

Minutes

Audio Tape Nos. 528, 529 & 530

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 Monday, October 15, 2001. Mayor Peggy J. Dunn presided.

Councilmembers present: Scott E. Gullede, Gary L. Bussing, Jim Rawlings, Patrick L. Dunn, Shelby Story, * Mike Gill (left the meeting at 11:00 P.M.), * Louis Rasmussen (left the meeting at 11:00 P.M.), and James E. Taylor, Sr.

Staff present:

Scott M. Lambers, City Administrator
Patricia A. Bennett, City Attorney
Diane Binckley, Planning/Develop. Dir.
Sid Mitchell, Police Chief
Chris Claxton, Parks & Recreation Dir.
Mark Klein, Planner
Deb Harper, Deputy City Clerk

Kathy Rogers, Finance Director
Julie Hakan, Human Resources Director
Ben C. Florance, Fire Chief
Jeff Cantrell, Neighborhood Serv. Admin.
Joe Johnson, Public Works Director
Karl Weinfurter, Info. Systems Specialist

1. PLEDGE OF ALLEGIANCE

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2. APPROVAL OF AGENDA

Item 12.A., a discussion regarding the Kansas City Power & Light franchise agreement, was added to the agenda. Item 5.D. was removed from the Consent Agenda and continued to the November 5, 2001, Governing Body meeting. Item 9.C. was moved to the beginning of the Plan Commission Recommendations. Items 9.G. and 10.A. to be continued to the November 19, 2001, Governing Body meeting. Item 11.B. was removed from the agenda. On motion of Rasmussen, seconded by Taylor, Council unanimously approved the agenda as amended.

3. PROCLAMATIONS

The Mayor proclaimed November 2001 as "Lung Cancer Awareness Month," and October 27-28, 2001, as "Religious Heritage Days."

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4. CITIZEN COMMENTS

G. Gordon Thomas, 10516 Mohawk Lane, commented on cancer awareness.

Charles Moore, 10315 Sagamore Rd., commented on the stormwater wash at the back of his property and recent flooding problems. He said the City had done nothing about removing backed-up debris. Councilmember Rasmussen was aware of and described the problem. He requested that the City Administrator look into the matter to see if he could get it resolved. Public Works Director Johnson said it was not generally the City's policy to clean out privately-owned natural channels with debris, however, his staff did do some work in the area in the summer but didn't go downstream of Sagamore. The City Administrator would evaluate the situation and return to the Council with a recommendation as to how to proceed – his approach to the Johnson County Wastewater District and to KPL Gas Service and its pipes, his recommendation where gabion baskets had been totally covered by debris and not performing their function, and review of a previous action line request to see what staff said they would do and if they did it.

- 1323 Dave Dixon, 10416 Mohawk Lane, spoke in favor of permitting residents who used their recreational vehicles on a reasonably regular basis to keep them on their property as long as they weren't a safety or health hazard (agenda Item 9.G.).

Jack Cox, 8514 Cherokee Place, made comments about electric fences to confine dogs, about regulating recreational vehicles, and about 2 trailers on his property for which he was issued an illegal citation for violation of City ordinance – a citation for a moving violation on private property. He asked that the Governing Body and staff be sure that they had the law on their side when they made decisions. (agenda Items 9.G. and 10.B.)

- 2025 Bruce Keplinger, 12529 High Dr., spoke against restrictions on existing electric fences to confine dogs (agenda Item 10.B.).

2135 **5. 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. 929
- B. Minutes of the October 1, 2001, Governing Body meeting
- C. Minutes of the July 10, 2001, Historic Commission meeting
- D. Minutes of the September 11, 2001, Parks & Recreation Advisory Bd meeting –
due to rescheduling of the October Board meeting, these minutes to be approved at the November 5, 2001, Governing Body meeting
- E. Minutes of the September 26, 2001, Public Works Committee meeting
- F. 3rd Quarter 2001 Goals & Objectives

- G. Temporary Permit for UMKC to sell/serve alcoholic liquor at the AMC Theaters at Town Center Plaza on October 18, 2001, fund-raising benefit for the Durwood Education Scholarship Fund
- H. Low bid of Amino Brothers in the amount of \$3,889,136.87 for the construction of 133rd Street, State Line Road to Roe Avenue [CIP #178 & #179]
- I. Approve and authorize execution of a Property Usage Agreement between the City and the Johnson County Board of Commissioners to facilitate the City's withdrawal of water from Negro Creek (at a site located on Johnson County Wastewater property) for irrigation of Ironhorse Golf Course
- J. Approve and authorize execution of an Amendment to the Letter Agreement dated December 18, 2000, between the City and The Par Group, in the amount of \$1,133.90, pertaining to professional consulting services for the position of City Administrator, to complete the City's contractual obligation
- K. Pay request in the amount of \$18,475 to Hummert International for the purchase of equipment to construct a greenhouse to be located at the Parks/Public Works Maintenance Facility at 2008 W. 104th St. – down payment of \$6,028.47, 2nd \$6,028.47 payment upon shipment, and final \$6,028.47 payment due within 30 days of delivery
- L. Acceptance of Deed of Dedication of Tract 3 from Blue Valley Elementary School No. 10 in connection with the 133rd Street improvement project
- M. Acceptance of Deed of Dedication and Permanent Drainage Easement of Tract 8 from Leawood Plaza Development [Louise Averil] in connection with the 133rd Street improvement project
- N. Acceptance of Permanent Drainage Easement of Tract 9 from Covenant Chapel Church in connection with the 133rd Street improvement project
- O. Acceptance of Deeds of Dedication and Permanent Drainage Easements of Tracts 10, 12, and 14, from Ranchmart, Inc., in connection with the 133rd Street improvement project
- P. Acceptance of Deed of Dedication and Permanent Drainage Easement of Tract 13 from Regnier Family, Ltd., in connection with the 133rd Street improvement project
- Q. Acceptance of Access and Landscaping Easement for the Jameson Tract from Naomi J. Jameson Trust, in connection with the 133rd Street improvement project
- R. Departmental reports

Items 5.E. and 5.I. were removed for discussion. On motion of Dunn, seconded by Story, Council unanimously approved the remainder of the Consent Agenda.

5.E. Regarding the improvements to the intersection at 119th St. and Mission Rd., Councilmember Dunn, Chairman of the Public Works Committee, pointed out that the Committee was advised by the engineer that it would be critical for all utility relocations to be completed prior to the end of the school

year in 2003 in order for the contractor to complete the job on a timely basis. He said the plan was to close the intersection for 3-4 months, rather than keeping 1 lane open for a fairly long extended period of time. On motion of Dunn, seconded by Taylor, Council unanimously approved the Public Works Committee minutes.

2654 5.I. Councilmember Bussing mentioned the County's suggestion of installing a water circulation system to help alleviate some of the consequences associated with a growth known as alga-bloom in wastewater effluent which caused a strong sulfur odor to be emitted from the collection pond. He hoped the County didn't expect the City to install such a system on County property, and he was concerned that the City would be irrigating the golf course with water that could damage the course. City Administrator Lambers said that the intent was to pump the water and effluent into a pond that belonged to the golf course. That was the pond that could possibly have an odor problem, and it was quite possible that the City would have to install a water circulation system in that pond. Mr. Bussing was concerned that it hadn't been determined who would pay for the system. Mr. Lambers clarified that all the Council was approving was the easement; the actual project would be returned to the Council including potential costs of a water circulation system. On motion of Bussing, seconded by Gullede, Council unanimously approved the Property Usage Agreement.

2929 **6. MAYOR'S REPORT**

- ?? Attended the Central Exchange annual dinner at which KCMO Mayor Kay Barnes was honored as the Woman of the Year
- ?? Council of Mayors meeting – heard a report on focus groups involved in the study on public policies, policies needed to be linked to intended consequences; regarding raising the quality of life, the focus groups preferred “getting better rather than bigger”; the annual December social to be December 19th at the Milburn Country Club, and Councilmembers and their spouses were invited to attend
- ?? Former Mayor V.M. “Doc” Dostal (Mayor 1969-1971 and on the Council before that) passed away
- ?? Attended recent annual League of Kansas Municipalities meeting in Wichita with City Administrator Scott Lambers
- ?? Attended recent Johnson County League of Women Voters meeting
- ?? Attended a breakfast sponsored by the Arts Council of Metropolitan Kansas City and Greater Kansas City Chamber; Leawood Arts Council members also attended; the Arts Council participated in an executive summary that was published on culture and arts in economic activity – when corporations considered locating in a community, they looked at good health care, education, and cultural amenities
- ?? Mayor rotated off the Kansas City Area Development Council
- ?? Mayor, City Administrator Scott Lambers, Fire Department Operations Chief Randy Hill, and Police Chief Sid Mitchell, attended a roundtable discussion hosted by

Congressman Dennis Moore and Congresswoman Karen McCarthy on detection and response to biological and chemical attacks in the Kansas City Metro area; Leawood's Emergency Operations Center at City Hall was opened and ready to be activated through the holiday season

- ?? Rededication of Leawood City Park at 106th & Lee Boulevard to be held October 18th, 3:30-6:00 P.M., at City Park
- ?? Leawood Lions 48th Annual Pancake Days at City Hall, October 19th & 20th
- ?? Congratulated Fire Department on winning first place in the Firefighter Combat Challenge
- ?? An anonymous citizen donated 48 Kansas City Chiefs tickets to be distributed to Leawood firefighters

3725 **7. COUNCILMEMBERS' REPORT**

A. Update on public meeting held October 3, 2001, presided over by Councilmembers Story and Taylor, regarding proposed Recreational Vehicle ordinance changes.

Councilmember Story said that he and Mr. Taylor met last week with several residents who owned recreational vehicles as well as a few who didn't. It was a very productive meeting moving toward a proposed ordinance that everyone could live with. Parking and permanent storage on private property were discussed. The biggest complaint about parking was the 12-hour limitation on parking; residents preferred 4 days for temporary storage, unloading and loading, that type of activity. Mr. Story said he would recommend to Council and staff that the ordinance be amended to allow 3-4 days. There was also discussion about the situation where someone might be passing through Leawood and would want to park their R.V. in someone's yard or driveway and spend the night in it; the group felt there should be some method of informing the City either through the Police Department or City Hall that that was going to occur and obtain a temporary permit to allow that to happen on a very short-term basis. Mr. Story didn't object to that situation.

Mr. Story said that permanent storage was the big topic. The basic areas of concern were the setback requirements, front and side, as well as the rear. There was some general consensus that it wouldn't be unreasonable for the City to require that R.V.s be behind the front setback. Some people still had problems with the sideyard setbacks because of the size variation of the lots throughout the City. Another issue was screening. Current ordinance required complete screening and alternatives to that were discussed. People at the meeting generally agreed that they could come up with something that would work for everyone, understanding that there probably wasn't any affordable way or reasonable way to completely screen R.V.s. There was discussion about a permitting process; a permit could be issued to an applicant who took an application to the Planning Department showing a plan as to how they intended to comply with the ordinance and if their lot or layout of their house and driveway, etc., created individual issues for them, then a permitting process rather than a strict ordinance would be a

better way to address the individual requirements and allow the Planning Department to review plans and assist the residents in designing a better scenario that would accomplish the goals of the ordinance. There would have to be an appeal process that would probably be at City Council level. There was also discussion of a “grandfathering period” that would be beneficial to residents faced with making some changes and to the City because the Planning Department would probably be overwhelmed in the beginning trying to process all of the issues.

Lastly, Mr. Story said several residents seemed interested in seeing if the City could come up with some land to provide storage with security and appropriate lighting and fencing for a monthly rental fee. Councilmember Taylor said there might be some area at the new Public Works Maintenance Facility at approximately 143rd & Overbrook.

4595Cliff Johnson, 10515 Belinder; John Hoover, 9705 Lee Blvd.; Woody Anderson, 12631 Overbrook; Allen Agron, 8021 Sagamore; Bob Witcher, 9624 Lee Blvd.; Grant Merritt, 12763 Overbrook; Wade Williams, 8720 Fairway; and Steve Campbell, 9919 Lee Circle, addressed the Governing Body.

7145 On motion of Taylor, seconded by Rasmussen, Council voted unanimously to consider a second proposed draft of the ordinance at the November 19, 2001, Governing Body meeting.

7683 **8. PARK BOARD RECOMMENDATIONS**

A. Approval of official name for South Park located at 146th & Mission Road.

On motion of Dunn, seconded by Taylor, Council voted unanimously to adopt the name of “Ironwoods Park,” for South Park. The name “Ironwood” would have some connection to the City’s Ironhorse Golf Club, but was primarily selected because of its affiliation with a tree species, native to Kansas, the American Hornbeam, also referred to as the “Ironwood.” Some of the trees were found at the existing site and in City Park.

7902 **9. PLAN COMMISSION RECOMMENDATIONS**

[from September 25, 2001, Plan Commission meeting]

C. Approve Plan Commission recommendation of 2002-2006 Capital Improvements Program [CIP].

On motion of Rasmussen, seconded by Gill, the Council unanimously approved the Plan Commission’s recommendation that the CIP be approved as presented at the September 25, 2001, Plan Commission meeting.

Councilmember Taylor left the Council Chamber.

8060 **A. Resolution No. 1640 approving a preliminary site plan for Town and Country Bank at Plaza Point, located on the Southwest corner of 135th Street and Roe Avenue.**

Councilmember Taylor returned to the Council Chamber and recused himself to avoid the appearance of a conflict of interest and again left the Council Chamber. Roger Kaster of Kaster Architects gave a presentation.

8528 **END OF TAPE NO. 528**
NEW TAPE NO. 529

Presentation continued. There was discussion that the 3 requested signs wouldn't be uniform within the Plaza Point development, and in that sense, would be inconsistent with the 135th Street Corridor Guidelines because it wasn't consistent with the other buildings in the development. Staff recommended 2 signs.

Councilmember Bussing was interested in seeing the whole picture of the Plaza Point development, with how the Bank fitted in with the overall scheme of the development, and wanted some sense as to how the development was developing as originally approved.

Councilmember Gulledge moved to adopt the resolution as submitted, seconded by Dunn. Councilmember Rasmussen moved to amend the motion to limit the wall signs to 2 in accordance with staff's recommendation, seconded by Gill. The motion to amend carried; Bussing, Rawlings, Story, Gill, Rasmussen in favor; Dunn, Gullledge opposed; Taylor recused. The main motion as amended carried; Gullledge, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor recused; Bussing opposed (he didn't think the project overall to be consistent with the spirit of the 135th Street Corridor Guidelines and couldn't endorse the piecemeal application).

Councilmember Taylor returned to the Council Chamber.

B. Resolution No. 1641 approving a preliminary site plan for Pinnacle Corporate Center III, located at approximately 115th Street and Tomahawk Creek Parkway.

748 Kevin Burman with Hoefer Wysocki Architects gave a presentation. Councilmember Gulledge moved to adopt the resolution with additional stipulations 1) that additional landscaping be added within the parking islands throughout the development and along the frontage of 114th Street, and 2) that the parking spaces, facing south, directly in front of the parking garage and in line with the northern entrance off of 114th Street be removed to prevent potential traffic conflicts. Motion seconded by Gill and carried unanimously.

2514 **10. OLD BUSINESS**

B. Ordinance amending §2-103, 2-105, and 2-110 of the Code of the City of Leawood 2000, pertaining to Animal Control [Fences; Confinement].
[Continued from September 4, 2001, Governing Body meeting]

Police Chief Mitchell was still concerned about control of dogs in front yards with invisible fences because of past problems and the potential for future problems. Councilmember Story wanted information on dog bites/dog attacks. Councilmember Taylor suggested changing references to "public streets" to "streets, public or private." There was discussion that the only way existing invisible fences could be utilized was while the owner was present in the yard with the dog. Before being prepared to act on the ordinance, Councilmember Dunn said he would have to have more data on the actual problems that occurred that related to invisible fences and that the ordinance would alleviate; many of

his constituents were upset that the City would outlaw invisible fences. Councilmember Rasmussen moved to continue the matter to the November 5, 2001, Governing Body meeting, seconded by Rawlings.

3636 Roger McCoy, 11456 Conser, Overland Park, addressed electronic pet containment which wasn't always an invisible fence, and other issues like professional training that Council needed to consider when amending the ordinance. Ann Maxwell, 13020 Canterbury; Greg Haflich, 9719 Overbrook; Freda Lent, 9723 Overbrook; Ellen Averett, 9729 Overbrook; Cindy Davidson, 3400 W. 132nd St.; Michelle Rossier, 13013 Canterbury, all spoke in favor of invisible fences.

5847 Councilmember Gill said that Council needed to consider the constitutionality of the issue and to look at "grandfathering" since there were so many residents with existing invisible fences. He said there was a very "pro green space policy" in the City which invisible fences helped to foster so Council needed to consider the consequences of doing away with invisible fences, and also, the City had encouraged large front yards through its zoning and other codes and questions would be raised if the City suddenly said to residents that they wouldn't be able to use their front yards in a manner they had historically been able to do. Requiring some type of signage in the front yard about an invisible fence, requiring that a dog couldn't get within so many feet of a sidewalk might be good, and having a registration process for invisible fences and certification of training might be good ideas.

Councilmembers Rasmussen and Rawlings withdrew their second and motion. Mr. Gill moved to continue the matter to the January 21, 2002, Governing Body meeting, with the request for empirical data to be given to the Governing Body as soon as possible. Motion seconded by Story. City Administrator Lambers said that a draft ordinance would be prepared prior to that time to be reviewed by residents and the Council, perhaps at a work session. Before he would support further restrictions on animals in yards, Councilmember Story wanted assurance that Council would be accomplishing something that wasn't already covered by existing laws. He cautioned about using a signage solution mentioned by Mr. Gill because of all the signs currently permitted in yards. As part of the data staff was to furnish the Governing Body, he wanted to see existing ordinances that addressed the situations and allowed people who were either in fear unnecessarily due to an invisible fence or who were attacked by a dog, to redress the issue. Motion to continue carried unanimously.

6835 11:00 P.M. On motion of Dunn, seconded by Gullede, Council voted unanimously to extend the meeting to 11:30 P.M.

* Councilmembers Gill and Rasmussen left the meeting.

6900 **END OF TAPE NO. 529**
NEW TAPE NO. 530

9. PLAN COMMISSION RECOMMENDATIONS

[from August 28, 2001, Plan Commission meeting, and September 26, 2001, BZA meeting]

- 75 **D. Ordinance No. 1917 amending § 4-1 of the Leawood Development Ordinance pertaining to Accessory Uses. [Tabled from October 1, 2001, Governing Body meeting]**

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

- 440 **E. Ordinance No. 1918 amending § 4-2 of the Leawood Development Ordinance pertaining to Prohibited Uses. [Tabled from October 1, 2001, Governing Body meeting]**

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

- F. Ordinance No. 1919 amending § 8-10 of the Leawood Development Ordinance pertaining to Architecturally Attached Structures. [Tabled from October 1, 2001, Governing Body meeting]**

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

[from August 28, 2001, Plan Commission meeting]

- 514 **G. Ordinance amending § 4-4 of the Leawood Development Ordinance pertaining to Off-Street Parking, Storage, Loading Regulations and Parking Lot Design Standards. [Continued from September 4, 2001, Governing Body meeting]**

On motion of Dunn, seconded by Taylor, Council voted unanimously to continue the matter to the November 19, 2001, Governing Body meeting.

629 **10. OLD BUSINESS**

- A. Ordinance amending § 14-301, 14-302, and 14-304 of the Code of the City of Leawood 2000, pertaining to parking. [Continued from September 4, 2001, Governing Body meeting]**

On motion of Dunn, seconded by Taylor, Council voted unanimously to continue the matter to the November 19, 2001, Governing Body meeting.

- 707 **C. Approve Change Order No. 2 with Bruner Contracting Co., LLC, in the amount of \$59,198, in connection with construction of the Public Works Facility [CIP #156].**

On motion of Taylor, seconded by Gulledge, Council unanimously approved the change order.

738 **11. NEW BUSINESS**

- A. Approve and authorize execution of a First Amendment to Annexation Agreement dated July 16, 2001, between the City and COR Development, LLC, pertaining to annexation of property located at 135th Street and Nall Avenue.**

Councilmember Taylor recused himself to avoid the appearance of a conflict of interest. On motion of Gullede, seconded by Story, Council unanimously approved the Amendment.

- B. Resolution requesting Johnson County participation in the City of Leawood's five [5] year [2002-2006] Capital Improvements Program through the County's Assistance Road System [C.A.R.S].**

This item was removed from the agenda.

- 790 **C. Approve time extension of protective covering on Oxford Schoolhouse located at 135th & Mission Road, in accordance with § 4-2.9 of the Leawood Development Ordinance.**

On motion of Rawlings, seconded by Story, Council unanimously approved the extension of up to one year.

925 **12. OTHER BUSINESS**

- A. Discussion regarding Franchise Agreement between the City and Kansas City Power & Light [KCPL].**

City Administrator Lambers said he understood that the City was in the process of renegotiating its franchise agreement with KCPL, and he preferred in those types of negotiations to have a Governing Body presence to provide for a political perspective and authority to the deliberations. On motion of Story, seconded by Taylor, Council unanimously appointed Councilmembers Rasmussen and Gill with their consent to be involved in the negotiations.

1020 **ADJOURN.** There being no further business, the meeting was adjourned at 11:15 P.M.

Martha Heizer, City Clerk