

Minutes

DVD No. 107

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 Tuesday, September 7, 2004. Mayor Peggy Dunn presided.

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

Councilmembers absent: None

Staff present:

Scott Lambers, City Administrator
Joe Johnson, Public Works Director
Chris Claxton, Parks & Rec Director
Diane Binckley, Planning & Develop. Director
Deb Harper, City Clerk

Patty Bennett, City Attorney
Kathy Rogers, Finance Director
Mark Andrasik, Info. Systems Director
Jeff Cantrell, Neighborhood Serv. Admin.

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated Councilmember Rasmussen has asked to make comments under Councilmembers' Report. With that revision, a motion was made by Councilmember Gullledge, seconded by Councilmember Rawlings to approve the agenda. The motion carried following a unanimous vote of 8-0.

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.**

Mr. G. Gordon Thomas, 10516 Mohawk Lane, made comments regarding taxes and other issues.

4. PROCLAMATIONS

**Payroll Week, September 5-11, 2004
Stepfamily Day, September 16, 2004**

Mayor Dunn presented Kathy Rogers, Finance Director, with the Payroll Week Proclamation.

5. PRESENTATIONS/RECOGNITIONS - None

6. SPECIAL BUSINESS

- A. Public Hearing** Considering the advisability of creating a proposed Transportation Development District for Park Place Development Project, and imposing a sales tax within the Transportation Development District [TDD] located at approximately 117th & Nall Avenue

Mayor Dunn declared the public hearing open. There being no one to speak in favor or in opposition, Councilmember Rasmussen made a motion to close the public hearing. The motion was seconded by Councilmember Taylor and was approved following a unanimous vote of 8-0.

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 Nos. 1006 & 1007
- B. Accept Minutes of the August 16, 2004, Governing Body meeting
- C. Accept Minutes of the May 27, 2004, IRONHORSE Advisory Board meeting
- D. Approve Change Order No. 1, in the amount of \$35,000.00, to Seal-0-Matic, Inc., pertaining to the 2004 Mill & Overlay Program, specifically, emergency repairs to the Tomahawk Creek Trail
- E. Resolution No. 2290, approving and authorizing the Mayor to execute Supplement Agreement No. 3, to that certain Engineering Service Agreement in the amount of \$9,100.00, between the City and Bucher Willis & Ratliff [BWR] Corporation, pertaining to the reconstruction from Tomahawk Creek Bridge to 135th Street [CIP # 110]
- G. Resolution No. 2292, approving a Final Site Plan regarding signage for Mission Reserve, located south of 151st Street, West of Mission Road [*from the August 24, 2004, Planning Commission meeting*]
- H. Declaration of surplus property of a Heat Lamp Applicator Sign Machine

Councilmember Taylor asked that Item 7F be removed from the Consent, as he would recuse himself. A motion was then made by Councilmember Rasmussen, seconded by Councilmember Gulledge to approve the remainder of the Consent Agenda. The motion carried by a unanimous vote of 8-0.

- F. Resolution No. 2291, accepting Temporary Construction Easements located at 135th Street & Nall Avenue, from the COR Development, LLC, pertaining to Phase II of the Nall Avenue Improvement Project [CIP # 139]

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gill to approve Consent Agenda Item 7F. The motion was approved following a vote of 7-0-1, with Councilmember Taylor recusing.

8. MAYOR'S REPORT

- A. Attended the joint Police and Fire Departments Open House. Approximately 400 people were in attendance and the Mayor extended her appreciation and gratitude to both departments and the Police Community Partnership for all of their efforts
- B. Attended Shawnee Mission Education foundation annual breakfast meeting, with Marjorie Kaplan as the speaker
- C. Participated as a convener for a Forum on BI-State II meeting in Overland Park, involved with the arts community
- D. Attended with Mayor Eilert, the ribbon cutting ceremony at Children's Mercy South Hospital located in Overland Park
- E. Recognized Ron Shaffer, Mayor for the City of Prairie Village as the newly appointed Chair of the Johnson-Wyandotte Counties Council of Mayors
- F. Attended United Way Highlights event, at Mr. & Mrs. Benny Lee's residence, featuring the Asian community, with Jo-Chin Wang, TECO Director-General, as the keynote speaker
- G. Recognized Mayor Carol Marinovich, Unified Government, as the recipient of the Kansas Mayor of the Year Award by the Mayor's Association
- H. Congratulations to Haley Hannah, Leawood resident, who was crowned the first Miss Teen Kansas
- I. Expressed appreciation to the Park & Rec Department and the Police Department for their efforts on the Ballet in the Park event which was attended by over 1,000 people last weekend at Ironwoods Park
- J. Reminder of the final concert on September 26th at the Lodge at 6:30 PM; performance by jazz singer & pianist, Candace Evans
- K. Reminder of the Red Hot & Cole event on Saturday, September 11th at the Lodge
- L. Reminder of the United Way Kick-Off employee luncheon Friday, September 10th at Ironwoods Park
- M. Reminder of the Walk-As-One Event on Sunday, October 3, 2004 and encouraged the Councilmembers to fill out the brochure and participate in the walk

9. COUNCILMEMBERS' REPORT

Councilmember Rasmussen advised he was involved in a motor vehicle accident with a deer while driving home from the last council meeting on August 16, 2004. After checking with the Police Department, he found that there has been 85 deer incidents in Leawood in the last 7 years. If every incident incurred \$3,000 - \$5,000 in property damages, that would be close to \$500,000 in property damages, not to mention the cost of the physical toll on victims. Councilmember Rasmussen made a motion that the City Administrator be directed to review and submit a potential solution to control the deer population, including hiring professional hunters during the

hunting season, in specific areas of the city, namely on Tomahawk Creek Parkway and from I-435 Highway to 119th Street. The motion was seconded by Councilmember Taylor.

Councilmember Filla asked for a friendly revision to the motion to have the City Administrator contact the State Conservation Department to ascertain what types of eradication methods are available and appropriate regarding this issue.

Councilmember Gill stated he would not be in favor of having hunters shooting in the area due to the considerable risk factors to the surrounding residential areas and walking trails. The State Conservation Department and Wildlife & Parks Department have forwarded recommendations to area cities that have had this same type of problem in their area.

Scott Lambers, City Administrator, stated he had investigated this issue a few years ago and discovered that non-lethal methods of deer eradication is unsuccessful. Mr. Lambers stated Shawnee had looked into this problem in the past and did not pursue any eradication method. KCI had previously experienced a deer problem and eliminated approximately 40-50 deer and realized this would need to be repeated about every 4-5 years.

Mr. Rasmussen stated he would like to further amend the motion to have this information back to the Council on Monday, September 27, 2004. Mr. Rasmussen stated he would accept Ms. Filla's friendly amendment to the motion, which was seconded by Councilmember Taylor.

The final motion was to instruct the City Administrator to review this issue and submit potential solutions to this deer situation, including contacting the State Conservation Department and the Wildlife and Parks Department, and submit this information to the Council on Monday, September 27, 2004.

The motion was approved by a 5-3 vote: Yea: Councilmembers Filla, Gill, Rasmussen, Taylor and Gullede; Nay: Councilmembers Rawlings, Bussing and Peppes.

10. STAFF REPORT- None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION - None

12. OLD BUSINESS

- A. Approve Change Order No. 3, in the amount of \$ 21,796.70, to APAC-Kansas, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] CIP # 110] [*Continued from the August 16, 2004, Governing Body meeting*]

Councilmember Bussing made a motion to approve the Change Order. The motion was seconded by Councilmember Gullede.

Councilmember Taylor stated this item was continued from the last meeting at his request. He stated the capstone was identified in the original contract documents [plans and specifications] and the capstone was to be provided by the contractor. However, the manufacturer advised he couldn't make this size of capstone. Mr. Taylor stated he stands by his original position that this amount should not be paid by the City, as it is an error made by the Contractor.

Mr. Warren Keith, Project Manger, with Bucher Willis & Ratliff [BWR] confirmed that he had had a phone conversation with Mr. Taylor today and confirmed that the capstone was included and identified in the original contract documents.

Mr. Joe Johnson stated the plans were clear; however during the design process the manufacturer did not indicate making a 19-inch cap could not be possible. If this problem would have surfaced at the time the contract was let, this problem could have been fixed by having an addendum, and the bid amount would have been adjusted.

Councilmember Bussing stated if this issue had surfaced earlier, the City would still have to decide on an alternate option, which is .02 % of the total cost of the entire project.

Councilmember Gill asked if there was a fixed price on the capstone. Patty Bennett, City Attorney, stated there is a contract price that is paid per unit, however, the supplier or the manufacturer that was listed with the contract documents could not supply the material, but did advise the Project Manager otherwise. Councilmember Gill stated he was in favor of the motion to approve the Change Order.

Mike Voorhees, Vice-President for APAC-Kansas, Project Contractor, stated the price is not really a fixed price, but a measured or unit price. The price included the specified cap, however, what was shown in the plans was not available.

Mayor Dunn asked if Mr. Voorhees could give assurances to the Council that the limestone cap would be attractive. Mr. Johnson stated, since the facing was put up, his department has received several complimentary calls on the wall appearance from area residents.

Mr. Kip Davis, Benchmark Construction, Project Sub-contractor, stated other alternatives were investigated, and the best alternative was to go with a natural stone, which is less expensive than the original capstone. He feels this is a better product because the city is getting natural stone on top of the wall.

Councilmember Taylor stated he is not criticizing the design, however, feels the City should not pay for this additional cost.

Councilmember Rawlings asked if the project would be delayed if this Change Order were not approved. Mr. Lambers stated if the Change Order were not approved, the City would have to go back to the original specifications, which would not work for this project. Mr. Johnson confirmed with Mayor Dunn that the facing is going up and the capstone will be going up shortly.

The motion to approve the Change Order was approved by the following 6-2 vote: Yea: Councilmembers Filla, Gill, Rawlings, Bussing, Gullede and Peppes; Nay: Councilmembers Taylor and Rasmussen.

13. NEW BUSINESS

- A. **Ordinance No. 2077**, authorizing the issuance and delivery of \$4,280,000, principal amount of General Obligation Improvement Bonds, Series 2004-B, of the City of Leawood, Kansas providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the Bonds as they become due; and making certain covenants with respect thereto [Roll Call Vote]

Councilmember Gill thanked Kathy Rogers, Finance Director, on the 3.8 % interest rate on the bonds and the 1.8% rate for the notes. Ms. Rogers confirmed with Councilmember Gill that most of the bond issues were capital improvement issues and approximately ¼ of the bonds and approximately 40-45% of the notes are from Special Benefit District projects.

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gill to pass the Ordinance. The ordinance was passed following a unanimous roll call vote of 8-0.

- B. **Resolution No. 2288**, prescribing the form and details of and authorizing the delivery of \$4,280,000 principal amount of General Obligation Improvement Bonds Series 2004-B, of the City of Leawood, Kansas, authorized by Ordinance No. 2077, of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gill to approve the Resolution. The motion was approved following a unanimous vote of 8-0.

13. NEW BUSINESS

- C. **Ordinance No. 2078**, authorizing and providing for the issuance and delivery of \$26,200,000 principal amount of General Obligation Temporary Notes, Series 2004-2, of the City of Leawood, Kansas, to provide funds to finance the cost of certain public improvement projects within the City; and making certain covenants with respect thereto [Roll Call Vote]

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gill to pass the Ordinance. The ordinance was passed following a unanimous roll call vote of 8-0.

- D. **Resolution No. 2289**, authorizing the issuance and delivery of \$26,200,000 principal amount of General Obligation Temporary Notes, Series 2004-2, of the City of Leawood, Kansas, for the purpose of financing a portion of the costs of certain public improvements in the City; and prescribing the terms and details of said notes and certain covenants and agreements with respect thereto

A motion was made by Councilmember Rawlings, seconded by Councilmember Gill to approve the Resolution. The motion was approved following a unanimous vote of 8-0.

- E. Schedule an Executive Session on Monday, September 27, 2004, immediately following the regular Governing Body meeting to discuss a Personnel Matter; City Administrator's semi-annual review

Mr. Lambers stated that David Arterberry, George K. Baum & Associates, advised him that the City had received the same interest rate on the above bond and notes that a city having an AAA1 rating would have received, even though Leawood was still only rated AA1.

A motion was made by Councilmember Gullede, seconded by Councilmember Bussing to approve the scheduling of the Executive Session. The motion was approved following a unanimous vote of 8-0.

- F. Selection of Scott Lambers, City Administrator, as a Voting Delegate for the City of Leawood, at the League's 96th Annual Conference in Overland Park, October 2-5, 2004.

Councilmember Peppes confirmed that the Governing Body meeting on September 27th would begin at 6:00 P.M., followed by the Executive Session.

A motion was made by Councilmember Rawlings, seconded by Councilmember Gill to approve Scott Lambers as a voting delegate. The motion was approved by a unanimous vote of 8-0.

ADJOURN

There being no further business, the meeting was adjourned at 8:50 P.M.

Debra Harper, CMC, City Clerk