

Minutes

Audio Tape No. 495

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, September 18, 2000. Mayor Peggy J. Dunn presided.

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

Staff present:

Joe Johnson, Director of Public Works	Patricia A. Bennett, City Attorney
Randy Wiler, Exec. Police Planning Officer	Lisa Wetzler, Asst. City Attorney
Ben C. Florance, Fire Chief	Jeff Cantrell, Neighborhood Services
Chris Claxton, Director of Parks & Recreation Administrator	
Diane Binckley, Planning Services Admin.	Bob Sadler, Internet Specialist
Kathy Rogers, Finance Director	Deb Harper, Paralegal

1. PLEDGE OF ALLEGIANCE.

2. APPROVAL OF AGENDA. Approved unanimously on motion of Gill, seconded by Story, after 1) the removal of Item 6.A. which was continued to the October 2, 2000, Council meeting; 2) the addition of Item 10.A. regarding a fence issue for Price Chopper at 135th & Mission Rd.; and 3) the addition of Item 10.B. to schedule an executive session for a personnel matter.

3. PROCLAMATIONS. The Mayor proclaimed 1) September 2000 as “America Goes Back to School Month”; 2) September 23, 2000 as “Kids Day America/International”; 3) September 20, 2000 as “Undoing Racism Day”; and 4) October 10, 2000 as “Double Tenth Day” for the 89th anniversary of the Republic of China on Taiwan (sister city I-Lan, Taiwan).

4. CITIZEN COMMENTS. Michael Anderson of Richard Connor Riley & Associates, 511 Delaware, Kansas City, Missouri, addressed the Governing Body about Metricom, a Silicon Valley based company which provided wireless access to the Internet. Mr. Anderson’s company was in the process of working with City staff to finalize an agreement so the technology could be available in Leawood; there was one issue they couldn’t agree upon – the term that Metricom would be allowed to use a portion of public right-of-way. Metricom wanted at least 5 years in order to make a profit; Leawood wanted a 1-year term. Councilmember Gill was interested in Mr. Anderson returning at a future Council meeting to hear about health issues associated with the product, competitive access and use of the product by competitors, equality of pricing and rate making, things that couldn’t be placed on light poles that had the product installed on them, any interferences of home appliances, phones, etc., and what was it about the 1-year term that made it unfeasible for Metricom to remove the product as fast as it was installed and redeploy it in another jurisdiction if after 1 year an agreement wasn’t renewed in Leawood.

5. CONSENT AGENDA. Items 5.C. and 5.F. were removed for discussion. On motion of Taylor, seconded by Story, the remaining items were approved unanimously.

- A. Minutes of the August 21, 2000, Council meeting
- B. Minutes of the September 5, 2000, Council meeting
- D. Minutes of the August 28, 2000, Technology Review Committee meeting
- E. Departmental reports

C. Minutes of the August 24, 2000, Golf Committee meeting. Councilmember Rasmussen said a correction needed to be made on the second page, last paragraph, 3rd line down – “The home was built properly and the fence is in” should read “The home was built improperly and the fence is in.” He also talked about concerns for providing water for the golf course. He said that the Golf Course Committee would probably soon recommend to the Council that the City start negotiations with the Wastewater District to use sewer effluent. On motion of Rasmussen, seconded by Taylor, Council unanimously approved the minutes as corrected.

F. Acceptance of grant award in the amount of \$48,991 through Federal Safe & Drug-Free Schools & Communities (SDFSC) for the Kansas Bullying Prevention Program. The Mayor commended Police Officer Randy Wiler for writing and submitting the grant application. On motion of Dunn, seconded by Story, Council unanimously accepted the grant award.

6. PLAN COMMISSION.

A. Resolution approving a special use permit and preliminary site plan for a drive thru bank facility (Columbian Bank) on the southwest corner of College Boulevard and Roe Avenue. Continued to the October 2, 2000, Council meeting.

B. Resolution approving preliminary site plan, preliminary plat, and rezoning of property located within Pine Lakes, located on the southeast corner of 137th Street and Mission Road from RP-2 to RP-3, from AG to RP-3, from RP-2 to AG, and from AG to R-1. Brick Owens, land planner with HNTB, gave a presentation. The Mayor requested that stipulation of approval #29 regarding stormwater replace #2 also regarding stormwater and #2 would read, “A stormwater drainage study shall be submitted for Public Work’s review within 180 days of Governing Body approval and prior to submission of the final site plan.” There was discussion about stormwater concerns.

Diane Binckley of Planning said there was no sunset clause on the existing zoning approved in 1988 that would allow apartments to be built. She explained there would be 80 more units than the existing apartment plan allowed. In the original plan, everything was more spread out and more on a first level, buildings covering substantially more of the property. On the proposed plan, there was a third level with the extra units actually down underneath so there was more of a walkout type building; staff was more comfortable with the proposed plan with more green space and the overall layout of the plan. Mrs. Binckley said that in 1988 there was an agreement with area residents that duplexes would be a buffer to the apartments, and the developer agreed to uphold that. Councilmember Gill felt the planners in 1988 were wise to think about buffers, but he questioned whether duplexes which may have been appropriate in 1988 were appropriate now. He asked about alternative buffers to serve a true buffering purpose, yet not be duplexes and increase density;

he said his only concern besides stormwater which sounded like it would work out was the density increase. Mrs. Binckley said for-sale condos were often used as buffers, less likely to be rental units and more apt to be better maintained.

Attorney Larry Winn III addressed the sunset stipulation. He suggested that the Council consider a stipulation that would require the single family final plat to be approved and recorded within 5 years, and in conjunction with that, the developer would bring the multi-family plan back for renewal. If Council chose to approve the plat for single family and reapprove the plan for multi-family, he requested that Council extend the sunset stipulation for multi-family for 5 years plus 2. This was more in keeping with the Oddo Family's plans to continue living in their present home on their property, and to give notice to everyone as to what they could expect to be built within the Oddo estate.

Citizens were invited to speak. They were opposed to increased density, apartment plans, modification of sunset stipulation #28; there were traffic, noise/congestion, and stormwater concerns.

Councilmember Story felt it was a good planning technic to limit the term of development proposals (sunset), so was in favor of the 5-year sunset. He was concerned about density; adding more people affected traffic and other infrastructural issues which had to be addressed; he didn't feel that the developer had answered the question of why it was economically required to increase the number of units; traffic issues needed to be analyzed prior to the Council approving a plan; since City ordinance required a stormwater plan at preliminary, then that regulation should be applied and Council should see that plan before approving the proposed development plan.

Mr. Gill's idea for a remand to the Plan Commission included 4 issues – 1) stormwater, get the report; 2) revised density so it was closer to the number of units the developer was presently entitled to; 3) a longer sunset for the developer's reasons provided there was a plan that was more compatible with the existing density; and 4) if duplexes were not desirable from the developer's standpoint, some alternative to duplexes for buffering that made more sense for the developer, neighbors and the City.

Councilmember Rasmussen favored a remand for 2 reasons – 1) Council needed some assurance, and 2) if there was a necessity for detention ponds (from a stormwater study up front, part of preliminary plan, indicating how much land area was really applicable for development), the density issue might go away.

Mr. Winn said he was willing to accept a remand; on that basis, Councilmember Dunn said he would also support the idea of a remand.

Mr. Gill moved to remand to the Plan Commission for their consideration of the issues Council discussed – stormwater plan required by ordinance, an opportunity for the developer to return with revised plan showing a lower density based upon number of units, opportunity for the developer to consider buffering other than just merely duplexes, a longer sunset proposed by Mr. Winn. Motion seconded by Taylor and carried unanimously.

C. Ordinance accepting rezoning of property located within Pine Lakes, located on the southeast corner of 137th Street and Mission Road from RP-2 to RP-3, from AG to RP-3, from RP-2 to AG, and from AG to R-1. On motion of Story, seconded by Rasmussen, Council voted unanimously to remand the ordinance with the resolution.

7. MAYOR'S REPORT. The Mayor reported on:

- a. Councilmember Rasmussen might attend the Annual Congress of Cities in Boston, December 5-9,2000, and therefore could be Leawood's voting delegate
- b. Council of Mayors meeting – presentation on the “Wonderful World of Oz”, mayors didn't take a stand on the issue; new chairman of the Council - Mayor Betty Keim of Mission Hills
- c. Recent ad hoc Tech Review Committee meeting
- d. Recent Leawood Chamber of Commerce luncheon – presentation on the Tomahawk Creek Office project
- e. Recent meeting with Northeast mayors to discuss concerns regarding the infiltration of additional overhead lines in the right-of-way
- f. I-Lan delegation's itinerary early October; City would not only be entertaining the delegation but would also be honoring City volunteers which would take the place of the April 2001 volunteer appreciation event

8. OLD BUSINESS.

A. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the stormwater improvement project located at 84th Street and State Line Road, SMAC Project DB-04-015. Continued to the October 2, 2000, Council meeting.

B. Follow-up regarding code compliance in the vicinity of 103rd and State Line Road. Jeff Cantrell, Neighborhood Services Administrator, said the refrigerated trailer at Fritz's Superior Sausage Co., 10326 State Line Road, had been on the property since at least 1984. He said staff was unable to find any further information on any of the properties in the area. Karen Reeves, Vice-President of Fritz's, said her father and uncle had obtained permission from the City Council to attach the trailer to the store in late 1983 (she had no written proof of that), and she had proof from the Johnson County Appraiser that taxes had been paid on it since January 1, 1984. Councilmember Rasmussen said the trailer looked more like a temporary structure and it wasn't in good condition. Ms. Reeves said the trailer was usually used around the holidays (November/December) and as a backup when their cooler or freezer was broken (probably twice in the last 5 years). Councilmember Taylor pointed out that the area was originally zoned and platted light industrial and the code issues had probably arisen out of that zoning, and it wasn't unusual for a meat processing company to have an auxiliary unit, sometimes not on wheels but just a refrigeration box attached to a building. Councilmember Rasmussen felt that current ordinances should be enforced.

Mr. Cantrell was asked to review the 1983 City Council meeting minutes and talk to the City Administrator about any recollections he had and report back to the Council at the October 2nd Council meeting.

9. NEW BUSINESS.

A. Approval of Appropriation Ordinance No. 900. On motion of Taylor, seconded by Rasmussen, Council unanimously passed the ordinance on roll call vote.

B. Resolution No. 1566 approving and authorizing the City's consent for the enlargement of Johnson County Consolidated Main Sewer District for sewer service in the vicinity of 135th Street and Roe Avenue (between 135th Street and 137th Street from Nall Avenue to Roe Avenue). Adopted unanimously on motion of Taylor, seconded by Rasmussen.

C. Approve and authorize the execution of a Right-of-Way Maintenance Agreement with Pulte Homes of Greater Kansas City setting forth the developer's responsibilities for maintaining landscaping, underdrains, and sprinkler systems within the islands in Steeplechase subdivision, 3rd Plat, located at approximately 145th and Mission Road. On motion of Taylor, seconded by Gullledge, Council unanimously approved the agreement.

10. OTHER BUSINESS.

A. Price Chopper fence issue. Councilmember Gill said that the issue of where to install the fence between Price Chopper property and adjacent subdivision property was being worked out in final detail. To save a row of hedge trees which provided a significant buffering, the location of the fence needed to be somewhere between 12-24 feet off the property line. Residents signed a petition and 1) were willing to have the fence located at 24 feet which staff supported, 2) were willing to maintain the property on the north side of the fence which was a maintenance issue for the City from the beginning, and 3) would pay fair market value for the property provided the City would deed it to them. City Attorney Bennett said staff needed to obtain some estimate of fair market value as well as survey and other costs. There was Council consensus for staff to proceed; staff could possibly have something for Council consideration at the October 2nd Council meeting.

B. Schedule executive session for Wednesday, October 4, 2000, at 7:00 P.M., for a personnel matter. On motion of Dunn, seconded by Rasmussen, Council voted unanimously to schedule the session.

ADJOURN. 10:35 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk