunity to review the plans. All HOAs in Leawood will be given adequate notification and the opportunity to express interest. The building permit process will occur in the usual manner if there is no response from the HOA.

Mayor Dunn expressed concern regarding the following wording in the first paragraph of the ordinance: "replace any electrical, gas, mechanical, plumbing, or elevator system." She wanted to ensure there would not be a ten day waiting period for replacement of air conditioning units on the exterior of homes. City Attorney Patty Bennett stated it is not intended to apply to air conditioning units and will clarify the language in the ordinance.

Councilmember Rasmussen confirmed with Mr. Lambers that remodeling requests will not automatically be sent to an HOA. The HOA must first inform the City of their interest in reviewing preliminary and final plan applications.

Councilmember Peppes verified with Mr. Lambers that if a permit application is submitted in a nonparticipating HOA, the usual Staff review for code compliance will take place within 2-3 days.

Councilmember Rasmussen clarified the City is not obligated to notify HOAs of a permit application unless they request such notification. He stated concern as the ordinance will allow objection from the HOAs if there is a problem with the covenant, however does not address the issue of structures being dissimilar to surrounding homes, i.e. rooflines, offsets. He stated the process should be taken past the notification process and suggested the possibility of creating a remodeling commission for overall area conformance. Councilmember Rasmussen questioned the accuracy of current information regarding HOAs as a previous attempt to have the organizations register with the City failed. He stated the County has never fulfilled the promise of posting HOA information, including covenants, online.

Councilmember Bussing and Mr. Lambers reviewed the notification process. If an HOA objects to an application and cannot reach a compromise with the property owner, they can either allow construction to continue or take the applicant to court. The language in the first paragraph of the proposed amendment is consistent with that of the current ordinance. Additional language includes everything following the first paragraph.

Councilmember Rawlings informed that an objecting HOA must file a Stop Work Order through the court system to prevent the City from issuing the building permit.

Mayor Dunn noted the amendment is in response to discussion from the Goals & Objectives Work Session with the purpose of creating an avenue for dialogue between a homeowner/applicant wishing to make exterior changes to a home and the HOA. Leawood Homes Association and Leawood Estates Homes Association, both in north Leawood, have been very involved and interested in the matter due to issues with radical remodels that are not in keeping with surrounding homes.

Councilmember Bussing voiced concern for unintended consequences the ordinance may produce such as legal expenses the HOAs will incur in attempting to enforce their covenants. Over time, this approach may create peril for the City and HOAs.

Councilmember Azeltine discerned the issue is a private legal contract between the HOAs and residents with the City acting as a conduit, which he agrees is a good starting point. He noted the Leawood Development Ordinance [LDO] contains a section on architectural and construction standards and asked if these ordinances are being enforced. Mr. Lambers stated dialogue concerning this issue will take place before the Planning Commission and City Council at a future date.

Councilmember Filla shared major points of discussion from the task force meetings. It was decided to request notification during preliminary planning versus final planning only in order to prevent incurred costs by the homeowner. According to an article, she noted homeowners benefit from a 5% increase in home value when governed by an active HOA. This statistic translates into a \$45-million increase in property value for homes north of I-435. It is significant for the City to aid in the process of encouraging adherence to construction quality for remodeled homes. The task force feels continued meetings are necessary as this ordinance is only the first step in the process of maximizing the benefit of quality and value to the homeowner and builder.

Councilmember Rasmussen's stated updates to the LDO have been geared toward effectively controlling characteristics of development in new areas and do not address issues related to old areas. Mr. Lambers agreed with this assessment. Councilmember Rasmussen proposed the task force create a remodeling set of standards compatible to the area where the project takes place. He conveyed that homes are being torn down and replaced with larger structures in old Leawood. The reconstructions comply with codes in the LDO created for new developments but are not in keeping with northern neighborhoods.

Councilmember Gullede questioned the capability of a HOA to review plans and determine what is quality versus not quality. He stated concern with the process creating bigger problems.

Mayor Dunn opened the public hearing for comments.

Meg Gilmore, 9010 High Drive, member of the Building Permit Task Force and past chairperson of the Deeds Restriction Committee, spoke on behalf of Leawood Estates Homes Association. To address Councilmember Gullede's concern, she explained Leawood Estates has established a group of people who are experienced in reading plans. Consultations with an architect will be made if there are problems with a difficult plan or if the group does not feel confident in making a judgment. She stated the City does not always address ordinance related issues on plans before issuing permits, which is a cause for concern with Leawood Estates. The proposed ordinance will ensure proper review by the HOAs. Ms. Gilmore also affirmed that Leawood Estates has spent up to \$10,000 per year for legal fees associated with taking individuals to court.

Councilmember Gullede expressed further trepidation with plan interpretation by a subjective review process. The proposed amendment will complicate the current method by creating additional obstacles. He acknowledged there are locations in north Leawood with out-of-the-norm housing structures compared to surrounding properties; however, from his perspective, the new homes are done with quality.

Ms. Gilmore stated several homes have been done poorly within the Leawood Homes Association and Leawood Estates Homes Association. She offered to take interested councilmembers on a tour to witness what has become a serious problem. Additionally, she informed that both HOAs have jointly established a set of guidelines to be published and become part of the process. The guidelines will become available through a newsletter to every member of the two HOAs and hopefully be distributed by the City at the time of permit applications.

Ms. Gilmore confirmed for Councilmember Gullede it is her belief that 10% of changes made to the residential areas are a detriment to property values, however this has not been verified through general appraised values.

Councilmember Bussing asked Ms. Gilmore to define the term "done poorly," which she used in reference to some of the home improvement projects. Ms. Gilmore described homes extending out to property lines with only a fringe of yard left. She stated the HOAs are not trying to discourage redevelopment but are recommending property restrictions to allow for better neighborhood integration.

Ms. Gilmore verified for Councilmember Rawlings in an average year there are two out of twenty-eight remodeling projects, roughly 10%, with issues causing concern to the HOA.

Skip Hensler, 14817 Juniper, member of the Building Permit Task Force, informed Councilmember Gulledge his initial concern with the proposed process was the inability to contact inactive HOAs as well as the expertise of those who serve on active HOAs. He agreed the ordinance is needed as there is a trend of tear down and reconstructions in north Leawood. Mr. Hensler stated the key to a quality home remodel/reconstruction is to begin with a good design.

Councilmember Gulledge noted the review process would still be subjective with rejection of a first-rate design possible. When asked if he felt there were problems with the structure of the proposed ordinance, Mr. Hensler restated concern regarding inactive HOAs.

Councilmember Filla informed the next goal of the task force is to address the validity of qualified persons who review the plans as well as to fine tune the process. Committee member Bud Munson is currently researching the procedure of other cities having a similar ordinance. A separate planning commission for residential review could be an option. She noted the LDO contains design criteria to maintain consistency in architecture. The larger homes that are being built next to existing homes are out of scale and diminish values of the smaller structures.

As no other citizens desired to speak, a motion to close the public hearing was made by Councilmember Bussing; seconded by Councilmember Gulledge. The motion carried following a unanimous vote of 7-0.

Mr. Lambers advised the matter will be placed on the July 17<sup>th</sup> agenda for possible action. Following any action that is taken, Councilmember Rawlings stated the task force intends to meet for further discussion regarding future considerations of the process.

Mr. Lambers suggested the next step would be for the Governing Body to provide the task force with clear directives for matters that can be addressed at the City level. He offered to provide Council with a memorandum outlining potential issues. Councilmember Rawlings and Mayor Dunn agreed with this suggestion.

## **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 No. 1053A
- B. Accept Minutes of the June 5, 2006 Governing Body meeting
- C. Accept Minutes of the May 15, 2006 Governing Body Work Session meeting
- D. Accept Minutes of the May 9, 2006 Parks and Recreation Advisory Board
- E. Approve Cereal Malt Beverage [CMB] license renewal for Price Chopper #500, located at 13351 Mission Road

- F. Approve Cereal Malt Beverage [CMB] license renewal for Zipz!, located at 4821 W. 135th Street
- G. Approve Retail Liquor Store license renewal for Zipz! Spiritz, located at 4821 W. 135th Street
- H. Approve payment in the amount of \$25,000 to Western Enterprises, Inc., pertaining to the July 4<sup>th</sup> celebration at Leawood City Park, 10601 Lee Boulevard
- I. Resolution No. 2609 calling for a public hearing on Monday, August 7, 2006, to consider the 2007 fiscal budget for the City of Leawood, Kansas
- J. Resolution No. 2610 approving and authorizing the Mayor to execute a Relocation Agreement in the amount of \$53,499.00, between the City and Kansas Gas Service pertaining to the relocation of gas distribution facilities in connection with the Villaggio Project
- K. Resolution No. 2611 approving and authorizing the Mayor to execute a Service Agreement in the amount of \$24,200.00, between the City and Brungardt Honomichi & Company [BHC] pertaining to surveying services for the 2007 Residential Street Reconstruction Program
- L. Resolution No. 2612 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,317,796.10 between the City and Miller Paving & Construction, pertaining to the 2006 Residential Reconstruction Program [Phase II]
- M. Resolution No. 2613 approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$32,000.00 between the City and Olson Associates pertaining to the surveying of stormsewer structures
- N. Resolution No. 2614 accepting a Storm Sewer Easement from Karl Foss and Mary MacNaughton, located on the northeast corner of 105<sup>th</sup> Street and Mission Road, pertaining to the Mission Farms Commercial Development
- O. Resolution No. 2615 accepting a Storm Sewer Easement from 133 SLine, LLC, located on the northwest corner of 133<sup>rd</sup> and State Line Road, pertaining to the Village of Seville Development
- P. Fire Department Monthly Report
- Q. Municipal Court Monthly Report
- R. Police Department Monthly Report

Councilmember Filla requested to pull Item No. 7D. On motion of Councilmember Rasmussen, seconded by Councilmember Gullede, the remainder of the Consent Agenda was approved following a unanimous vote of 6-0 (Councilmember Peppes not seated for the vote).

- 7D. Accept Minutes of the May 9, 2006 Parks and Recreation Advisory Board

Councilmember Peppes returned to the Council Chambers.

Councilmember Filla confirmed with Ms. Claxton that DesignSense will be working as the programmer for the new facilities at Ironwoods Park. They will collaborate with Staff on recommendations for the contract, aid with the RFP, and act as the owner's agent up until the point of construction bids. The City may also engage DesignSense to act as construction manager, although there is no obligation to retain their services at this time.

A motion to approve Item No. 7D was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion was approved following a unanimous vote of 6-0 (Councilmember Bussing not seated for the vote).

Councilmember Bussing returned to the Council Chambers.

Councilmember Gullede left the meeting at 8:45 P.M.

## 8. MAYOR'S REPORT

- A. Discussed letter included as packet information from the President and CEO of Heart of America United Way regarding the launch of the new United Way 2-1-1 phone service, which covers a 23-county area. Thousands of available resources and volunteer opportunities will be provided by dialing 2-1-1. The new service will also save the 9-1-1 system for life and death emergencies. Mayor Dunn reported she has tested the phone line and it is working in the Leawood area. She encouraged councilmembers to educate their constituency about the service.
- B. Attended the dedication of the new *Kansas City Star* Press Pavilion in the heart of downtown Kansas City. Mayor Dunn congratulated the newspaper on the state-of-the-art printing and distribution facility.
- C. Attended the Council of Mayors meeting in Mission, Kansas, at the Sylvester Powell Community Center along with Legislative delegates of Johnson County and Wyandotte County. Topics of discussion included the most recent Legislative Session and legislation that is affecting municipalities specifically as well as others. President and CEO of Union Station Andi Udris also spoke about the future of Union Station and the most recent changes occurring in this location.
- D. Attended the regional meeting of the Kansas City Area Development Council at the Overland Park Convention Center along with City Administrator Scott Lambers and Councilmembers Rasmussen and Azeltine. There was a special briefing on the Kansas City Regional Economic Development agenda for elected officials regarding the state of OneKC 2006. Mayor Dunn shared with councilmembers a copy of *Fortune Magazine* featuring the new OneKC.
- E. Attended the Arts Council studio arts show held in the lobby of Marshall & Ilsley Bank. Parks & Recreation Director Chris Claxton as well as Councilmembers Bussing, Rasmussen, and Azeltine were also in attendance. Mike Best of M&I Bank remarked the new owners of the former Gold Bank intend to continue their support of the Leawood arts program at this location.
- F. Attended the 86<sup>th</sup> Street Bridge dedication ceremony with surrounding neighbors. The event was organized by Councilmember Filla to celebrate the phase I completion of the \$7-million Dykes Branch Channel Improvement Project, better known as DB-02-024. Councilmember Rawlings, Chair of the Stormwater Management Committee, also attended the event.

- G. Attended the State of Caring in Johnson County Luncheon, presented by United Way and United Community Services [UCS] of Johnson County. Don Cohen, a consultant on organizational knowledge and social capital, gave the keynote address, "Civic Engagement...Better Together." Karen Wulfkuhle, Executive Director of United Community Services, also discussed "Navigating the Future: Part II," which will begin almost immediately with another report given in 2007. With persuasion from Mr. Lambers, Mayor Dunn reluctantly admitted that she received one of the six awards annually given at the luncheon. She thanked UCS for being honored with the "Distinguished Public Service Award."
- H. Mayor Dunn expressed appreciation to the City Council, Budget & Finance Committee members, Finance Director Kathy Rogers, and other Staff members for a successful 2007 Budget Session, which entailed three nights of deliberation. A public hearing and adoption of the budget will take place over the next couple of months.
- I. Mayor Dunn acknowledged and thanked developer Chuck Peters for his generous monetary donation to assist in replacing the stolen bronze deer sculpture on Tomahawk Creek Parkway. Appreciation was also given to Leawood Arts Council Chair Mary Tearney for working with Mr. Peters.
- J. Attended "Taste of Leawood," sponsored by the Leawood Chamber of Commerce and various other corporations, along with nearly 100% of the Governing Body as well as Staff members. The fundraiser was a sold-out event with over 600 attendees. Mayor Dunn thanked Kevin Jeffries, Leawood Chamber of Commerce President, for his hard work.
- K. Due to recent concerns in the media, Mayor Dunn clarified that a pit-bull ordinance was passed by the City of Leawood on June 13, 2003, with an effective date of June 24, 2003.

## 9. COUNCILMEMBERS' REPORT

Report from Councilmember James Azeltine regarding Johnson County's Transportation Cooperation Council [TCC]

Councilmember Azeltine reported attending a Transportation Future Focused Task Force session on June 8<sup>th</sup>, chaired by County Commissioner John Segale. A report was generated by the task force and presented to the County Commission on April 13<sup>th</sup>. A citizen survey done last year as well as the first-ever Leadership Summit of county and city elected officials, which was held in March, identified transportation as one of the top ranked opportunities for improvement in Johnson County.

The central thrust of the task force report is a recommendation for the county and cities to collaborate on the creation of a Transportation Cooperation Council [TCC]. The council will be an agency of the county and 20 cities with participation by the Kansas Department of Transportation [KDOT] and the Mid-America Regional Council [MARC]. The purpose of the TCC will be to provide a permanent structure to which elected and appointed policy members, land planners, and transportation officials can convene to create a unified vision of transportation and complimentary land planning throughout Johnson County.

In addition to MARC, the TCC will act as a second tier of connection points for federal, state, and regional transportation efforts to articulate a unified message for Johnson County. The TCC will also include County Assistance Road Systems [CARS] and the Johnson County Transportation Council.

The next step will be the creation of a draft resolution to be approved by the county and cities that will endorse the concept of the TCC structure. County Commissioner Segale is requesting the designation of one representative from each city, preferably a Governing Body member, to aid in the development and refinement of the TCC. In addition to Mayor Dunn's involvement with this concern through the Council of Mayors and MARC, Councilmember Azeltine stated Leawood will have the opportunity to play a meaningful role in the transportation issue.

Mayor Dunn stated the Council of Mayors has a representative who participates on the Total Transportation Policy Committee, which is a different entity than the proposed TCC. Councilmember Azeltine stated he believes there will be cooperation between the two groups.

Councilmember Azeltine stated the task force did not specifically address the proposed southeast freeway linking Grandview to Olathe. The general discussion was how to bring the region together via new modes of transportation. He clarified for Mayor Dunn the impression is that CARS will still operate in the current fashion, however will be encapsulated into the new entity for the sake of coordination.

Mayor Dunn invited councilmembers interested in serving as a Leawood representative on the Johnson County Transportation Cooperation Council to notify her in one week. A mayoral appointment to the TCC will be placed on the July 17<sup>th</sup> agenda.

#### **10. STAFF REPORT**

Report from Public Works Director Joe Johnson regarding the Channel Improvement project at Ironhorse Golf Course

Mr. Johnson provided an update on the process of obtaining permits from the Corps of Engineers and the State of Kansas. A mitigation plan was submitted to the Corps approximately six weeks ago, however they responded with a request for additional information. They are concerned with the channel realignment along Hole No. 8 as the original mitigation plan submitted by the City identified this area as a "set-aside," which is land where additional channel improvements would not occur. The Corps has indicated to Continental Engineering that removal of the Hole No. 8 channel change from the project would speed permit issuance. Continental Engineering is concerned that a delay will interfere with construction scheduled for early 2007.

Mr. Johnson requested permission to omit the Hole No. 8 channel realignment from the project in order to minimize additional mitigation and gain permission from the Corps to proceed with final drawings for overall channel improvements to the golf course. He verified for Mayor Dunn that the Corp is comfortable with the creek bank stabilization and stormwater projects excluding the Hole No. 8 realignment. There were also issues associated with Hole No. 13, however the Corps understands the need to provide flood protection in this location. They did not understand why realignment should occur along Hole No. 8 as it would not provide flood protection nor does the channel encroach upon existing homes.

A motion was made by Councilmember Rasmussen to eliminate the channel realignment associated with Hole No. 8 at IRONHORSE Golf Course. Councilmember Peppes seconded the motion. Mayor Dunn confirmed with Councilmember Rasmussen that the motion is based directly on the report from Corps of Engineers.

Councilmember Bussing verified with Mr. Johnson that stabilization of the eroded T-box on Hole No. 8 will still take place. The exclusion will relate only to channel realignment.

Mr. Johnson informed Mayor Dunn the omission will decrease project costs by an estimated \$280,000.

Councilmember Rawlings asked the logic behind the Corps' suggestion of not proceeding with the realignment as the creek will continue to erode and flood. Mr. Lambers explained when improvements are made to a natural wildlife area, it is standard to reserve another area as an offset. The City previously identified this area to remain as a natural wildlife habitat. Theoretically, this area could be replaced with another piece of land; however, the Corps is holding the City to the original application and has suggested abandoning the request in order to proceed expeditiously. Mr. Lambers stated he does not disagree with the request.

The motion carried following a unanimous vote of 6-0.

Councilmember Bussing requested notification of this decision be sent to homeowners along Fairway No. 8.

## ***COMMITTEE RECOMMENDATIONS***

### **11. PLANNING COMMISSION**

***[from the May 23, 2006 Planning Commission meeting]***

- A. Ordinance No. 2170 approving rezoning from AG (Agriculture) to RP-1 [Planned Single Family Residential], Preliminary Plat and Preliminary Site Plan, for GlenAbbey of Leawood, located east of Nall Avenue and north of 143<sup>rd</sup> Street [Roll Call Vote]

Applicant Jason Meier of Matt Adam Development Co., 10327 Lee Boulevard, provided a presentation of the project.

The vision behind the development is to create a “new old Leawood.” Quality architecture will be enforced via an extensive design review committee from which every home builder and homeowner must gain approval. Country-french cottages with 50% stone or brick on every home front will be the architectural style. Extensive landscaping is also planned for the development including a stone bridge and lake feature. The development will be built in two phases.

Mr. Meier requested discussion regarding a stipulation imposed by the Planning Commission of dedicating right-of-ways [ROWs] for phase II before construction of phase I begins. Mr. Lambers explained a member of the Planning Commission wanted infrastructure for the second phase put in place. This request could not be accomplished by the applicant due to financial reasons.

Mr. Lambers suggested securing ROWs for the second phase as a sufficient measure to achieve the goal of ensuring there is a second access point to the project. There is currently only one access point and will remain so until the eastern property develops. Mr. Lambers recommended the Governing Body approve the stipulation as a remand to the Planning Commission may result in denial of the project without this specific requirement.

Councilmember Rasmussen stated favor with the stipulation and sympathized with the burden being placed upon the applicant; however, he stressed the importance of obtaining ROWs in advance to avoid serious future consequences of inadequate access into the development.

Councilmember Bussing noted old Leawood is distinguishable for large lot sizes and minimal setback deviations. He stated he could not support the project with the side-yard reduction requests for eleven of the lots in GlenAbbey. Mr. Meier explained the side-yard setbacks are simply being shifted to where an 8-ft. setback is adjacent to a 16-ft. setback and will still comply with the 24-ft. requirement between homes. This will allow side entry garages on the smaller lots and provide better architecture within the community. Mr. Lambers stated Staff and the Planning Commission are in agreement with the request as the linear foot requirement between structures will be achieved with no future encroachment.

Mayor Dunn and Senior Planner Mark Klein discussed Stipulation No. 15: All cul-de-sacs less than 300-ft. in length shall provide sidewalks around the entire cul-de-sac. Mr. Klein stated this is a standard requirement and has been used for other developments such as Estates of Old Leawood. Cul-de-sacs exceeding 300-ft. will have a sidewalk on one side of the street.

Discussion also took place regarding Lot No. 31. The development intends to keep the existing home on Lot 31. Mr. Meier explained the development is in the process of purchasing the 10-acre parcel from owners Jay and Rita Oltjen. The existing drive access on 143rd Street has a problem with flooding. To remedy this problem, a new access point will be provided from a public street within the development. The width of the lot has been increased from 30-ft. to an allowable 80-ft. with an access easement provided to the HOA for any necessary water maintenance. The Oltjens will continue to reside in the home.

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Bussing. The ordinance passed with the following unanimous roll call vote of 6-0: Yea: Councilmembers Rawlings, Filla, Peppes, Bussing, Azeltine, and Rasmussen. Nay: None. (Councilmembers Gill and Gullede absent).

**12. OLD BUSINESS – None.**

**13. NEW BUSINESS – None.**

**14. OTHER BUSINESS** – Councilmember Filla complimented and thanked Mr. Lambers, Neighborhood Services Administrator Jeff Cantrell, and other Staff members for the excellent work done on the Landscaping Audit Report. She stated it was a very good endeavor for the hired intern.

Councilmember Rasmussen also stated support for hiring the intern, however suggested the audit encompass more than just landscaping such as sidewalks. He encouraged Ward I representatives to investigate compliance of the Ranchmart Shopping Center.

Mayor Dunn reminded there will not be a Governing Body meeting held on July 3<sup>rd</sup>.

Mr. Lambers stated there will likely be a Special Call City Council meeting prior to the July 17<sup>th</sup> meeting regarding TDD bond documents in order to meet official statement preparation deadlines.

**ADJOURN**

The Governing Body meeting adjourned at 9:30 P.M.

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Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk