

Minutes

Audio Tape No. 491

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, July 17, 2000. Mayor Peggy J. Dunn presided.

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

Staff present:

Richard J. Garofano, City Administrator
Sarah Hilton, Admin. Services Manager
Julie Hakan, Director of Human Resources
Kathy Rogers, Finance Director
Chris Claxton, Parks & Recreation Director
Police Chief Sid Mitchell
Officer Randy Wiler, Exec. Police Planning Officer
Mark Klein, Planner
Keith Gooch, Planner

Patty Bennett, City Attorney
Martha Heizer, City Clerk
Joe Johnson, Public Works Director
Mark Andrasik, Information Serv. Director
Jeff Cantrell, Neighborhood Serv. Admin.
Judge Rene Gurney
Patricia Cooper, Municipal Court Clerk
Asst. Fire Chief Randy Hill
Deb Harper, Paralegal

- 135 **1. PLEDGE OF ALLEGIANCE.**
- 160 **2. APPROVAL OF AGENDA.** Item No. 5C has been tabled to the August 7, 2000, Governing Body meeting. Mr. Taylor requested discussion be added under 'Other Business' regarding a July 15, 2000 Kansas City Star newspaper article. A motion was made by Mr. Taylor, seconded by Mr. Dunn to approve the Agenda with these revisions. The motion was passed unanimously.
- 207 **3. PRESENTATION Sgt. Bobby Carr's Retirement after over 20 Years of Service with the Leawood Police Department**
- Sgt. Bobby Carr was recognized with a plaque from the City along with a second plaque from the Police Department in honor of his many years of dedicated service as a police officer beginning in August, 1976.
- 339 **4. CITIZEN COMMENTS.** Citizens were invited to speak to the Governing Body.
- 1200 **5. CONSENT AGENDA.**
 A. Minutes of the July 3, 2000 Council meeting
 B. Committee reports

- C. **Authorize execution of contract with Continental Consulting Engineers for Creek Bank Study at Ironhorse Golf Club - [Tabled to the August 7, 2000 meeting]**
- D. **Retail Liquor License Renewal Application for Ranchmart Wine & Spirit, 3748 W. 95 Street**
- E. **Resolution approving Camden Woods Final Plat, 2nd Plat, 144th & Kenneth Road**
- F. **Resolution No. 1548 amending and restating Resolution No. 1484, as amended, finding as to the advisability and 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.**
- G. **Approve granting of Utility Easement to KCPL located in City Park**
- H. **Approve expenditure for remodeling of former police dispatch area**

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

5E. Resolution No. 1549 approving Camden Woods Final Plat, 2nd Plat, 144th & Kenneth Road

Mr. Taylor requested this item be continued to allow for further discussion between the applicant and staff regarding the installation of a temporary sidewalk at 143rd Street at Kenneth Road along with all phases of Camden Woods.

Mr. Paul Robben, Camden Woods Developer, advised the sidewalk issue is unrelated to the approval of the 2nd plat.

Ms. Bennett explained the City's ordinances, along with state statute allows only for the council to accept or reject the dedication of public rights-of-way.

Mr. Robben stated the installation of the temporary sidewalk was originally a stipulation recommended by the Planning Commission on the first plat. However, subsequent to that decision, it was discovered the sidewalk would in fact go nowhere. Additionally, there is currently a sidewalk across the street on 143rd Street that runs between Kenneth and Mission Roads that would adequately service pedestrian traffic.

After further discussion, a motion was made by Mr. Taylor to continue this matter to the August 7, 2000, Governing Body meeting. The motion failed for lack of a second.

A motion was then made by Mr. Dunn and seconded by Mr. Story to approve the resolution accepting the 2nd plat, final plat of Camden Woods. The motion carried with the following vote: Yea: Mr. Gullledge, Mr. Bussing, Mr. Rawlings, Mr. Dunn, Mr. Story; Nay: Mr. Taylor.

- 1910 6. **PLAN COMMISSION [from 06/27/2000 meeting]**
- A. **Resolution No. 1550 approving the preliminary and final plat for a single lot subdivision [White Estate] located at approximately 143rd & Mission Road**

Mr. Story left the Chambers.

A motion was made by Mr. Bussing, seconded by Mr. Rawlings to approve the resolution. The motion carried unanimously.

Mr. Story returned to the Chambers.

1950 **B. Resolution approving the preliminary site plan for Heartland Bank located at 4801 Town Center Drive**

Mr. Doug Patterson briefly addressed some outstanding issues regarding the 13 stipulations recommended by the Plan Commission; specifically Nos. 2, 7, 8, 11, and 12.

2. No gutters or down spouts shall be located on the exterior of the building.

Mr. Patterson advised that the bank's roof is going to be slanted roof line, and other than the flat roof areas, the gutters would be recessed into the building and make them the least visible as possible.

7. No more than 33 parking spaces should be provided on-site.

Mr. Patterson advised their plan requested 46 parking spaces. Due to the heavy traffic the bank's neighbor, Yahoo's would produce, 33 parking spaces would not be an adequate number and would like to have that number increased, or alternatively build 33 and land bank the remainder.

8. Only two small wall signs shall be permitted, one on the north elevation and one on the south elevation. The dimensions and appearance are to be determined at the time of final plan application.

12. No monument sign shall be permitted.

Mr. Patterson thought the Plan Commission's consensus was that a monument sign would be allowed along with the other signs.

11. The applicant shall work with staff to develop an alternative to the fourth drive thru bay.

Mr. Patterson stated all other area successful banks comparable in size operate with not less than 4 drive thru bays. The drive thru would be located at the rear of the building.

Mr. Patterson asked the council if these stipulations could be modified.

Mayor Dunn advised that the Plan Commission did approve the plan with the fourth drive thru bay being land banked. The file reflects there was no request at this time for a monument sign. Mr. Patterson advised that was incorrect and that they were requesting a monument sign.

After further discussion Mr. Taylor entertained a motion to override the Plan Commission's recommendation and to eliminate Stipulations No. 2, 7, 8, 11, and 12. The motion died for lack of a second.

Mr. Bussing advised he is perplexed as to why staff wanted fewer parking spaces than the applicant requested. Mr. Bussing felt these were reasonable concerns by the developer and believed the unresolved issues need to be addressed by the Plan Commission.

Mr. Bussing then made a motion, seconded by Mr. Gulledge to remand this item back to the Plan Commission.

Mr. Taylor stated he didn't believe Stipulation No. 2 was within the Plan Commission's authority to regulate. This is generally an architectural feature decided by the architectural designer. He is also perplexed as to why staff wants fewer parking spaces than the applicant. He added there are wall sign throughout this area and that monument signs are very prevalent on 119th Street and believes there is no need to make special restrictive conditions for Town Center Drive.

The motion passed unanimously.

2490 **C. Resolution No. 1551 approving preliminary site plan, preliminary plat and rezoning of property located within Summertree Villas, on the southwest corner of 151st & Mission Road from AG, Agriculture to RP-4, Planned Cluster Residential [companion ordinance]**

Mr. Stewart Stein, Esq., Morrison & Hecker, gave a brief presentation.

Mr. Jeff Cantrell advised the code violations on Lots 23 and 24 have not been completely addressed, but certainly efforts have been made. Mr. Bussing advised Mr. Stein that staff would be diligent in ensuring they are complying with all codes. After a short discussion, a motion was made by Mr. Bussing, seconded by Mr. Dunn to approve the resolution. The motion carried unanimously.

3112 **D. Ordinance No. 1869 accepting rezoning of Summertree Villas, SW corner of 151 & Mission**

A motion was made by Mr. Bussing, seconded by Mr. Rawlings to pass the rezoning ordinance. The motion carried by a unanimous roll call vote.

3130 **E. Resolution No. 1552 approving preliminary site plan, preliminary plat and rezoning of property located within Mission Farms subdivision, 105th & Mission Road from SD [C-R] to RP-A [companion ordinance]**

Mr. David Preston, Esq., Lathrop & Gage, gave a presentation to the Council. After a short discussion, a motion was made by Mr. Gulledge and seconded by Mr. Bussing to approve the resolution. The motion was carried by a unanimous vote.

3285 **F. Ordinance No. 1870 accepting rezoning of Mission Farms, 105th & Mission**

A motion was made by Mr. Rawlings, seconded by Mr. Dunn to pass the rezoning ordinance. The motion carried by a unanimous roll call vote.

3300 **G. Request by A. T. & T. for additional antenna on existing cellular tower located at approximately 135th & Nall**

John Peterson, Esq., Polsinelli, White et al., appeared on behalf of the applicant, Curt Holland. Following a brief discussion, a motion was made by Mr. Taylor, seconded by Mr. Story to approve the request. The motion carried with a unanimous vote.

3415 **H. Request by Aerial for additional antenna on existing cellular tower located at approximately 135th & Nall**

Mr. Trevor Wood, Selective Site Consultant, made a brief presentation. A motion was made by Mr. Taylor, seconded by Mr. Rawlings to approve the request. The motion carried with a unanimous vote.

3485 **7. MAYOR'S REPORT**

A. Annual Report: American Revolution Tercentennial CD Fund

Mayor Dunn submitted the Certificate of Deposit report. The current July 9, 2000, balance is \$5,908.36.

- ▶ Mayor Dunn recognized all personnel involved in the successful July 4th celebration.
- ▶ Open House scheduled at the Police Department and Fire Station located at 9615 Lee Boulevard on Wednesday, August 23, 2000 from 5:00 p.m. to 8:00 p.m.
- ▶ Remarks regarding Over the Rainbow presentation
- ▶ Reminder of the upcoming 2001 Budget Public Hearing on August 7, 2000, at 7:30 p.m.

3715 **8. OLD BUSINESS**

A. Leawood Historic Commission's Recommendation to relocate Oxford School House to South Park

Ms. Beverly Hurley, Chairman of the Leawood Historic Commission, advised the Commission has met on a monthly basis for the last 10 months to find a suitable relocation spot for the school. The Commission has determined the best location for the school house will be in South Park.

Mr. Story, Historic Commission Liaison, stated he will donate his next four [4] City Council paychecks to the Commission to assist in their cause of relocating the school, and encouraged the council's support to allow the city to preserve and maintain an important part of history.

A motion was made by Mr. Taylor, seconded by Mr. Story to approve the Historic Commission's recommendation. The motion carried by a unanimous vote.

4110 **B. Approve Revised Draft of Standard Design/Build Contract Forms**

Mr. Taylor advised the committee has worked very diligently and is presenting a final draft of these contract forms to the Council, including some minor revisions on the section regarding cost of work savings between the City and builder, and the duration time as it relates to performance and maintenance bonds. After a brief discussion, Mr. Taylor entered a motion that the Council approve this final draft. The motion was seconded by Mr. Dunn and passed by a unanimous vote.

4499 **C. Resolution No. 1553 of finding as to the advisability and a resolution authorizing the creation of a Benefit District for the 135th Street & Roe Avenue Intersection Improvement Project**

Mr. Taylor recused himself from this agenda item. A motion was made by Mr. Bussing, seconded by Mr. Rawlings to approve the resolution. The motion passed by a unanimous vote. Mr. Taylor returned to the Chambers.

4525 **D. Resolution No. 1554 declaring it necessary to appropriate private property for the use of the City of Leawood, Kansas for the stormwater improvement of 84th Street and State Line Road. [SMAC Project DB-04-015]**

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

4894 **E. Discussion regarding immediate court needs; Remediation Plan**

A work session was conducted on July 3^d regarding the relocation of the Court Department to the Maple Room. It was recommended that a space study be conducted. Approximately 194 community center events have already been scheduled in the Maple Room over the next 10-12 month period. All of these events will have to be relocated if the Court Division is moved into the Maple Room. The Emergency Operating Center [EOC], currently located in the Maple Room would also have to be moved. Mr. Garofano asked the Council to clarify if the space study also encompassed the relocation of these events and the EOC.

A motion was made by Mr. Taylor, seconded by Mr. Bussing, to submit to Council the confidential report on the Court Division. The motion carried by a unanimous vote.

Mayor Dunn stated it was her understanding that Staff would be responsible to handle the relocation of these events along with the EOC.

Mr. Taylor stated it was his understanding a space planner should be hired to aide the Court Division in placing of work stations, electrical concerns, lighting, etc., within the Maple Room so this move can be conducted as inexpensively and expeditiously as possible. Possibly, at a later date, a space study could be conducted on the entire lower level of City Hall.

Mr. Bussing stated, although he is reluctant to displace the community center's activities, the Court needs take precedent and believe moving the Court Division to the Maple Room would be a temporary immediate solution to this pressing problem.

Ms. Sarah Hilton, Administrative Services Manager, advised in addition to moving the EOC, there will be furniture costs, reconfiguration costs, along with complying with security requirements, which could well exceed \$60,000.

Mr. Dunn advised he would like to have a cost analysis presented to the Council to compare the cost of moving the community center activities or move the Court Division to another location other than the Maple Room.

Ms. Tina Mullinex, 12505 Alhambra, presently involved with several community center activities, is concerned with these activities being suddenly displaced. She believed the city hall building was built as a city hall and community center, not a justice center or municipal court building.

After further discussion Mr. Dunn entered a motion, seconded by Mr. Taylor to approve the space study. The motion was approved by a unanimous vote.

9. NEW BUSINESS

5970 A. Approval of Appropriation Ordinance No. 895

After a brief discussion, a motion was made by Mr. Bussing, seconded by Mr. Rawlings to pass the ordinance. The motion was unanimously approved with a roll call vote.

6082 B. Approval of Stephanie Schmidt Foundation to utilize City Hall Courtyard

Jennifer Anne Schmidt, spoke to the Council. A motion was made by Mr. Dunn, seconded by Mr. Bussing to approve this request. The motion was carried by a unanimous vote.

6217 C. Approval of Bid/Contract to Seal-O-Matic in the amount of \$445,312.94 for CIP Project # 169; Roe Avenue between 137th St & 138th Terrace

A motion was made by Mr. Gulledge, seconded by Mr. Taylor for approval.

6291 D. Approval of Bid/Contract to Superior Bowen Asphalt Company in the amount of \$181,513.25 for Overlay Project on Tomahawk Creek Parkway between College Boulevard & Roe

A motion was made by Mr. Taylor, seconded by Mr. Gulledge for approval. The motion passed unanimously.

6390 E. Approving and authorizing the Mayor to execute an interlocal agreement between the City and Overland Park for public improvements to Nall Avenue between 152nd Terrace and 159th Street

A motion was made by Mr. Gulledge, seconded by Mr. Bussing to approve the execution of this agreement. The motion was carried with a unanimous vote.

6410 F. Schedule work session at 6:30 p.m. on August 21, 2000 regarding Lee Boulevard [103rd to I-435 Hwy] Improvement Project

Mayor Dunn stated she would like to re-schedule this work session to August 7, 2000, at 6:00 p.m., instead of August 21st. Messrs. Dunn and Gulledge advised they would not be able to attend the August 7th meeting. A motion was made by Mr. Bussing, seconded by Mr. Taylor to conduct the work session on August 7, 2000, at 6:00 p.m. The motion carried by unanimous vote.

- 6585 **G. Resolution ordering a public hearing to be held on August 21, 2000, at 7:00p.m., on proposed assessments for the College Boulevard Improvement Project within the City of Leawood and directing the City Clerk to publish notice thereof and provide written notice to owners of property of such assessments**

A motion was made by Mr. Bussing, seconded by Mr. Story to approve the resolution. The motion carried by unanimous vote.

- 6604 **H. Resolution ordering a public hearing to be held on August 21, 2000 at 7:00 p.m. on proposed assessments for the Normandy Place Subdivision Improvement Project within the City of Leawood and directing the City Clerk to publish notice thereof and provide written notice to owners of property of such assessments**

A motion was made by Mr. Taylor, seconded by Mr. Story to approve the resolution. The motion carried by unanimous vote.

- 6618 **I. Discussion of residential buy-outs pertaining to SMAC Project DB-04-024; 82nd Terrace & Wenonga Road, South to 86th & Cherokee**

Mr. Joe Johnson, Public Works Director, advised this SMAC project encompasses providing flood protection to 17 property owners. However, 4 of the property owners would not be protected, and the option of buying them out is a possibility. Additionally, a public meeting had been held and one-third [1/3] of the property owners in attendance stated they wanted stacked stone instead of concrete, increasing the project cost to approximately \$8.5 million. The SMAC Project funds only supported \$5.5 million, leaving approximately a \$3 million deficit. Mr. Johnson stated the majority of the property owners that attended the meeting would not object to the creation of a benefit district to reimburse the City for this additional cost. Mr. Johnson needs to advise the SMAC committee of the City's decision and is asking for Council direction.

Mr. Dunn advised that the City's policy prohibits property owners being compensated for SMAC projects and doesn't believe the policy should be changed.

After further discussion, it was the consensus of the Governing Body to not participate in any type of residential buy-outs and to proceed with the original plan of using concrete and not stacked stone, thus, eliminating the additional \$3 million cost.

A motion was made by Mr. Taylor, seconded by Mr. Story to extend the meeting for an additional 30 minutes. The motion carried by unanimous vote.

A motion was made by Mr. Taylor, seconded by Mr. Story to recess into executive session for a period not to exceed 30 minutes. The motion carried by unanimous vote.

- 7547 Mr. Taylor asked the Council to instruct Mr. Garofano to write a letter to the Kansas City Star requesting a correction be made to a July 15, 2000, newspaper article that identified Kent Crippens as a 3 time Lenexa Mayor, instead of a 3 time Leawood Mayor.

7605 Mr. Bussing advised that Ms. Binckley has asked the Council for direction regarding the fast track DSL boxes. Mr. Bussing entered a motion, seconded by Mr. Taylor, for planning staff to develop a policy or ordinance in the handling of fast track DSL boxes.

7730 **10. EXECUTIVE SESSION-** Pending Litigation- Attorney/Client Privilege
The public meeting was recessed at 11:10 p.m. and the Council convened into executive session.

11. ADJOURN

The Council returned to regular session at 12:00 a.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