

**Minutes**

Audio Tape Nos. 524 & 525

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., on Tuesday, September 4, 2001. Mayor Peggy J. Dunn presided.

**Councilmembers present:** Scott E. Gulledge, Gary L. Bussing, Patrick L. Dunn, \* Mike Gill (arrived at 8:00 p.m.), Louis Rasmussen, and James E. Taylor, Sr. **Councilmembers absent:** Jim Rawlings, Shelby Story.

**Staff present:**

Patricia A. Bennett, City Attorney  
Diane Binckley, Planning/Develop. Dir.  
Julie Hakan, Human Resources Director  
Sid Mitchell, Police Chief  
Chris Claxton, Parks & Recreation Director  
Martha Heizer, City Clerk

Kathy Rogers, Finance Director  
Ben C. Florance, Fire Chief  
Karl Weinfurter, Info. Systems Specialist  
Jeff Cantrell, Neighborhood Serv. Admin.  
Joe Johnson, Public Works Director  
Deb Harper, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

200 **2. APPROVAL OF AGENDA**

Item 11.A. pertaining to inspection of private fire hydrants was removed. Four items were added: 1) (new) 11.A., an assignment to the Public Works Committee regarding contracts for street repair; 2) 11.B., a request to purchase police motorcycles; and 3) 11.C.& D., Public Works Committee recommendations on the selection of design consultants for the remodel of Fire Station No. 2 and improvements to Roe Ave. from 124<sup>th</sup> St. to 135<sup>th</sup> St. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the agenda as amended.

360 **3. PRESENTATION**

The Mayor presented a plaque to City of Leawood Lifeguard Audrey Haney for her achievement of the 2001 "Ellis and Associates Golden Guard" award in appreciation for setting a standard of excellence at the Leawood Aquatic Center that all lifeguards should strive to attain.

650 **4. PROCLAMATIONS**

The Mayor proclaimed September 19, 2001, as "Race Equality Day," and October 10, 2001, as "Double Tenth Day" in honor of the 90<sup>th</sup> anniversary of the Republic of China on Taiwan.

690 **5. SPECIAL BUSINESS**

- A. First of Three Readings: An ordinance granting to and authorizing to Qwest Communications Corporation, a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City.**

720 **6. CITIZEN COMMENTS**

G. Gordon Thomas, 10516 Mohawk Lane, spoke about a resolution to be considered under the Consent Agenda attesting to an increase in tax revenues for Budget Year 2002.

1070 **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. Appropriation Ordinance No. 926
- B. Minutes of the August 20, 2001, Governing Body meeting
- C. Minutes of the July 26, 2001, Golf Course Committee meeting
- D. Appointment of LeeAnne Hays Gillaspie to the Leawood Historic Commission to serve a partial three-year term to end May 2004
- E. Low bid in the amount of \$506,441.90 from Reno Construction for construction of the 119<sup>th</sup> Street Improvement Project between State Line Rd. and Roe Ave.
- F. Purchase of 14 picnic tables for Leawood City Park in the amount of \$6,100 from lowest and best bidder Diversified Metal Fabricators
- G. Dedication of Sewer Line Easement and Temporary Construction Easement from the City to Consolidated Main Sewer District of Johnson County for sanitary sewer service at South Park east of the amphitheater
- H. Approve and authorize execution of a Utility Agreement between the City and Kansas City Power & Light for an amount not to exceed \$218,000 for adjustment of facilities pertaining to the 135<sup>th</sup> & Roe Ave. Benefit District [CIP #174]
- I. Approve and authorize execution of a Drivers' Training Area Use Agreement between the City and the Board of County Commissioners of Johnson County for the use of the New Century Air Center as a drivers' training area for the Public Works Department
- J. Resolution No. 1634 attesting to an increase in tax revenues for the City of Leawood's 2002 Fiscal Budget
- K. Resolution No. 1635 approving the final plat of Waterford, 4<sup>th</sup> Plat, located at approximately 133<sup>rd</sup> Street & Mission Road

Item 7.E. was removed for discussion. On motion of Rasmussen, seconded by Gulledge, Council unanimously approved the remainder of the Consent Agenda.

7.E. Public Works Director Johnson explained that the section of 119<sup>th</sup> St. basically from the east end of the bridge over Tomahawk Creek east to about Pawnee would be improved in 2003 with the 119<sup>th</sup> & Mission Rd. intersection improvements. He also addressed traffic flow during construction. On motion of Dunn, seconded by Bussing, Council unanimously approved Reno Construction's bid.

1390 **8. MAYOR'S REPORT**

?? Thanked the Police Department and Police Community Partnership for their recent well-attended open house

?? Kansas City, Missouri, Mayor Kay Barnes was the speaker at a recent Leawood Rotary Club meeting

?? Mayor was a member of a panel of Johnson County mayors, speaking to the Senior Leadership Class of 2001 hosted at Prairie Village City Hall

**9. PLAN COMMISSION RECOMMENDATIONS**

*[from August 28, 2001, Plan Commission meeting]*

- A. Approve Plan Commission recommendation regarding street connection to Hills of Ironhorse subdivision from Blackthorne Estates, located at approximately 153<sup>rd</sup> Street & Mission Road. TABLED TO SEPTEMBER 17, 2001, GOVERNING BODY MEETING.**

Councilmember Taylor asked if the matter could be continued to an October Council meeting since he wouldn't be able to attend September 17<sup>th</sup>. Mr. Taylor would be notified if it was found to be absolutely necessary to consider the matter on that date so that he might be able to change his plans.

- 1615 **B. Resolution No. 1636 approving Plan Commission recommendation for a revised final site plan and an amendment to the settlement agreement for Market Square Development located at the northeast corner of 135<sup>th</sup> and Mission Rd., to allow one development sign along 135<sup>th</sup> St. or Mission Rd.**

On motion of Taylor, seconded by Dunn, Council unanimously adopted the resolution.

- 1725 **C. Ordinance amending Section 4-1 of the Leawood Development Ordinance pertaining to Accessory Uses.**

Councilmember Rasmussen moved to continue Items 9.C., D. & E. to the October 1, 2001, Governing Body meeting to see if the Board of Zoning Appeals wanted to give any input.

\* 8:00 P.M. Councilmember Gill arrived.

Planning Director Binckley summarized the issues – playhouses versus sheds; size of accessory uses (limitations on size based on size of a lot); cleared up definition of architecturally attached-detached, removing the provision that the Planning Director would determine whether or not they were appropriately attached; garden architecture like pergolas, trellises, gazebos, what was appropriate and attractive in the community.

Mr. Rasmussen's motion seconded by Taylor and carried unanimously.

**D. Ordinance amending Section 4-2 of the Leawood Development Ordinance pertaining to Prohibited Uses.**

Continued to the October 1, 2001, Governing Body meeting.

**E. Ordinance amending Section 8-10 of the Leawood Development Ordinance pertaining to Architecturally Attached Structures.**

Continued to the October 1, 2001, Governing Body meeting.

2555 **F. Ordinance amending Section 4-4 of the Leawood Development Ordinance pertaining to Off-Street Parking, Storage, Loading Regulations and Parking Lot Design Standards.**

Wade Williams, 8720 Fairway, felt the proposed ordinance was too prohibitive. Joe Drummond, 12727 Overbrook, noted that the parking time limit had been changed from 48 hours to 12 hours, and he felt that was unreasonable. John Gorman, 2322 W. 95<sup>th</sup> St., said it would be difficult to abide by the proposed ordinance, keeping a motor home on his property, the way the ordinance was written, and the 12-hour parking limitation was pretty tough. Mr. Gorman thought perhaps residents and City staff could meet to come up with a revised ordinance that would be good for everyone. Woody Anderson, 12631 Overbrook, said that the proposed ordinance was too prohibitive for residents who wanted to park motor homes on their property; many courts had ruled that such ordinances were unconstitutional.

Councilmember Dunn moved to continue the matter to the October 15, 2001, Governing Body meeting to give staff an opportunity to work with residents to try to resolve issues of concern, with staff to take into consideration the opinions of the Fire Chief regarding the accessibility of fire equipment when large vehicles were parked on residential lots. Motion seconded by Gullede. Councilmembers Story and Taylor would assist with ordinance revisions.

Ron Browne, 13217 El Monte, and Martin Rankin, 7915 Sagamore, wanted to be involved in the resolution.

4565 Councilmember Rasmussen wanted everyone to understand that homes association deed restrictions would not be undermined by any actions taken by the City Council on a revised ordinance at a future Council meeting. Councilmember Bussing requested as part of staff's report 1) some explanation as to why the matter had all of a sudden surfaced as an issue after so many years with no citations for or concerns about recreational vehicles, and 2) if a review of such ordinances by the Board of Zoning Appeals was going to become a standard operating procedure, shouldn't it be incorporated in the Leawood Development Ordinance process.

Mr. Dunn's motion carried unanimously.

**NEW BUSINESS**

**A. Ordinance amending Sections 14-301, 14-302, and 14-304 of the Code of the City of Leawood 2000 pertaining to parking.**

No action taken; continued to the October 15, 2001, Governing Body meeting in conjunction with Item 9.F.

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**B. Ordinance No. 1912C amending Section 2-109 [Limitations on Ownership] of the Code of the City of Leawood 2000 pertaining to Animal Control.**

Councilmember Rasmussen moved to pass the ordinance, seconded by Taylor. City Attorney Bennett said that the proposed ordinance no longer required objections by 2 homeowners within 350 feet of the homeowner requesting a permit to keep more than 2 dogs and/or 2 cats, but rather charged the animal control officer with conducting an investigation in the neighborhood to make sure there weren't any claims of reasonable nuisance and that those claims were valid. There was discussion that the proposed ordinance would allow "backyard breeders" as long as neighbors didn't have valid complaints and the criteria for issuing a special permit were met. The ordinance passed unanimously on roll call vote.

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**C. Ordinance amending Sections 2-103, 2-105, and 2-110 of the Code of the City of Leawood 2000 pertaining to Animal Control.**

Councilmember Taylor moved to pass the ordinance, seconded by Gullledge. Councilmember Gill was concerned about the requirement that a dog couldn't be in a front yard without his owner or keeper, even if there was an invisible or electronic fence in the front yard. He knew many people had spent thousands of dollars to have invisible fences in their front yards. He wanted to know if the City had received enough citizen input on the issue or should the City receive input from people who had existing invisible fences. Police Chief Mitchell explained that there was a definite fear factor when people were walking or jogging and a dog charged and they didn't know if an invisible barrier existed or if a dog would run through an invisible fence. Mr. Gill thought perhaps residents with invisible fences might have a solution that wasn't as restrictive as the one staff proposed. Deputy City Clerk Harper said that if a dog's collar didn't have an active battery to activate the fence, the dog couldn't be confined, and the fence didn't keep other dogs out.

Councilmember Taylor asked how the ordinance would cover private streets.

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**END OF TAPE NO. 524  
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40 Mr. Taylor felt the language in the ordinance needed to be clarified to deal with both public and private streets. Mr. Taylor moved to amend the motion to change the language of the ordinance to address conditions where there were private streets and private areas not normally defined as public, wording to be suggested by the City Attorney. Motion seconded by Rasmussen. Motion to amend with second, and main motion with second, were withdrawn.

There was discussion about the 10-foot restriction for invisible fences. Councilmember Dunn was concerned that the Council would be placing many residents in violation of the law if they passed the ordinance. Many residents had spent a great deal of money on front-yard invisible fences; Council needed to find some way to deal with the issue, whether it be to include a grandfather clause or some language regarding a period of time for compliance.

680 Councilmember Gulledge moved to continue the matter to the October 15, 2001, Governing Body meeting, for further clarification, seconded by Taylor. Councilmember Gill suggested looking at some sort of warning or educational period so residents could become aware of an amended ordinance. Motion carried unanimously.

**D. Ordinance No. 1913C amending Section 3-107 of the Code of the City of Leawood 2000 pertaining to Cereal Malt Beverages [License Fees].**

On motion of Rasmussen, seconded by Gill, Council unanimously passed the ordinance on roll call vote.

**E. Ordinance No. 1914C amending Sections 3-210, 3-212, 3-214, and 3-215 of the Code of the City of Leawood 2000 pertaining to Alcoholic Liquor [License Fees].**

On motion of Rasmussen, seconded by Taylor, Council unanimously passed the ordinance on roll call vote.

**F. Ordinance No. 1915 amending Ordinance No. 1873 levying assessments on lots, pieces, and parcels of land for the purpose of paying for the cost of road improvements located within the Normandy Place Subdivision in the City of Leawood, Johnson County, Kansas [Improvement District Normandy Place, Project 164].**

On motion of Rasmussen, seconded by Gulledge, Council unanimously passed the ordinance on roll call vote.

**11. OTHER BUSINESS**

**A. Discussion regarding Code Section 7-209 pertaining to inspection of private fire hydrants. REMOVED FROM THE AGENDA.**

930 **A.(new)Assignment to the Public Works Committee regarding contracts for street repair.**

Councilmember Bussing had had comments/questions about street repairs in Ward 3 with regard to the length of time from the start to the end of projects. Mr. Bussing asked for the referral to better understand the provisions and processes that the City had in place to ensure timely completion, and where there weren't adequate provisions in place, perhaps recommendations could be made as to how those could be done. He moved to refer the matter to the Committee for consideration, seconded by Taylor and carried unanimously.

**B. Request to purchase police motorcycles.**

On motion of Dunn, seconded by Rasmussen, Council unanimously approved the purchase of two 2002 Harley Davidson motorcycles from Worth Harley Davidson for a total amount of \$4,600.

**C. Public Works Committee recommendation on the selection of a design consultant for the remodel of Fire Station No. 2 at 127<sup>th</sup> and Mission Rd.**

On motion of Dunn, seconded by Bussing, Council voted to approve the selection of DeGasperi & Associates and directed staff to begin negotiations for a design contract; Gullede, Bussing, Dunn, Gill, Rasmussen in favor; Taylor recused.

**D. Public Works Committee recommendation on the selection of a design consultant for improvements to Roe Avenue, 124<sup>th</sup> St. to 135<sup>th</sup> St.**

On motion of Dunn, seconded by Gill, Council unanimously approved the engineering firm of Bucher, Willis, & Ratliff and directed staff to begin negotiations for a design contract.

1222 **ADJOURN.** There being no further business, the meeting was adjourned at 9:25 P.M.

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Martha Heizer, City Clerk