MINUTES
REGULAR COUNCIL MEETING

Tape No. 263

# 26 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:45 P.M., Monday, January 4, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Charles Hammond, Douglas Moore, and Graham G. Giblin, Sr. * Jimmy Lin arrived 7:47 P.M. ** Monique C.H. Leahy arrived 7:55 P.M. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

44 The agenda was approved unanimously on motion of LaHue, seconded by Hammond.

56 CITIZEN COMMENTS: Dale Putman, 8405 Reinhardt Lane, presented donations totaling $850 from the Cloisters Homes Association for police and fire funds.

* 7:47 P.M. Councilmember Lin arrived.

113 CONSENT AGENDA: Request for authorization to install a security gate at the Public Works facility (2008 W. 104th St.) was removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Campbell:
1. Minutes of the December 21, 1992 Council meeting;
2. Purchase of 6 mobile and 4 portable radios for the Public Works Dept. from low bidder Motorola Communication and Electronics in the amount of $4,798.00;
3. Purchase (through a cooperative purchasing agreement) of 2 1993 Chevrolet Lumina sedans totaling $21,758 to replace 2 of Planning Dept.'s code enforcement vehicles.

After discussing the need for extra security at the Public Works facility, and on motion of LaHue, seconded by Campbell, Council unanimously approved the installation of a security gate, work to be done by low bidder Wornall Electronic/Austin Iron Works for $8,141.00.

195 MAYOR'S REPORT: The Kansas Department of Transportation will have a meeting January 19th in the Council Chamber concerning possible construction of sound barriers along I-435. Leawood residents close to the highway have been invited.

259 COMMITTEE REPORT ON FEASIBILITY OF HIRING AN IN-HOUSE ATTORNEY: Councilmember Hammond, chairman of the committee appointed to study the feasibility, reported on findings.

** 7:55 P.M. Councilmember Leahy arrived.

The committee reviewed the functions of the city attorney and
tried to relate man-hours to them. They concluded that not enough hours would be generated to keep an in-house attorney busy full time; it would not be cost effective to hire this attorney at this time. Mr. Hammond stated that the City Attorney’s present hourly rate is very reasonable and favorable compared to higher rates charged in other Johnson County cities. The Council might review the feasibility in 2 years or at the point where legal costs have increased 10%.

Councilmember Moore moved to accept the committee report (consequently accepting the findings and agreeing with the recommendation not to hire an in-house attorney at this time), seconded by Giblin. Councilmember LaHue felt there should be some kind of review or evaluation of the city attorney on a regularly scheduled basis.

Mr. Moore’s motion carried unanimously. The Council will discuss Dr. LaHue’s concern in executive session at the end of the meeting.

ORDINANCE NO. 1329 VACATING A UTILITY EASEMENT - 8008 Meadow Lane, Lot 85, LEAWOOD, to permit construction of a room addition: The ordinance was considered and passed on motion of Moore, seconded by Campbell. On roll call the vote was: Yeas—LaHue, Campbell, Hammond, Leahy, Moore, Giblin, Lin. Nays—None.

INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON JAMES BRANCH, BELINDER TO MANOR IN THE VICINITY OF 96TH STREET: Approved unanimously on motion of Campbell, seconded by Hammond.

APPROVAL OF APPROPRIATION ORDINANCE NO. 702: The ordinance was considered and passed on motion of Hammond, seconded by Campbell. On roll call the vote was: Yeas—LaHue, Campbell, Hammond, Leahy, Moore, Giblin, Lin. Nays—None.

EXECUTIVE SESSION: On motion of Moore, seconded by Giblin, Council voted unanimously to convene in executive session after regular business for a period not to exceed one and a half hours to discuss 2 personnel matters and a matter under attorney-client privilege.

After a few Council comments, Council convened in executive session at 8:43 P.M., same members present.

9:50 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk

January 4, 1993
MINUTES
SPECIAL COUNCIL MEETING

The City Council of the City of Leawood, Kansas, met in special session in the conference room of the Municipal Office Building, 9617 Lee Boulevard, at 6:30 P.M., Monday, January 11, 1993. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, Charles Hammond, Douglas Moore, Graham G. Giblin, Sr., and Louis Rasmussen, for the purpose of convening an executive session to discuss a personnel matter, and to consider any other business which might come before the Council. Councilmembers Campbell, Leahy, and Lin were absent. Staff present: Richard Garofano, City Administrator.

On motion of Moore, seconded by Rasmussen, Council voted unanimously to convene in executive session until 8:15 P.M. to discuss a personnel matter.

8:30 P.M. Council returned to special session, same members present. On motion of Moore, seconded by Giblin, Council voted unanimously to return to executive session for 20 minutes to continue discussion of the same matter.

8:50 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

[Signature]
Martha Heizer, City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 264

# 27 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, January 18, 1993. Mayor Marcia Rinehart presided.


* Graham G. Giblin, Sr. arrived 7:40 P.M. ** Jimmy Lin arrived 7:50 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Asst. City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Malinco, Finance Director; Jerry Straw, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved on motion of Moore, seconded by LaHue, after addition of 1) consideration of an ordinance authorizing the improvement of Mission Rd., 95th St. to 103rd St.; and 2) a discussion of the solicitation ordinance. Hammond opposed, all others in favor.

75 CITIZEN COMMENTS: None.

78 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by LaHue:
1. Minutes of the January 4, 1993 Council meeting;
2. Minutes of the January 11, 1993 Special Council meeting;
3. Departmental reports;
4. Purchase (through a cooperative purchasing agreement) of a 1993 Chevrolet S-10 Blazer in the amount of $16,381.00 for the Fire Department;
5. Pay Request No. 2 (FINAL) for $1,287.90 to Delta-Tec, Inc., for installation of temporary traffic signals at K-150 & Mission Rd.;
6. Request by McAnany Construction Co. for a contract extension to March 15, 1993; Manor Rd. rehabilitation, 95th St./98th St.

85 MAYOR'S REPORT: Mayor Rinehart attended receptions for retiring 3rd District County Commissioner Dan Hosfield and newly-elected 3rd District Commissioner Annabeth Surbaugh.

The Mayor met recently with the Johnson County Appraiser. Appraisals this year for residential property in this area will remain about the same as last year. However, commercial property throughout the County will receive new notifications.

A Gas Service Co. representative gave a presentation at last week's Johnson County Council of Mayors meeting outlining some new strategies for monitoring gas usage. Gas meters have been moved in some parts of the County so meter readings can be taken from cars.

Parks & Recreation Director Scott Whitaker will receive the "Outstanding Young Professional" award from the Kansas Recreation and Park Association at the state conference in Overland Park on January 20th.

* 7:40 P.M. Councilmember Giblin arrived.
City Engineer Terry Uhl was appointed by Governor Joan Finney to the State Board of Technical Professions which issues licenses to engineers, land surveyors, architects and landscape architects. He will serve a four-year term.

342 ORDINANCE NO. 1330 AUTHORIZING THE IMPROVEMENT OF MISSION ROAD, A MAIN TRAFFICWAY, FROM 385 FEET SOUTH OF 95TH STREET TO 385 FEET SOUTH OF 103RD STREET: The ordinance was considered and passed on motion of LaHue, seconded by Moore. On roll call the vote was: Yeas---LaHue, Campbell, Hammond, Leahy, Moore, Giblin, Rasmussen. Nays---None.

** 7:50 P.M. Councilmember Lin arrived.

464 INTERLOCAL AGREEMENT WITH OVERLAND PARK FOR THE PUBLIC IMPROVEMENT OF MISSION ROAD FROM 385 FEET SOUTH OF 95TH STREET TO 385 FEET SOUTH OF 103RD STREET - estimated cost of construction, $1,571,300; Leawood's share, approximately $89,878.36: A typographical error in section 2.A. on page 2 will be corrected - the word "Mission" in the estimated cost should be "Million". The last sentence of section 5. on page 5 should read..."Should funding from the Federal Intermodal Surface Transportation Efficiency Act of 1991 fail to materialize, either party may terminate this agreement." Councilmember Moore moved to approve the agreement with the wording changes, seconded by LaHue. Motion carried; Lin opposed, all others in favor. Mr. Lin doesn't feel this project should be on the City's project priority list at all; it benefits Overland Park more than Leawood.

823 PROPOSAL TO APPRAISE PROPERTIES AT APPROXIMATELY 103RD & STATE LINE ROAD FOR THE I-435/STATE LINE ROAD INTERCHANGE REALIGNMENT AND THE IMPROVEMENT OF STATE LINE ROAD FROM 103RD STREET TO I-435 - from Donoho & Associates in the amount of $5500: Councilmember LaHue moved to accept the proposal, seconded by Moore. Several Councilmembers felt the fee was too high to appraise 2 small properties. Councilmember Rasmussen felt it would be easier just to call the property owners and ask them what their land is worth; the City might be able to get the land for less than the appraiser's fee or the property owners might donate the required easements. Public Works Director stated he could do this, however, since federal money is involved, there are federal guidelines the City must follow, including appraisals to insure that property owners receive fair value for their land.

Councilmember Lin called for the question, seconded by Hammond. Call for the question carried; Giblin opposed, all others in favor.

The motion to accept the proposal carried; Giblin, Leahy, Rasmussen opposed (fee too high); all others (5) in favor.

1092 ORDINANCE NO. 1331 PROVIDING FOR THE ESTABLISHMENT OF FEES TO BE CHARGED TO PERSONS REQUESTING ACCESS TO AND/OR COPIES OF OPEN PUBLIC RECORDS - fees for inspection and copies of open public records removed from the ordinance and reference made to the fees in the annual fee schedule adopted by resolution and maintained by the City Administrator: The ordinance was considered and passed on motion of LaHue, seconded by Hammond. On roll call the vote was: Yeas---LaHue, Campbell, Hammond, Leahy, Moore, Giblin, Rasmussen, Lin. Nays---None.
1121 APPROVAL OF APPROPRIATION ORDINANCE NO. 702A: The ordinance was considered and passed on motion of Hammond, seconded by Campbell. On roll call the vote was: Yeas---LaHue, Campbell, Hammond, Leahy, Moore, Giblin, Rasmussen, Lin. Nays---None.

1180 EXECUTIVE SESSION: On motion of Moore, seconded by Leahy, Council voted unanimously to convene in executive session after regular business for a period not to exceed 20 minutes to discuss a personnel matter.

1217 WORK SESSION TO DISCUSS FINANCING MECHANISMS FOR STORMWATER MANAGEMENT PROJECTS: Council decided to discuss this issue as a committee of the whole after regular business and before the executive session. (See meter #1493.)

1295 DISCUSSION OF THE SOLICITATION ORDINANCE: Councilmember Leahy had received several complaints from constituents about individuals selling furniture from trucks in residential areas. Those persons had been issued solicitation permits. Mrs. Leahy would like to see solicitations of this nature curtailed and the hours during which solicitation is permitted (10:00 a.m. to 9:00 p.m. daily) changed. 9:00 p.m. is too late for door-to-door solicitation. The City Attorney is in the process of reviewing the ordinance.

1445 Councilmember Lin feels the City should observe Martin Luther King Day, and would like this discussed during the 1994 budget preparation process.

1493 DISCUSSION OF FINANCING MECHANISMS FOR STORMWATER MANAGEMENT PROJECTS: At the January 11th work session, Councilmembers seemed to agree that there is a need for a yearly fund for stormwater improvements. The fund could be generated by a citywide stormwater utility fee. A $300,000 yearly fund was discussed with a $2.75 utility fee per month per household. For the utility fee to be tax deductible, it would have to be an ad valorem tax. It would take 1.5 mills to generate $300,000. A second concept discussed was the formation of improvement districts to assess costs of construction to all property owners within particular basins or to assess costs to residents along creeks.

$200,000 is currently budgeted (already in the mill levy) for 1993 to provide funds for the purpose of matching those that will be provided by the Johnson County Stormwater Management Advisory Council from the County sales tax approved for stormwater management. Councilmembers Rasmussen, Giblin, and Lin feel that amount annually would be adequate. Mr. Giblin doesn’t want to raise the mill levy, to increase his constituents’ taxes. There was discussion that $200,000 would not be sufficient to cover the City’s share of project costs after 1993. Councilmember LaHue suggested placing a cap on the utility fee assessment per household with the City to pay the rest.

The City Administrator stated that debt financing was another option to generate cash up front for projects.

This matter will be discussed further, either at a work session on February 1 or at the Council meeting on that date.
3275 9:23 P.M. Council convened in executive session, same members present, and returned to regular session at 9:50 P.M., same members present. On motion of LaHue, seconded by Moore, Council voted unanimously to return to executive session for 20 minutes to continue discussing the same personnel matter.

10:10 P.M. Council returned to regular session, same members present. Councilmember Rasmussen moved to enter into an annual employment agreement with City Administrator Richard Garofano, seconded by Leahy. Motion carried; Lin abstained, all others in favor.

10:15 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
Tape No. 265

REGULAR COUNCIL MEETING

# 25 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, February 1, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Douglas Moore, Graham G. Giblin, Sr. * Jimmy Lin arrived 7:33 P.M. ** Mrs. Leahy left the meeting at 10:25 P.M. Charles Hammond and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Asst. City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

44 The agenda was approved unanimously on motion of Moore, seconded by Leahy, after a resolution relating to the final plat of Edgewood located at 116th and Town Center Drive was removed from the Consent Agenda.

66 CITIZEN COMMENTS: None.

* 7:33 P.M. Councilmember Lin arrived.

76 PROCLAMATION: The Mayor proclaimed February 14-20, 1993, as "Engineers Week".

86 CONSENT AGENDA: The following were approved unanimously on motion of Leahy, seconded by Campbell:

1. Minutes of the January 18, 1993 Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their January 25, 1993 meeting.

93 MAYOR'S REPORT: Asst. City Administrator Julie Baer received the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting on behalf of the Kansas Eastern Region Insurance Trust, a workers compensation self-funded pool to which the City belongs. The Certificate was awarded for the fiscal year ending October 30, 1991. Ms. Baer was the chairman of KERIT that year.

The Parks and Recreation Advisory Board recommended that the 2 parks at 119th and Tomahawk Creek Parkway be named Tomahawk North and Tomahawk South. On motion of Moore, seconded by Campbell, Council approved the names; Leahy opposed, all others in favor. Mrs. Leahy felt it was confusing to have a park in south Leawood with the word "north" in its name; there could have been more creativity in selecting the names.

The dinner to honor persons who volunteer their time to serve the City in various capacities will be held March 17th.

249 ORDINANCE NO. 1332 GRANTING AN EASEMENT TO KANSAS CITY POWER & LIGHT COMPANY FOR CONSTRUCTION OF A POWER LINE AT NEW CITY HALL SITE, 117TH & ROE AVE.: The ordinance was considered and passed on motion of
Campbell, seconded by Leahy. On roll call the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin, Lin. Nays---None.

RESOLUTION NO. 1093 INDICATING THE CITY'S DESIRE TO RECEIVE A CERTIFICATE OF RECOGNITION FROM THE NATIONAL FEDERATION OF MUNICIPAL ANALYSTS - to be nationally recognized for compliance with disclosure requirements for debt issued: Adopted unanimously on motion of LaHue, seconded by Campbell. Attached as part of the record.

APPROVAL OF APPROPRIATION ORDINANCE NO. 702B: The ordinance was considered and passed on motion of Campbell, seconded by Leahy. On roll call the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin, Lin. Nays---None.

OTHER BUSINESS: The Parks and Recreation Advisory Board recommended the development of a foundation for the Parks and Recreation Department to seek funding for specific projects planned in the next few years. There was no Council dissent; the Board will proceed.

Parks and Recreation Director Scott Whitaker received the "Outstanding Young Professional" award from the Kansas Recreation and Park Association at the state conference in Overland Park on January 20th.

DISCUSSION OF FINANCING MECHANISMS FOR STORMWATER MANAGEMENT PROJECTS - continued from the January 18, 1993 Council meeting: Councilmember Moore prefers to assess a fee to every household in the City to help pay stormwater improvement costs.

The Mayor urged that a fund be budgeted annually (perhaps the fixed amount of $300,000). Since there is a 1/10 cent County sales tax for stormwater improvement projects, and the County will pay 75% of project costs, it would be imprudent not to participate in the County stormwater management program.

Councilmember Lin prefers benefit district financing to at least pay part of the costs. Residents who benefit from improvements should pay. He was reluctant to vote for the $200,000 budgeted for improvements this year. Unless the City locks into the $300,000 annually during the life of the County program, he will not vote for more than $200,000.

Councilmember Giblin will not vote for funds if the mill levy has to be increased, and it may have to be increased if $300,000 is budgeted.

Councilmember Campbell does not want to lock into a figure for future budgets. Perhaps the Council could have a general policy stating that their goal might be to set aside $300,000 annually, but they should review stormwater projects/funding each year during budget preparation in the same manner other expenditures are reviewed.

Councilmember Leahy expressed interest in a "tiered" utility fee - an amount for residents along creeks, a smaller amount for residents in basins, and an even smaller amount for all other residents with no direct connection to an improvement. She is more inclined towards a citywide utility fee with the impact of the fee being placed upon residents along creeks/in basins who actually receive the benefit of an improvement, and leans more towards the $300,000 because the difference between $200,000 and $300,000 would mean only approximately $10 a year.
in additional taxes for the average household.

The Council discussed assessing a citywide utility fee along with benefit district financing.

The discussion will continue at the February 16th Council meeting.

**EXECUTIVE SESSION:** On motion of Moore, seconded by Campbell, Council voted unanimously to convene in executive session for a period not to exceed one and one-half hours to discuss land acquisition and a matter under attorney-client privilege.

8:45 P.M. Council convened in executive session, same members present, and returned to regular session at 10:15 P.M., same members present. On motion of LaHue, seconded by Moore, Council voted to return to executive session for 10 minutes to continue discussing land acquisition; Lin opposed, all others in favor.

10:23 P.M. Council returned to regular session, same members present. Councilmember Campbell moved to remove as a contingency in the land acquisition contract with Bell Development, Inc., the golf course feasibility issue, and to direct staff to proceed with closing on the contract, and to direct the architect Hurzdan Golf Course Design, Inc., to begin preparing final plans for the golf course to be located in the vicinity of 151st St. & Mission Rd. Motion seconded by Moore and carried; Leahy opposed, all others in favor. Mrs. Leahy did not state her reason for opposing the motion.

10:25 P.M. Councilmember Leahy left the meeting.

On motion of Moore, seconded by Lin, Council voted unanimously to convene in executive session for a period not to exceed 10 minutes to discuss a matter under attorney-client privilege.

10:30 P.M. Council convened in executive session, same members present, and returned to regular session at 10:42 P.M., same members present. On motion of Moore, seconded by LaHue, Council voted unanimously to return to executive session for 10 minutes to continue discussing the same matter.

10:52 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

/s/ Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 266

# 40 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Tuesday, February 16, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Douglas Moore, Graham G. Giblin, Sr. * Louis Rasmussen arrived at 8:00 P.M. ** Jimmy Lin arrived 8:26 P.M. Charles Hammond was absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Asst. City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; and Richard S. Wetzler, City Attorney. City Clerk Martha Heizer was absent.

56 The agenda was approved unanimously on motion of Moore, seconded by LaHue.

66 PRESENTATION OF EXCEPTIONAL PERFORMANCE AWARDS TO CITY EMPLOYEES: The Mayor presented awards to Nancy Kelley, Finance Specialist in the Finance Department, and Donna Metzger, Communications Supervisor in the Communications Division of the Police Department, for exceptional performance above and beyond that of their normal duties.

135 CITIZEN COMMENTS: Residents of Pembroke Court subdivision, approximately 121st & State Line Rd., petitioned the City to have their private streets become public streets. City ordinance states that streets designated as private shall be private in perpetuity. The request was assigned to the Public Works Committee for review at their March 4th meeting and a report to the Council at the March 15th Council meeting.

278 PROCLAMATION: The Mayor proclaimed February 1-5, 1993, as "School Counselors Week".

281 CONSENT AGENDA: A resolution relating to the construction of sound barriers along I-435, and a request by the Kansas City Rotary Club to solicit funds on street corners, were removed for further discussion. The following were approved unanimously on motion of Leahy, seconded by Campbell:

1. Minutes of the February 1, 1993 Council meeting;
2. Departmental reports;
3. Renewal of Cereal Malt Beverage License - Price Chopper, 11721 Roe, Camelot Court Shopping Center;
4. Community Lake Assistance Grant through the Kansas Department of Wildlife and Parks to construct a fishing pier at the unnamed middle lake along Tomahawk Creek Parkway; grant funds shall not exceed a maximum of $7,105;
5. Community Lake Assistance Grant through the Kansas Department of Wildlife and Parks to construct a fishing pier at the unnamed south lake along Tomahawk Creek Parkway; grant funds shall not exceed a maximum of $5,310.

4100
The Steering Committee for Greater Kansas City Day requested a special solicitation permit to sell a special edition of the Kansas City Star newspaper at major intersections the morning of April 5th in conjunction with Greater Kansas City Day '93 and the Kansas City Royals Home Opener. Proceeds will benefit the Kansas City Rotary Youth Camp Foundation. The Council approved this solicitation in past years with conditions. Councilmember LaHue felt this type of solicitation on foot in major intersections is dangerous, and the City could be held liable for accidents caused by the solicitation. On motion of Moore, seconded by Leahy, Council approved the solicitation; LaHue opposed, all others in favor.

The resolution concerning sound barriers along I-435 will be discussed later in the meeting.

Mayor's Report: Leawood resident Clifford P. Johnson died February 15th. Mr. Johnson was a City Councilmember from 1962 to 1972. A tree will be planted in his memory.

* 8:00 P.M. Councilmember Rasmussen arrived.
** 8:26 P.M. Councilmember Lin arrived.

Discussion of Financing Mechanisms for Stormwater Management Projects: Finance Director proposed that the Stormwater Management Program be capitalized by the issuance of general obligation bonds in the amount of approximately $1,000,000, which is the amount the Public Works Director indicated is necessary to fund projects during the next three fiscal years. The issuance of these bonds would not require any additional levy if the levy currently in the budget, assigned to the $200,000 contained therein, is transferred to service the debt that will be issued. The City would also establish and start collecting a stormwater utility fee per household per month. This collection would be banked for use after the bond proceeds are expended. This proposal does not provide for any benefit district financing.

Councilmember LaHue moved to issue general obligation bonds in the amount of $1,000,000 for a 10-year amortization, and establish a $2.75 per household per month stormwater utility fee commencing January 1994, with the understanding that the utility fee would basically be able to pick up the share of stormwater project funding at the end of the next three fiscal years. Motion died for lack of a second.

Councilmember LaHue moved to direct staff to prepare an ordinance enacting a stormwater utility fee of $2.75 per household per month beginning in January 1994 to help fund stormwater management projects, seconded by Campbell.

Councilmember Leahy moved to amend the motion to reduce the $2.75 to $2.00. Motion to amend died for lack of a second.

Dr. LaHue's motion carried; LaHue, Campbell, Leahy, Moore in favor; Giblin, Rasmussen, Lin opposed.

Condemnation Proceedings for State Line Road Improvement Project, Phase 2, Between 112th Terrace and 123rd Street - condemnation on 2 properties, 11316 and 11420 State Line Rd.: On motion of Leahy, seconded by Giblin, Resolution No. 1094, declaring the necessity to appropriate
private property for the use of the City and authorizing a survey and
description of land and interest to be condemned, was adopted
unanimously (attached as part of the record); and Ordinance No. 1333,
authorizing and providing for acquisition of private property for the
use of the City, was passed unanimously.

3596 ACCEPTANCE OF LEE BOULEVARD IMPROVEMENT PROJECT, PHASE 2, 95TH STREET
TO SOMERSET DRIVE: On motion of Moore, seconded by Leahy, Council
unanimously accepted the project; liquidated damages in the amount of
$850 per day for 10 days will stand and be assessed Suburban Contractors.

3628 RESOLUTION NO. 1095 SUPPORTING THE CONSTRUCTION OF SOUND BARRIERS ALONG
I-435 IN THE CITY OF LEAWOOD:
On motion of Moore, seconded by Campbell, Council unanimously
adopted the resolution (attached as part of the record) with the addi-
tion of a 4th "Whereas" which reads, "Whereas, it is the understanding
of the Governing Body that the City of Leawood is not obligated to pay
in whole or in part for the construction or any aspect of the construc-
tion of the sound barriers".

3771 AUTHORIZE EXCLUSION/ANNEXATION AGREEMENT WITH OVERLAND PARK - for 41
acres now in Overland Park to be annexed by Leawood to be part of the
development of a municipal golf course in the vicinity of 151st St. &
Nall Ave.: On motion of Rasmussen, seconded by Moore, Council
unanimously approved the agreement.

3804 AUTHORIZE CONTRACTS FOR GOLF COURSE DEVELOPMENT: Councilmember Moore
moved to approve a contract for a boundary survey with Green Engineer-
ing Services of Olathe, Kansas, in the amount of $13,980, seconded by
Rasmussen. Councilmember Lin stated that the Public Works Committee
has for the past several years selected project consulting engineers in
accordance with the City's consultant selection procedure. The 3 con-
tracts before the Council for consideration should have been reviewed
by the Committee. Mr. Moore's motion for approval carried unanimously.

4180 Council discussed the contract for miscellaneous design services.
The Golf Course Development Committee requested that the Council waive
the consultant selection procedure due to tight time constraints and
approve a contract with Continental Consulting Engineers. Councilmember Lin reminded Council that Continental was hired as the
project manager or general consultant on the golf course project to co-
ordinate all design work and construction activity and be responsible for
designers' performance; Continental should be precluded from pre-
senting a proposal for design services. Councilmember Rasmussen moved
to approve a contract for miscellaneous design services with Continen-
tal Consulting Engineers in an amount not to exceed $82,480, seconded by
Campbell.

4815 It appeared to Mr. Lin that the Golf Course Committee would be re-
viewing the golf course plans, not the Public Works Director. He was
concerned about liability if, in the future, the City has storm sewer
design problems because the Public Works Director did not review the
plans. The City Administrator stated that regardless of who does the
design, it would have to be reviewed by Public Works. Mr. Lin felt the
motion to approve the contract was out of order.

Mrs. Leahy stated that the appearance of impropriety of having the general contractor also act as an independent contractor did concern her, however, she has greater and greater respect for and reliance on the Golf Course Committee, and if they believe the credibility and reputation of Continental are such that they warrant approval of Continental's contract for miscellaneous design services, then she will rely on that.

Mr. Rasmussen's motion to approve the contract carried; Lin, Giblin opposed; all others in favor. Mr. Lin felt Continental should not be supervising themselves, that such a relationship was improper in his opinion. Mr. Giblin was opposed because he had not seen the contract.

Councilmember Campbell moved to approve a contract for roadway design (Mission Rd., Bell Drive, etc.) with Continental Consulting Engineers in an amount not to exceed $98,000, seconded by Rasmussen. Motion carried; Lin, Giblin opposed (same reasons for opposing the second contract); all others in favor.

INTERLOCAL AGREEMENT WITH OVERLAND PARK FOR THE PUBLIC IMPROVEMENT OF KENNETH ROAD FROM 1/4 MILE NORTH OF 151ST STREET NORTH FOR A DISTANCE OF 3,150 FEET - asphaltic overlay; Leawood's share approximately $13,500: On motion of Campbell, seconded by Giblin, Council unanimously approved the agreement.

CONTRACT FOR INSTALLATION OF WATER LINES (FIRE & DOMESTIC) AT NEW CITY HALL SITE, 117TH & ROE AVE.: On motion of LaHue, seconded by Moore, Council unanimously approved a contract with the low bidder Wilson Plumbing Co. in the amount of $16,207.

APPROVAL OF APPROPRIATION ORDINANCE NO. 703: The ordinance was considered and passed on motion of Leahy, seconded by Campbell. On roll call the vote was: Yeas—LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen, Lin. Nays—None.

APPROVAL OF APPROPRIATION ORDINANCE NO. 704: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call the vote was: Yeas—LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen, Lin. Nays—None.

EXECUTIVE SESSION: On motion of LaHue, seconded by Campbell, Council voted to convene in executive session for a period not to exceed 30 minutes to discuss land acquisition and a matter under attorney-client privilege; Leahy opposed; all others in favor.

10:20 P.M. Council convened in executive session, same members present, and returned to regular session at 10:40 P.M., same members present.
An executive session will be held March 1, 6:30 P.M., to discuss a personnel matter. There being no further business before the Council, the meeting was adjourned at 10:45 P.M.

Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 267

The City Council of the City of Leawood, Kansas, met in regular session in the Conference Room of the Municipal Office Building, 9617 Lee Boulevard, at 6:40 P.M., Monday, March 1, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Douglas Moore, Graham G. Giblin, Sr., and Jimmy Lin.

* Louis Rasmussen arrived at 8:50 P.M. and ** left the meeting at 10:42 P.M. *** Jimmy Lin left the meeting at 10:45 P.M. Charles Hammond was absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Asst. City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Mainicoff, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

EXECUTIVE SESSION: On motion of Moore, seconded by LaHue, Council voted unanimously to convene in executive session until 7:20 P.M. to discuss a personnel matter. The City Administrator and City Attorney were the only staff members present.

7:20 P.M. Council returned to regular session and recessed to move to the Council Chamber, 9615 Lee Blvd.

55 7:30 P.M. Regular session resumed. The agenda was approved unanimously on motion of Moore, seconded by Giblin.

66 CITIZEN COMMENTS: Mary Tearney, 3308 W. 127th St., thanked Public Works personnel for their snow removal efforts last week during the largest snow storm to hit the metropolitan area in the last 63 years.

100 CONSENT AGENDA: A resolution to approve the final plat of Edgewood located at 116th & Town Center Drive was removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Campbell:

1. Minutes of the February 16, 1993 Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their February 9, 1993 meeting;
3. Declaration of surplus property - 2 1987 Ford Thunderbirds (VIN 6047 & 7325) no longer used by the Police Department as staff cars, 1986 Ford LTD (VIN 3800) no longer used by Code Enforcement, and 1986 Chrysler LeBaron (VIN 3137) seized by the Police Department as a result of a narcotics violation;
4. Change Order No. 1 to the contract with Wilson Plumbing Co. for the 1991 Sanitary Sewer Rehabilitation Project - an increase in the contract amount of $4,025 for 2 additional manhole drop connections and extra grading and sod;
5. Pay Request No. 3 (FINAL) to Wilson Plumbing Co. for $56,952.82 for the 1991 Sanitary Sewer Rehabilitation Project.

The Council discussed the resolution to approve the final plat of
Edgewood located at 116th and Town Center Drive. Councilmember Leahy reiterated her feelings about private streets - they are not appropriate for Leawood. There should be an additional stipulation of approval concerning funds for the maintenance of those streets.

Councilmember Lin moved to deny the private streets section of the final plat. Motion died for lack of a second.

Councilmember Moore moved to adopt the resolution approving the final plat of Edgewood with the additional stipulation that funds for the maintenance of the private streets will be escrowed in accordance with the City's private street policy as outlined in the Master Development Plan, seconded by Campbell. Resolution No. 1096 (attached as part of the record) was adopted; Lin opposed, all others in favor.

251 RESOLUTION NO. 1097 APPROVING THE REVISED PRELIMINARY SITE PLAN FOR MARTINI'S RESTAURANT AT 11723 ROE, CAMELOT COURT SHOPPING CENTER: Adopted on motion of LaHue, seconded by Campbell; Leahy opposed (to the red neon continuous light strip; it's not attractive), all others in favor. Resolution attached as part of the record.

635 MAYOR'S REPORT: Mayor Rinehart attended the Leawood Soccer Club's annual banquet last Friday night. She presented proclamations and keys to the City to Club members Jim DeMars*and (Leawood resident) Dick Fuller in recognition of their contributions and dedication to the youth of our community.

* also a Leawood resident

1034 ACQUISITION OF RIGHTS-OF-WAY AND EASEMENTS FOR THE K-150 SYSTEM ENHANCEMENT IMPROVEMENT PROJECT: On motion of LaHue, seconded by Lin, Council authorized appraisers to negotiate acquisition values with property owners. Giblin abstained, all others in favor. Mr. Giblin is listed as a property owner of record even though he sold the property.


1445 1993 ASPHALT REHABILITATION PROJECT: On motion of Lin, seconded by Moore, Council unanimously accepted the low bid by Seal-O-Matic Paving Co. of Riverside, Missouri, of $368,923.07, and authorized the Mayor to execute a contract.

1571 HIGH DRIVE (83RD STREET TO LEE BOULEVARD) REHABILITATION PROJECT: On motion of LaHue, seconded by Moore, Council unanimously accepted the low bid by Seal-O-Matic Paving Co. of Riverside, Missouri, of $114,897.00, and authorized the Mayor to execute a contract.

1598 ACCEPTANCE OF GRANT FOR PARK LAND ACQUISITION: The Kansas Department of Wildlife and Parks received approval from the National Park Service of a $196,485 grant to be used to acquire 70 acres of land for a park in south Leawood. Councilmember Giblin was not in favor of the grant because the federal government will pay only $20 on the dollar, and there are too many strings attached for that (small) amount of grant
money. It’s too restrictive; the City won’t be able to use the land for any purpose other than for park.

2029 Councilmember Leahy moved to accept the grant, seconded by Moore.

2268 Motion carried; Giblin opposed, all others in favor.

2284 CONTRACT FOR MOWING RIGHTS-OF-WAY AND TRAFFIC MEDIANS ON MAJOR THOROUGHFARES THROUGHOUT THE CITY IN 1993: Parks & Recreation recommended that Council waive a formal bidding process and award the contract in the amount of $21,999.95 to Atcheson Lawn and Landscape, a very dependable contractor. Councilmember Giblin moved that the City bid the mowing, seconded by Lin. City Administrator stated that cities of the second class are not obligated to go through a bidding process.

* 8:50 P.M. Councilmember Rasmussen arrived.

Motion to go out for bid failed; Giblin, Rasmussen in favor; LaHue, Campbell, Leahy, Moore opposed; Lin abstained.

Councilmember Leahy moved to award the 1993 contract to Atcheson Lawn and Landscape with the stipulation that the City bid the work next year, seconded by LaHue; unanimous.

2604 WORK SESSION: Will be held March 8th, 7:30 P.M., to discuss funding of stormwater projects. Staff to identify projects recommended by the County Stormwater Management Advisory Council, outline the legalities of benefit districts, and show the potential impact on the mill levy over the next 5 years if the City doesn’t establish a separate fund or funding mechanism. Council needs to decide on a funding mechanism and the level of funding.

3350 EXECUTIVE SESSION: On motion of Leahy, seconded by Moore, Council voted unanimously to convene in executive session after regular business for a period not to exceed 1 hour to discuss land acquisition and a matter under attorney-client privilege.

3477 9:17 P.M. Recess.

9:22 P.M. Council convened in executive session, same members present, and returned to regular session at 10:22 P.M., same members present. On motion of Rasmussen, seconded by Leahy, Council voted to return to executive session for 15 minutes to continue discussion of the same matters; Moore opposed, all others in favor.

3489 10:23 P.M. Council reconvened in executive session, same members present, and returned to regular session at 10:40 P.M., same members present. On motion of Leahy, seconded by Moore, Council voted unanimously to return to executive session for 10 minutes to continue discussion of the same matters.

** 10:42 P.M. Councilmember Rasmussen left the meeting.

3500 10:42 P.M. Council returned to executive session.

*** 10:45 P.M. Councilmember Lin left the meeting.

4107
Council Minutes
Tape No. 267

March 1, 1993

3503 10:50 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 268

35 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, March 15, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Douglas Moore, Graham G. Giblin, Sr., and Louis Rasmussen. Charles Hammond and Jimmy Lin were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Asst. City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

49 The agenda was approved unanimously on motion of Moore, seconded by LaHue, after the addition of an executive session and deletion of an interlocal agreement with Johnson County and Kansas City, Missouri for State Line Rd. improvements, 103rd Street to I-435.

82 CITIZEN COMMENTS: None.

107 PROCLAMATIONS: The Mayor proclaimed April 4-10, 1993, as "Volunteer Income Tax Assistance (VITA) Volunteer Week"; and March 30, 1993, as "Doctors Day".

110 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Giblin:
   1. Minutes of the March 1, 1993 Council meeting;
   2. Parks & Recreation Advisory Board report (minutes) of their March 9, 1993 meeting;
   3. Golf Course Development Committee report (minutes) of their March 4, 1993 meeting;
   4. Public Works Committee report (minutes) of their March 4, 1993 meeting;
   5. Departmental reports;
   6. Declaration of surplus property - 1 1984 Chevrolet S-10 Blazer (VIN 9635) no longer used by the Fire Marshal;
   7. Pay Request No. 3 to McAnany Construction Co. for $14,580.77 for the Manor Road improvement project, 95th Street to 98th Street;
   8. Application to the State of Kansas for a grant ($54,544) to fund the Drug Abuse Resistance Education (D.A.R.E.) program.

130 MAYOR'S REPORT: Mothers Against Drunk Driving (MADD) wants to strengthen its counseling and support services to victims of drunk drivers, and requested the City's endorsement in order to apply for grant assistance. On motion of LaHue, seconded by Leahy, Council unanimously endorsed the MADD program. Mayor Rinehart will sign an endorsement letter.

194 DISCUSSION OF DESIGN CRITERIA FOR MISSION ROAD, I-435 TO COLLEGE BOULEVARD: Council met with residents of the Longwood Forest subdivision at
a March 8th work session to discuss residents’ concerns about landscaping and a sidewalk planned for the west side of Mission Rd.

Longwood Forest resident David Kaplan spoke about these 2 issues which still concerned residents. He stated that homeowners have sought over the past few years, and been reassured of, maximum landscape buffering of noise and light for privacy. He felt it was imperative that adequate buffering be placed along the entire length of the roadway. He stated that the sidewalk on the west side of the road had never been discussed; the realignment of Mission Rd. was done to accommodate more landscaping in the form of berms, not to accommodate a sidewalk. He suggested that Mission Rd. between College Blvd. and the Indian Creek bridge be renamed Tomahawk Creek Parkway so there would be no need for a sidewalk since the present Tomahawk Creek Parkway south of College Blvd. does not have sidewalks. The road on the north side of the bridge would remain Mission Rd. with its sidewalks connecting with the Greenway on the north side of the bridge. A short sidewalk could connect College Blvd. to the Greenway trail on the east side of the road at the existing riding stables. Shortening the sidewalk would save money which could be used for landscaping, and, in addition, markedly improve safety, and the privacy of the neighborhood would be maintained.

Councilmember Rasmussen stated that since the 10' realignment of the road was to accommodate more berms, sound and light barriers between the road and backyards of homes, it was his opinion that sidewalk construction would impede and be counterproductive to the installation of berms on the west side of the road.

Berms and necessary additional storm sewers would cost approximately $20,000 and $12,000 respectively.

Normally, the City would plant street trees along Mission, not do berming. The City itself has not done berming, but has required developers to construct berms. Public Works Director Brandt felt 4' berms could be built with a sidewalk on the west side of Mission.

Councilmember Rasmussen moved to direct staff to install berms along the west side of Mission and eliminate the sidewalk between the Indian Creek bridge and College Blvd., seconded by Giblin. Motion failed; Rasmussen, Giblin in favor; LaHue, Campbell, Leahy, Moore opposed. LaHue and Leahy need more information on the cost of berms and on the extent of additional storm sewers. Also, Mrs. Leahy would like to see berms and a sidewalk (for safety), if possible.

Councilmember LaHue moved to direct the Public Works Director to explore the design of berms in combination with a sidewalk, provide the cost of berms, and figure any additional storm sewer costs, before a final decision is made. Motion seconded by Leahy and carried; Rasmussen, Giblin opposed; all others in favor.

DISCUSSION OF PRIVATE STREETS IN PEMBROKE COURT SUBDIVISION:
Councilmember Moore, Chairman of the Public Works Committee, reported on the Committee’s March 4th meeting at which they addressed Pembroke Court’s request that the subdivision’s private streets be converted to public streets to be maintained by the City. The Committee reaffirmed recommendations made at their June 6, 1991 Committee meeting to accept existing private streets under the following conditions: 1) that the City require additional right-of-way to allow for maintenance; 2) that
private streets be brought up to the City's minimum standards; and 3) that private streets be within the 100 to 80 range of the City's street inventory rating system. The Committee also recommended that the Plan Commission and Council not allow construction of private streets in the future or at least that private streets meet the current City standards for City streets. The City Council never acted on the recommendations. Present ordinance states that private streets shall be private in perpetuity.

Council discussed the escrow fund for maintenance of private streets which developers have been required to establish since 1991 in accordance with the master plan policy. Pembroke Court doesn't have an escrow fund since the subdivision was started before 1991.

Councilmember Leahy is opposed to private streets in residential areas; they pose too many dilemmas for homeowners - lack of an escrow fund is one of them. (Mrs. Leahy is not opposed to private streets in commercial districts.)

Councilmember Campbell would be in favor of modifying the present ordinance to allow for exceptions.

Residents spoke in favor of private streets being accepted as public streets.

Councilmember Giblin felt the City was exploiting citizens by not accepting as public those private streets that are built to City standards; they're paying taxes to maintain City streets and paying to maintain their own private streets. Mr. Giblin moved to direct staff to rewrite the present ordinance to eliminate the section requiring that private streets be private in perpetuity, seconded by Campbell.

Mrs. Leahy felt there were many ramifications to this type of motion. She suggested that residents need to think more about what it would mean for the City to accept the private streets as public. They might face smaller lots if a sidewalk was required in front of their homes. They might face a benefit district to construct sidewalks or bring anything up to City standards - this could be costly. Allowing private streets and then accepting them back as public could be costly for the City.

Councilmember Giblin's motion to rewrite the present ordinance failed; Campbell, Giblin, LaHue in favor; Leahy, Moore, Rasmussen opposed; the Mayor opposed (because no criteria for accepting private streets as public were proposed in the motion).

Councilmember Campbell moved to direct staff to prepare an amendment to the present ordinance to allow the possibility of accepting private streets, now considered to be private in perpetuity, as public streets by setting forth specific criteria for acceptance, which would include the Public Works Committee recommendations from their June 6, 1991 Committee meeting (see beginning of this discussion), and public access to a subdivision. Motion seconded by Giblin and carried; LaHue, Campbell, Leahy, Giblin in favor; Moore, Rasmussen opposed.

Councilmember Rasmussen moved that the Council request the Plan Commission consider a change in the ordinance that private streets no longer be permitted in the City of Leawood (be eliminated from the planning process), seconded by Leahy. Councilmember Moore felt that Planning Director McKay should issue an impact statement due to such a far reaching request. Motion failed; Rasmussen, Leahy in favor; all others opposed.
ORDINANCE NO. 1334 AUTHORIZING THE MAYOR TO EXECUTE A DEED CONVEYING PARK LAND (PART OF LEAWOOD PARK) TO THE STATE OF KANSAS FOR I-435 HIGHWAY/STATE LINE ROAD INTERCHANGE IMPROVEMENTS: Refer to earlier discussion, December 7, 1992 Council meeting. KDOT informed Public Works that park land replacement was not necessary, and requested that the City donate the land in question to the State. Councilmember LaHue asked if staff had checked with the person (possibly Donald J. Hall and family) who had given the land to the City to see if there were any objections to giving the land to KDOT for a purpose other than park use. Councilmember Rasmussen felt the land should not be conveyed until KDOT makes a decision about the construction of sound barriers along I-435. Councilmember LaHue moved to pass the ordinance contingent upon staff review of the City's acquisition of the land to ensure there will be no complications in donating the land to the State, seconded by Moore. (The ordinance will not be published, and thereby not take effect, until this is done.) On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin. Nays---Rasmussen. Mr. Rasmussen wants the sound barriers for I-435 to be approved. He expected an expeditious decision from KDOT following Council's Resolution No. 1095 (2/16/93) supporting construction of the barriers. Council has considered KDOT's request for land donation expeditiously; there's a degree of fairness which should be exercised by both sides.

RESOLUTION NO. 1099 APPROVING THE REVISED PRELIMINARY PLAT FOR COURTS OF PATRICIAN WOODS/PATRICIAN WOODS 10TH PLAT LOCATED AT APPROXIMATELY 125TH & NALL: Adopted unanimously on motion of LaHue, seconded by Campbell. Attached as part of the record.

ORDINANCE NO. 1335 AMENDING SECTION 4-3 (SPECIAL USES) OF THE SUPPLEMENT OF AMENDMENTS TO THE "LEAWOOD DEVELOPMENT ORDINANCE" TO ALLOW A HOME HEALTH CARE SUITE AS A SPECIAL USE: to allow the temporary installation of a self-contained housing unit in a garage space as an alternative to a nursing home environment; a special use permit would be granted for 2 years with a possible 1-year extension. Councilmember LaHue moved to pass the ordinance with the addition of a provision stating that at the end of the special use, the unit shall be removed and the garage restored to its former condition. Motion seconded by Rasmussen. On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen. Nays---None.

The provision was added to Section 4-3.1 31)(d) of the ordinance.

ORDINANCE NO. 1336 ANNEXING LAND INTO THE CITY OF LEAWOOD PURSUANT TO CONSENT OF THE PROPERTY OWNER (BELL DEVELOPMENT, INC.) AND AGREEMENT BETWEEN THE CITIES OF OVERLAND PARK AND LEAWOOD - 41 acres formerly in Overland Park and part of Leawood's new municipal golf course development in the vicinity of 151st & Nall: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen. Nays---None.

AUTHORIZATION TO NEGOTIATE ACQUISITION OF RIGHT-OF-WAY FOR STATE LINE ROAD IMPROVEMENTS, PHASE 2, SOUTH OF 119TH STREET: On motion of
Rasmussen, seconded by Leahy, Council unanimously authorized the Public Works Department to negotiate acquisition of tracts owned by Valley View State Bank at Leawood Plaza, 123rd & State Line.

RESOLUTION NO. 1100 AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH KDOT FOR STATE LINE ROAD IMPROVEMENTS (WIDENING), PHASE 4, 103RD STREET TO I-435, INCLUDING REPLACEMENT OF BRIDGES ON STATE LINE OVER INDIAN CREEK: Adopted unanimously on motion of Rasmussen, seconded by Campbell. Attached as part of the record.

RESOLUTION NO. 1101 OF FINDING AS TO ADVISABILITY AND AUTHORIZING THE IMPROVEMENT AND CONSTRUCTION OF KENNETH ROAD, CONNECTING K-150 TO KENNETH PARKWAY: Adopted unanimously on motion of Giblin, seconded by Campbell. Attached as part of the record.

APPROVAL OF APPROPRIATION ORDINANCE NO. 705: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen. Nays---None.

EXECUTIVE SESSION: On motion of LaHue, seconded by Campbell, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

10:00 P.M. Council convened in executive session, same members present.

10:30 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 269

#35 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 5:20 P.M., Monday, April 5, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Graham G. Giblin, Sr., and Louis Rasmussen. * Douglas Moore arrived 5:25 P.M., and ** Jimmy Lin arrived 5:40 P.M. Charles Hammond was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

56 The agenda was approved unanimously on motion of LaHue, seconded by Leahy.

67 CITIZEN COMMENTS: None.

72 PROCLAMATIONS: The Mayor proclaimed:
   1. May 6, 1993, as "National Day of Prayer";
   2. April 24, 1993, as "The March of Dimes WalkAmerica Day";
   3. April 18-24, 1993, "National Volunteer Week";
   4. April 1993 as "Fair Housing Month";
   5. Special recognition of Leawood Middle School students for volunteerism.

75 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Leahy:
   1. Minutes of the March 15, 1993 Council meeting;
   2. Proposal (agreement) from All American Display Fireworks (Wald & Co., Inc.) for 1993 July 4th fireworks display in the amount of $5,295.07;
   3. Purchase of a Kubota compact tractor Model M4030SU for Parks & Recreation Dept. from the low bidder Stanley Equipment in the amount of $12,950.00;
   4. Low bid of $8,408.40 from Walker Towel and Uniform for a one-year contract, rental of uniforms for Street, Sewer, and Parks & Recreation Departments;
   5. Police Dept. request to contract with American Micro Co. to microfilm police records in 1993 for $10,000.

86 MAYOR'S REPORT: KDOT has decided that sound barriers along I-435 will be constructed. The Mayor will send a letter to KDOT thanking them for their favorable decision. Councilmember Rasmussen said that in the final report on the barriers, KDOT had stated that the barriers should not be constructed unless Leawood and Overland Park Councils officially endorse the construction. Mr. Rasmussen asked the Mayor to remind KDOT in her letter that Leawood has complied with that requirement by Resolution No. 1095 adopted February 16, 1993. Councilmember Leahy said that the final report indicated the cities might have to share in
the cost of construction. She had understood all along that KDOT would be funding the construction, that the City would not have to share in the cost. This should also be mentioned in the Mayor's letter. Councilmember Rasmussen was told at public hearings that there would be no local match because, under federal law, barriers are built at the time a highway is improved since construction of a federal highway is the cause of noise problems.

* 5:25 P.M. Councilmember Moore arrived.

The Mayor reported that Melvin Johnson, City Councilman from 1957 to 1959, had died, and that a tree will be planted in his memory at the new city hall, 117th & Roe.

Tom Bieszczat, Leawood’s Public Works Director late 1970’s to 1987, died last week; the Mayor and several staff members attended his memorial service.

270 DISCUSSION OF BLASTING PERMIT, BLASTING IN WILSHIRE SUBDIVISION, 3RD PLAT: Residents of Carriage Crossing subdivision are concerned about possible structural damage to their homes from blasting required to construct sanitary sewers in Wilshire subdivision (3rd Plat). While most of the blasting will be done east of Roe Ave., residents are concerned about blasting west of Roe and south of Carriage Crossing. They would like the City to prohibit blasting in that area, and require post-blast surveys of Carriage Crossing homes located within 500 feet of the blasting areas. Public Works Director Brandt recommended that blasting be permitted; blasting is well monitored in the City.

Jackhammering would be an alternative, but it takes longer, is noisier, and more expensive. A combination of blasting (further away from homes) and hammering (closer to homes) would be an option.

Councilmember Rasmussen stated that the ordinance which regulates blasting is very strict in terms of liability, notice, time, etc. (which have placed an additional burden on developers), and leaves the Public Works Director flexibility to make some major decisions of his own in unique situations. The ordinance is structured to protect residents.

** 5:40 P.M. Councilmember Lin arrived.

Several Carriage Crossing residents expressed their concerns. Blasting would take 2 1/2-3 days, jackhammering a couple of weeks. Post-blast surveys are not required to be done by ordinance.

The Public Works Director has authority to place greater restrictions on the blasting process than are called for in the ordinance. Mr. Brandt stated he would be willing to change the spacing of the blast charge or even the amount of the charge when blasting is done closest to homes. Mr. Brandt recommended that the blasting permit be issued to the contractor when applied for; residents can appeal after that if they still want to do so. The Mayor felt the Council feels that the ordinance protects residents, and that the Public Works Director will use his discretion in determining whether or not the blasting permit will be issued. No formal Council action needed to be taken.
REQUEST BY NEW COVENANT LIFE ASSEMBLY OF GOD CHURCH FOR A SPECIAL USE PERMIT AT 12920 STATE LINE ROAD (LEAWOOD SQUARE SHOPPING CENTER) - to operate a church in a CP-1 Planned Neighborhood Retail District: On motion of LaHue, seconded by Rasmussen, Council unanimously approved a permit for a 2-year period with stipulations as recommended by the Plan Commission.

PETITION FROM HALLBROOK FARMS ASSOCIATES, L.P., FOR THE IMPROVEMENT OF STATE LINE ROAD, PHASE 2, 112TH TERRACE TO 119TH STREET: Councilmember Rasmussen moved to accept and file the petition for improvement of State Line Rd., Phase 2, and to proceed in the normal course of action with construction. Motion seconded by Lin.

Property owners Robert Stultz, 11420 State Line, and William Davis, 11316 State Line, objected to their inclusion in a benefit district. Attorney Roger Phillips represented Mr. Stultz, and Attorney Pete Heaven represented Mr. Davis. Mr. Heaven stated that his client was opposed to the petition for improvement and creation of a special benefit district; a hearing, which was waived in the petition, should be held. Mr. Heaven stated that Phase 2 is from 112th Terr. to 125th St.; the petition includes only 112th Terr. to 119th St. Hallbrook owns 51% of that property, but would not own 51% if 119th St. to 125th St. was included in the benefit district. State Line Rd. was designated a main trafficway a few years ago. State law prohibits use of special benefit districts when main trafficways are improved. The City-at-large must fund the improvement. Hallbrook Farms was zoned in 1986. Council Resolutions 788 and 862 required Hallbrook Farms to undertake improvement of State Line, 119th St., and College Blvd. through special benefit districts. Hallbrook Farms should pay for State Line improvements as originally agreed upon, and not ask individuals who own land along State Line to pay several thousand dollars.

The 2 property owners feel the boundaries of the proposed district are improperly drawn. Although a roadway is proposed which would benefit the City-at-large or an area at least a quarter-mile deep, the depth of the proposed district is about an inch. There are several Hallbrook homes behind Mr. Davis’ property and the petitioner does not want to include them in an improvement district.

The attorneys said it appeared that the cost of signalization at 112th Terr. was being placed in Phase 2 instead of Phase 1 (Carondolet to 112th Terr.) where it belonged. In addition to being unfair, such cost should not be paid by an improvement district at all. The Kansas Supreme Court ruled that intersection improvements to major thoroughfares only negligibly benefit adjacent property and should be paid for by the City-at-large. Public Works Director Brandt stated that this signalization was not in the original contract for Phase 1, and a change order has been prepared to include it in that Phase.

City Administrator Garofano said that if the City authorizes a project under the main trafficway statute, the City-at-large must pay for the improvement. However, he believes that just because a street is designated a main trafficway, that does not preclude benefit district financing.

Mr. Phillips said that main trafficway statutes state that all costs of improvements shall be paid by the City-at-large. By statute, the improvement must confer a special benefit to property owners in the
benefit district. State Line improvements do not benefit Mr. Stultz or Mr. Davis. By Resolution No. 788 (July 7, 1986) and No. 862 (August, 17, 1987), Hallbrook Farms promised to pay the costs that could not be passed on to a special benefit district.

City Attorney Wetzler said that because the petition is being presented with a request that it be considered without notice and hearing, Mr. Stultz and Mr. Davis really have no right at this time to present their concerns to the Council. They do have a right to be heard in regard to assessments that will ultimately be proposed, and that comes at a later time. In regard to loss of trees and property, the City is presently involved in condemnation proceedings with the 2 property owners which will compensate them for losses. The Council will ultimately have to decide whether or not there is a benefit that accrues to these properties.

Councilmember Rasmussen stated that the petition is for construction, not financing, of State Line.

Councilmember Campbell felt acceptance of the petition should be delayed; Council needs to resolve which properties will be affected by a benefit district.

Councilmember Lin withdrew his second to Mr. Rasmussen's motion at the beginning of the discussion. Councilmember Leahy seconded that motion.

Councilmember Lin moved to defer the vote on the motion until after an executive session is held. Motion seconded by Rasmussen and carried unanimously. (See meter #3863)

6:50 P.M. Recess.

6:55 P.M. Regular session resumed.

INTERLOCAL AGREEMENT BETWEEN LEAWOOD, JOHNSON COUNTY, AND KANSAS CITY, MISSOURI, FOR THE IMPROVEMENT OF STATE LINE ROAD, PHASE 4, 103RD STREET TO I-435: Approved unanimously on motion of Rasmussen, seconded by Leahy.

INTERLOCAL AGREEMENT WITH PRAIRIE VILLAGE FOR THE IMPROVEMENT OF THE INTERSECTION OF 89TH STREET AND MISSION ROAD - for design costs only:

Councilmember Rasmussen stated that if engineers establish that the City can not signalize the intersection without providing a right turn lane going north on Mission Rd. to provide for east access, that would mean the City would have to remove part of the sidewalks just recently built on the east side of Mission, and would also mean that setback lines would be closer to the street. Public Works Director Brandt believes the City will not be faced with that problem in the design. The City will not risk funding for the intersection if it chooses its own design (not to remove sidewalks or modify setbacks).

Dr. Linda Johnson, 8905 Mohawk Lane, questioned the necessity for the signal improvement. Motorists just have to have a little patience getting out onto Mission Rd. Police Chief Cox stated that accident history in Prairie Village is higher than average, and traffic studies warrant the signal.

On motion of Moore, seconded by Campbell, Council unanimously approved the agreement. 
AGREEMENT FOR ENGINEERING SERVICES, POOL FEASIBILITY STUDY: Section VI, "Drawings and Specifications", on page 5 of the agreement stated that such documents would remain the property of the consultant whether the project for which they are made is constructed or not. Councilmember LaHue felt such documents should be the City's property. The City Attorney said the Council could approve the agreement with an amendment (wording that the City would normally use in standard City contracts) that he would approve to make certain the City could use the documents for its purposes. Councilmember LaHue moved to approve the agreement with Larkin Associates Consulting Engineers in the amount of $8,000, with wording changes in Section VI to be approved by the City Attorney. Motion seconded by Campbell and carried unanimously.

APPROVAL OF APPROPRIATION ORDINANCE NO. 706: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call the vote was: Yes---LaHue, Campbell, Leahy, Moore, Giblin, Rasmussen, Lin. Nays---None.

EXECUTIVE SESSION: On motion of Campbell, seconded by Rasmussen, Council voted unanimously to convene in executive session for a period not to exceed 15 minutes to discuss a matter under attorney-client privilege.

7:30 P.M. Council convened in executive session, same members present.

7:45 P.M. Council returned to regular session, same members present.

Councilmember Rasmussen had previously moved to accept and file the petition for improvement of State Line Rd. and proceed with construction. The motion was seconded by Leahy. Councilmember LaHue moved to amend the motion to require a public hearing on the petition. Motion to amend died for lack of a second. Mr. Rasmussen's motion carried unanimously.

EXECUTIVE SESSION: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss land acquisition.

7:50 P.M. Council convened in executive session, same members present, and returned to regular session at 8:24 P.M., same members present. Councilmember Rasmussen moved to instruct the City Administrator to comply with the terms and conditions of the contract negotiated with Don Bell of Bell Development, Inc. Motion seconded by Giblin and carried unanimously.

ORDINANCE ESTABLISHING A GOLF COURSE IMPACT FEE: No action taken. The City Attorney stated that if the City closes on the golf course transaction, the impact fee ordinance will be referenced in the closing. Council will consider the proposed ordinance at the next Council meeting.

In the event the golf course goes forward, the Golf Course Development Committee would like the City to hire a golf course superintendent at
the time of construction. This position would be permanent to maintain the completed golf course. No money was budgeted for this position in 1993. The City Administrator asked the Council to appropriate money from the contingency fund. Councilmember Rasmussen moved that the Council authorize the City Administrator to prepare a job description, conduct a personnel search, and appropriate funding for the position from funds on hand. Motion seconded by Campbell and carried unanimously.

4288 8:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, April 19, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Monique C.M. Leahy, Douglas Moore, and Graham G. Giblin, Sr. Louis Rasmussen, Jimmy Lin, and Charles Hammond were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning & Development; Harry Mainicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Campbell, seconded by Moore, after the addition of an ordinance authorizing and providing for the acquisition of private property for State Line Rd. improvements, Phase 2, 112th Terr. to 123rd St.

PROCEDINGS:
The Mayor proclaimed:
1. May 1, 1993, as "Law Day U.S.A."
2. April 19-25, 1993, as "Student Achievement Week"

CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Giblin:
1. Minutes of the April 5, 1993 Council meeting;
2. Departmental reports;
3. Renewal of Cereal Malt Beverage License - Broadmour Food Market, 7960 Lee Blvd.;
4. Purchase of in-car video recording equipment for the Police Dept., 2 Kustom Signals "Eyewitness" systems for a total of $10,390;
5. Purchase of a Compaq Systempro 486 computer network server with Novell Netware 386 v3.11 software from JWP Businessland in the amount $23,708.

RESOLUTION NO. 1102 APPROVING REQUEST FOR REZONING FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL), AND APPROVING PRELIMINARY PLAT AND PRELIMINARY PLAN, FOR TOMAHAWK CREEK ESTATES LOCATED NORTH OF 119TH AND MISSION RD.: Councilmember LaHue moved to adopt the resolution and to direct staff to include an escrow fund for maintenance of the private streets in the final plat process. Motion seconded by Giblin and carried; LaHue, Campbell, Moore, Giblin in favor; Leahy opposed (Mrs. Leahy is opposed to private streets in Leawood). Resolution attached as part of the record.

ORDINANCE NO. 1337 REZONING PROPERTY (TOMAHAWK CREEK ESTATES) LOCATED NORTH OF 119TH AND MISSION ROAD FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; AND REINCORPORATING SAID ZONING MAP: The ordinance was considered and passed on motion of Moore, seconded by LaHue.
Council Minutes
Tape No. 270

April 19, 1993

roll call, the vote was: Yeas---LaHue, Campbell, Moore, Giblin, Mayor Rinehart. Nays---Leahy (opposed to private streets in Leawood).

636 MAYOR’S REPORT: The City received a Certificate of Recognition from The National Federation of Municipal Analysts granting recognition to the City "for special consideration and responsibility to the community of investors in its securities through an expressed commitment to continuing disclosure".

Public Works Director Brandt succeeded in obtaining federal funding in the amount of $424,000 for the landscaping portion of the K-150 improvement project, Nall Avenue to State Line Road.

The City received a letter from Blue Valley High School thanking the City for its $250 contribution to the School’s May 8-9 After Prom event.

The Mayor received a letter from Lyushun Shen, Director General of the Coordination Council for North American Affairs (Kansas City office), announcing that the 1993 International Youth Culture and Study Tour to the Republic of China will be held in Taiwan August 14 through August 29. The Tour is an opportunity for young people from all over the world to exchange ideas and experiences and further strengthen international friendship.

749 CONTRACT FOR ENGINEERING DESIGN SERVICES - MISSION ROAD IMPROVEMENTS, I-435 TO COLLEGE BOULEVARD: On motion of LaHue, seconded by Leahy, Council unanimously approved a contract with HDR Engineering, Inc., in the amount of $114,103.00.

773 RESOLUTION NO. 1103 AUTHORIZING EXECUTION OF AN AGREEMENT WITH KDOT, OVERLAND PARK, AND JOHNSON COUNTY, FOR K-150 IMPROVEMENTS, NALL AVENUE TO STATE LINE ROAD: Paragraph 20 on page 6 of the agreement states that Leawood agrees to accept the (KDOT) Secretary’s determination of all final total project costs and the participation in costs by Leawood. Councilmember LaHue was concerned about there being some recourse or mechanism through which the City could dispute a cost amount, perhaps through arbitration or the court system. The City Administrator felt that KDOT would say that paragraph 19 covers that concern - a final reconciliation of project costs and monies due from Leawood and a review of Leawood’s financial records will take place when the project is complete.

The resolution was adopted unanimously on motion of Leahy, seconded by Moore. Attached as part of the record.

1032 RESOLUTION NO. 1104 AUTHORIZING EXECUTION OF SUPPLEMENTAL AGREEMENT NO. 1 TO AGREEMENT NO. 59-91 WITH KDOT FOR I-435 IMPROVEMENTS (WIDENING): The Supplemental Agreement will defer the City’s payments until the project is complete. A pay request will not be prepared prior to January 1, 1995. On motion of LaHue, seconded by Leahy, the resolution was adopted unanimously. Attached as part of the record.

1047 ORDINANCE NO. 1338C AUTHORIZING AND PROVIDING FOR THE CREATION OF THE LEAWOOD GOLF COURSE IMPACT FEE: The ordinance was considered and passed on motion of Moore, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin. Nays---None.
Council Minutes
Tape No. 270

1070 AUTHORIZATION TO INCLUDE AN EASEMENT ON GOLF COURSE PLAT: The Plan Commission approved an amended final plat for Leawood Mission Valley to provide for an additional Lot #16 which Bell Development had requested. In order to meet side yard setback requirements, the City agreed to grant an easement on the new municipal golf course and allow that easement to be counted in the computation of the setback. On motion of Campbell, seconded by LaHue, Council unanimously directed staff to include the easement in the final plat of the golf course adjacent to Leawood Mission Valley.

1082 ORDINANCE NO. 1339 ACCEPTING A QUIETCLAIM DEED TO RIGHTS-OF-WAY AND OTHER TRACTS FROM THE CITY OF OVERLAND PARK - rights-of-way located west of the centerline of Mission Road along and adjacent to land south of approximately 152nd Street and north of approximately 155th Street, as described in the Exclusion/Annexation Agreement with Overland Park dated February 16, 1993, land annexed by Leawood and part of its new municipal golf course: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin. Nays---None.

1124 ORDINANCE NO. 1340 AMENDING ORDINANCE NO. 1333; AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING SURVEY AND DESCRIPTION OF THE LAND AND INTEREST TO BE CONDEMNED - to correct an error in a legal description in Ordinance No. 1333; State Line Rd. improvements, Phase 2, 112th Terr. to 123rd St.: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin. Nays---None.

1157 APPROVAL OF APPROPRIATION ORDINANCE NO. 707: The ordinance was considered and passed on motion of Moore, seconded by Leahy. On roll call, the vote was: Yeas---LaHue, Campbell, Leahy, Moore, Giblin. Nays---None.

1194 OTHER BUSINESS: The Mayor received a letter complaining about the run-down condition of the house at 8500 State Line owned by Amoco Oil Co. Code enforcement is working on the problem. They will also check the house adjacent on the north. Someone has moved into the house. Councilmember Moore understood that it might be as long as 3 years before anyone could live there because of a gasoline leak from the Amoco service station across the street which occurred a few years ago.

1264 PRESENTATION TO RETIRING COUNCILMEMBER MONIQUE C.M. LEAHY: The Mayor presented a plaque and key to the City to Mrs. Leahy in recognition of her outstanding service to the City, having served Ward 3 from 1991 to 1993. Mrs. Leahy also received an Official Certificate from the Kansas State House of Representatives in recognition of her service to the City.

Plaques, Keys to the City, and Official Certificates will be presented to retiring Councilmembers Charles Hammond (Ward 2, 1987-1993) and Jimmy Lin (Ward 4, 1985-1993) at a later date.

1611 OATHS OF OFFICE ADMINISTERED TO MAYOR-ELECT AND COUNCILMEMBERS-ELECT:
Council Minutes  
Tape No. 270  
April 19, 1993

Mayor Marcia Rinehart; Douglas Moore, Ward 1; Marnie S. Clawson, Ward 2; Peggy J. Dunn, Ward 3; and Doug Patterson, Ward 4.

1876 ROLL CALL OF NEW COUNCIL: LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Rasmussen absent.

1917 INTERLOCAL AGREEMENT WITH OVERLAND PARK FOR THE IMPROVEMENT OF NALL AVENUE FROM 369 FEET SOUTH OF 119TH STREET TO THE CENTERLINE OF 135TH STREET, AND CERTAIN PORTIONS OF 127TH STREET FROM THE CENTERLINE OF NALL AVENUE TO 500 FEET WEST OF NALL AVENUE: Leawood’s share of the costs will be approximately $629,036 plus the utility relocation and right-of-way costs. On motion of LaHue, seconded by Moore, Council unanimously approved the agreement.

2089 OTHER BUSINESS: Nancy Stephan, 12318 Pawnee Lane, told the Council that on March 5th, the Fire Department was called to her home by a neighbor who had noticed smoke coming from the chimney. The Stephan’s were out of town. The front door was damaged because forcible entry was deemed necessary. Mrs. Stephan felt such damage was unnecessary, and requested the City reimburse her for damages. Her insurance company will not pay a claim because there was a "friendly" fire in a self-contained stove. She checked with 2 other insurance companies, and they indicated that they too would deny such a claim. Mrs. Stephan felt there was no emergency on her property; there was no smoke, and the windows and walls were not hot. There was no reason to break down an expensive front door; entry could have been made easier at another entrance.

Fire Chief Strack stated that firefighters had no choice but to make entry to find the source of the smoke. It is standard procedure to enter the front door. Time would be lost looking for other entrances.

The City Attorney stated that claims of this nature are governed by the tort claims act with a process for evaluating claims so the Council can make a final decision. Mrs. Stephan should formally present a claim with substantial evidence. Councilmember Patterson said he would like to see a written declination of coverage from the insurance company that they won’t pay the claim, and indicate the deductible; it’s hard to believe the damages are not covered.

Mrs. Stephan should file a formal claim with the City. The City Attorney is willing to provide her a copy of the tort claims statute.

2900 GOAL SETTING SESSION: Scheduled for Monday, May 10th, 6:00 P.M., conference room.

TOUR OF CITY: Scheduled for Monday, April 26th, 5:00 P.M.

3286 The Mayor received a letter from a physician requesting that Council consider a total ban on smoking in certain public places, especially restaurants. Councilmember Moore does not want to consider this issue; he feels there are already too many government regulations.
9:20 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 9615 Lee Boulevard, at 8:30 P.M., Monday, April 26, 1993. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson, for the purpose of considering a resolution to schedule a public hearing on the formation of an improvement district for the improvement of 143rd Street from Mission Road to 1,320 feet east, and to consider any other business which might come before the Council. Councilmembers Douglas Moore and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Terry Uhl, City Engineer.

RESOLUTION NO. 1105 CALLING FOR A PUBLIC HEARING ON THE ADVISABILITY OF THE IMPROVEMENT OF 143RD STREET FROM MISSION ROAD TO 1,320 FEET EAST BY CONSTRUCTING A TWO-LANE UNDIVIDED ROADWAY WITH CONCRETE CURB AND GUTTER: Adopted unanimously on motion of LaHue, seconded by Dunn. Attached as part of the record.

8:40 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer 
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 271

# 20 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, May 3, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

29 The agenda was approved unanimously on motion of Moore, seconded by Giblin, after the addition of a discussion of bids received and opened on April 30, 1993, for the construction of a public golf course located in the vicinity of 151st and Mission Rd. (with the possibility of an executive session following the discussion).

CITIZEN COMMENTS: None.

72 PROCLAMATIONS: The Mayor proclaimed:
1. May 2-8, 1993, as "Exceptional Children's Week";
2. May, 1993, as "National Bicycling Month", and May 27, 1993, as "Bike to Work Day";
4. May, 1993, as "ALS Awareness Month";
5. May, 1993, as "Mental Health Month".

95 CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Dunn:
1. Minutes of the April 19, 1993 Council meeting;
2. Minutes of the April 26, 1993 Special Council meeting;
3. Renewal of Cereal Malt Beverage License - Hallbrook Country Club, 11300 Overbrook Rd.;
5. Mayor's committee appointments (attached for the record);
6. Purchase (through cooperative purchasing with Kansas City, Missouri) of a single axle truck chassis for the Public Works Dept. from KCR International Trucks of Kansas City, Missouri, in the amount of $35,948.00.

102 MAYOR'S REPORT: Reminded Council that a public hearing regarding the improvement of 143rd St. from Mission Rd. to 1,320 feet east will be held May 10th at 6:00 P.M. in the Council Chamber, followed by a goal setting session in the conference room of the Municipal Office Building.
April 30, 1993

TO: City Council
FROM: Mayor Rinehart
SUBJECT: Committee Appointments

I submit the following names for committees and commissions for your consideration:

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<tr>
<th>Reappointment</th>
<th>New</th>
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<tbody>
<tr>
<td>Arts Committee</td>
<td>Mike Eggleston (1996)</td>
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<td></td>
<td>Loretta Allebach (1996)</td>
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<td></td>
<td>Marnie Clawson (Council liaison) (1994)</td>
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<td>Board of Zoning Appeals</td>
<td>Sally Reicher (1996)</td>
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<td>Wes Welch (1996)</td>
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<td>Budget &amp; Finance (1994)</td>
<td>Chuck Sipple</td>
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<td>Jerry Underwood</td>
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<td>Sandra Pennington</td>
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<td>Dale Putman</td>
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<td>Doug Viehland</td>
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NOTE: This committee will consist of the entire Governing Body as a committee of the whole plus the names listed above. The Mayor will chair the committee.

Building Code Board of Appeals

| Harold Mitts (1996)            |
| Wes Welch, Chr. (1994)         |

City Hall Dedication Committee

| Marnie Clawson, Chr.           |
| Doug Patterson                 |
| Marcia Rinehart - ex officio   |

NOTE: Other members to be appointed this summer.
Committee appointments
April 30, 1993

Debt Management Advisory Council
(Jo. Co.) - Leawood rep. Leawood rep. Lou Rasmussen

Emergency Preparedness Coordinator
Bettie Bridges

Golf Course Development Committee
Doug Moore
Louis Rasmussen

Leawood Historical Commission
Jody Craig, Chr.
Graham Giblin - Council liaison
Marcia Rinehart - ex officio

NOTE: Other members to be appointed this summer.

Parks & Recreation Advisory Board
Jan Pickler (1997)
Dr. Greg Peppes (1997)

Plan Commission
Thomas M. Cohen (1996)
Jeannine Fox (1996)
Curry Miles (1996)

Property Maintenance Code Appeals Board
Richard Webber (1995)
Paul Converse (1995)
Shirley Davidson (1995)
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<tr>
<th>Committee appointments</th>
<th>April 30, 1993</th>
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<tr>
<th>Public Building Commission</th>
<th>Reappointment</th>
<th>New</th>
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<tr>
<td></td>
<td>John Campbell (1994)</td>
<td>(to replace Leahy)</td>
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<td>Doug Patterson (1995)</td>
<td>(to replace Lin)</td>
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<tr>
<th>Public Officer for Property Maintenance Code</th>
<th>Bob McKay</th>
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<tr>
<th>Public Works (1994)</th>
<th>Graham Giblin</th>
<th>Ron LaHue, Chr.</th>
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<td>Laurence Hanna</td>
<td>Peggy Dunn</td>
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<td>Dennis Miller</td>
<td>David Belpedio</td>
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<td>Rhonda Reems</td>
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<th>Sister City Committee</th>
<th>Dick Beechwood</th>
<th>Joseph Fitzpatrick</th>
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<td>Sue Dickey</td>
<td>Alice Putman</td>
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<td>Jill Weiss</td>
<td>Dick Reicher</td>
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<td>Ann Leitner</td>
<td>Peggy Dunn (Council liaison)</td>
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<td>Norma Brooks</td>
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<td>Nancy Garland, Co-Chr.</td>
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<td>Teresa Chien, Co-Chr.</td>
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<td>Aileen Boschert</td>
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NOTE: The Golf Course Design Review Committee will be appointed this summer upon determination of a job description of the committee.
124 REQUEST FOR TEMPORARY SHORT-TERM SPECIAL USE PERMIT - SEASONAL CONCEPTS, RANCHMART SHOPPING CENTER: to allow a tent in the south parking lot for promotional sales May 26-June 1 (Memorial Day), and June 30-July 6 (Independence Day). On motion of Moore, seconded by Clawson, Council unanimously approved the permit with stipulations.

155 RESOLUTION NO. 1106 OF FINDING AS TO THE ADVISABILITY AND AUTHORIZING THE IMPROVEMENT AND CONSTRUCTION OF STATE LINE ROAD, PHASE 2: Adopted unanimously on motion of LaHue, seconded by Campbell. Attached as part of the record.

254 AUTHORIZATION OF PAYMENTS TO PROPERTY OWNERS FOR EASEMENTS AND RIGHTS-OF-WAY - CONDEMNATION PROCEEDINGS FOR STATE LINE ROAD IMPROVEMENTS, PHASE 2: Fern Stultz, 11420 State Line, $19,900; William Davis, 11316 State Line, $32,600. These costs will be shared equally by Leawood, Johnson County, and Kansas City, Missouri. On motion of LaHue, seconded by Campbell, Council unanimously authorized the payments.

350 APPROVAL OF 1993-1994 HEALTH CARE PLAN FOR FULL-TIME CITY EMPLOYEES: Staff recommended that Council approve agreements with Blue Cross and Blue Shield and with Humana Prime Health as presented by staff for the period July 1, 1993 to July 1, 1994. Blue Cross/Blue Shield quoted a 6% rate increase for their three plans, and Humana quoted a 10% rate increase. Blue Cross/Blue Shield also offered a Premium Reserve Account as an addition to the City's renewal.

Councilmember Clawson felt that wording should be added to the Premium Reserve Account contract indicating that if the City's claims were too high and the City ran a deficit, no deficit would be owed Blue Cross/Blue Shield upon termination of BC/BS coverage.

Councilmember LaHue moved to approve the agreements, with the wording suggested by Mrs. Clawson added to the BC/BS PRA contract, seconded by Dunn. Motion carried; LaHue, Clawson, Moore, Dunn in favor; Giblin opposed (he is not convinced the rates are the best); Campbell abstained to avoid the appearance of a conflict of interest; Patterson abstained to avoid a conflict of interest.

665 APPROVAL OF APPROPRIATION ORDINANCE NO. 708: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

682 OTHER BUSINESS: Councilmember Clawson advised the Council that her constituents Mr. and Mrs. Greg Sherf, 9725 Overbrook, are very concerned about a deteriorating storm sewer which runs through their property, which has created a hazardous situation. It does drain a City street, however, there is no record to indicate that it is a City storm sewer. It is on private property, and no formal easements exist. Kroh Brothers probably installed the pipe years ago; there could be 100 or more of these storm sewers in the City. Council discussed the City's legal right to go on private property, and the question of where the funding for these repairs/reconstructions would come from.

The City Attorney has stated in the past that if the City obtains
Council Minutes
Tape No. 271
May 3, 1993

Councilmember LaHue moved to instruct staff to budget in 1994 for storm sewer repairs on the Sherf property provided the City can obtain easements, seconded by Campbell. Councilmember Clawson moved to amend the motion to state that staff find funding within the 1993 budget, seconded by Dunn.

Motion to amend carried unanimously. Councilmember LaHue's motion as amended carried unanimously.

BIDS FOR THE CONSTRUCTION OF A PUBLIC GOLF COURSE LOCATED IN THE VICINITY OF 151ST AND MISSION RD.: All bids received and opened on April 30, 1993, exceeded the project estimate of $3,816,473.00. On motion of Moore, seconded by Giblin, Council unanimously rejected all bids.

On motion of Giblin, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege. Council convened in executive session at 8:27 P.M., same members present.

8:50 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
The purpose of the hearing was to determine the advisability of improving 143rd Street from Mission Rd. to 1,320 feet east.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

The City is requiring the Blue Valley School District to improve 143rd St. from a 2-lane asphaltic roadway to a collector standard prior to the August, 1993 opening of the new Prairie Star Elementary School at 143rd and Mission Rd. The school district asked the City to help them establish an improvement district for the construction of the road. They do not own enough frontage to initiate a petition for an improvement district. To assist the district, the Council adopted Resolution No. 1105 on April 26th calling for this public hearing on the advisability of the improvement. One other property owner, John Irwig, will be assessed if the improvement district is formed.

The City Administrator stated that the Irwig property, southeast corner of 143rd and Mission, was zoned single family residential in 1987 for the Hillsboro subdivision. At that time, there were agreements made concerning the costs of the improvements of Mission Road and 143rd Street as they abutted the subdivision. Because 6 years have passed since zoning with no development occurring, the validity of the requirements for road improvements in 1987 was reviewed by staff. The Planning Director sent a letter to Mr. Irwig on March 25, 1993, stating it was staff's opinion that the property would be subject to current subdivision requirements in terms of the amount the property would be assessed for roadway improvements. Staff and Mr. Irwig discussed the possibility of his participation in a benefit district with the school district. Mr. Irwig was not inclined to participate. Because there was concern that the road be completed prior to the opening of school, staff requested that the City Council initiate a benefit district by holding this hearing.

Marvin Rainey, attorney representing John Irwig, addressed the Council. He wanted justification of the policy for assessing $130 per front foot. He didn't believe residential property currently used for agricultural purposes, property that has not been improved and is not income producing except for a minimal amount each year from agriculture, should be assessed this large and unreasonable cost. He questioned why the property would be assessed prior to being developed. He said it's been the City's policy in past years to defer assessments levied against undeveloped residential property until the time that the property is developed. Mr. Irwig is working with a developer now, but
doesn't know when, if ever, the property will be developed. The proposed assessment is unreasonable; the property doesn't produce enough income for Mr. Irwig to continue to carry the property with such an assessment.

When the property was zoned residential in 1987, Mr. Irwig understood he would be assessed $80 per front foot at the time the property was developed. He also agreed to pay $43,900 for street or storm sewer improvements at the time of development. Mr. Irwig understood that all improvements at this time would be paid for by the Blue Valley School District, that no assessments would be necessary, and that improvements would be minimal. Mr. Irwig is opposed to an improvement district at this time regardless of the amount of the assessment.

Mitch Lambeth of Campbell, Barber, Lambeth Engineers spoke for Mr. Irwig about the design of the roadway. He asked why 143rd Street was being widened out only in front of the school, and was that widening essentially for the benefit of the school. The storm sewer improvements appear to benefit only the school. He asked who would replace Mr. Irwig's fence which would be torn out for the construction.

Mr. Irwig told the Council that he felt the City was breaking earlier agreements.

The Public Works Director verified that storm drainage improvements at 143rd and Mission will be paid for entirely by the school district. Mr. Irwig would pay for road drainage improvements. Mr. Irwig said he could find no evidence of that; he was told that the school district made an agreement with the City whereby the district would improve the entire intersection and he would not be involved in that. Mr. Irwig's engineers told him that the improvement costs were heavily padded.

The City Administrator stated that owners of development property are required by subdivision regulations to pay one-half the cost of a collector street as it abuts their property. Therefore, Mr. Irwig would pay one-half the cost of improving Mission Rd. and one-half the cost of 143rd Street as they abut his property, and the school district would pay one-half the cost of a collector. In 1987 abutting property owners were required to pay $80 per front foot. Costs have risen since then. The $130 per front foot today still does not cover the cost of the improvement, and staff has been talking about raising the fee.

Under state statute governing the planning process, the City can assess Mr. Irwig the same as other developers ($130 per front foot) because so much time has passed since rezoning and preliminary plat approval with no development occurring.

Councilmember Patterson stated he was convinced that the school district was going to pay for all improvements. He has questions for the school board; they seem to be changing the deal. He asked if Council could continue the hearing until Monday, May 17th, and ask school district representatives to attend. Mr. Patterson perceives a change in the district's attitude and a change in plans from their commitments of only a year and a half ago. The City Administrator stated it was his impression that the board has not changed anything. The City is requiring that the road be improved in conjunction with the construction of the new elementary school for safety reasons. That's the reason the school district finally agreed to the $130 per front foot assessment in accordance with City ordinance, and to build the road to
2145 a 36-foot wide roadway that could just be widened in the future to 4 lanes, and not to do temporary improvements.

2252 Councilmember Moore moved to adjourn the public hearing, seconded by LaHue. Motion carried; LaHue, Campbell, Clawson, Moore, Dunn in favor; Giblin, Rasmussen, Patterson opposed.

2300 The hearing was closed at 7:20 P.M.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 273

# 20 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, May 17, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. John R. Campbell, Jr. was absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

29 The agenda was approved unanimously on motion of Giblin, seconded by Moore.

CITIZEN COMMENTS: None.

56 PROCLAMATION: The Mayor proclaimed June 8, 1993 as "Kansas City Cancer Golf Classic Day".

59 CONSENT AGENDA: The April 1993 Police Department report, an assignment to the Property Maintenance Code Board of Appeals, and a citizen request relating to sidewalk construction on 121st Street in Oxford Hills subdivision, were removed for further discussion. The following were approved unanimously on motion of LaHue, seconded by Dunn:
   1. Minutes of the May 3, 1993 Council meeting;
   2. Minutes of the May 10, 1993 Public Hearing on the advisability of improving 143rd Street from Mission Road to 1,320 feet east;
   3. Departmental reports.

90 The Police Department report for April 1993 indicated 802 year-to-date security alarm calls. Responding to a question from Councilmember Moore, Police Chief Cox stated that 1-2% of those calls were actual alarms. On motion of Moore, seconded by LaHue, Council unanimously approved the April 1993 Police Department report.

117 Councilmember Moore stated that the assignment to the Property Maintenance Code Board of Appeals was related to his question about the number of security alarm calls in the Police Department report, and that no further discussion was necessary. On motion of Moore, seconded by Rasmussen, Council voted unanimously to assign an appeal hearing of an assessment for excessive false alarms at the Perry residence, 2800 W. 118th St., to the Property Maintenance Code Board of Appeals.

132 The Public Works Department received a petition against the planned construction of sidewalks along 121st Street in the Oxford Hills subdivision. Staff recommended construction; the proposed sidewalk is part of the recommended "safe school route" for Leawood Elementary and Leawood Middle Schools, and was included in the 1993 Public Works Program approved by the City Council on September 21, 1992.
Public Works would like construction completed by the opening of school this fall.

Councilmember Dunn received several phone calls from constituents opposed to the construction. Noel Ashworth, 3405 W. 121st Street in Oxford Hills, said he was assured at the Oxford Hills Homes Association meeting in late 1991 that any proposal to construct sidewalks in the subdivision would be presented to the Association’s membership; that has not occurred.

Councilmember Patterson felt staff should investigate the need for the sidewalks again since he has seen very few children walking on 121st Street. He said that Oxford Hills is a "mature" neighborhood; sidewalk construction would have a major impact on landscaping - many trees might have to be removed.

Councilmember LaHue felt 121st Street to be an appropriate route for children attending the Leawood Middle School. The City should proceed with the planned sidewalk construction on the south side of the street going west at least to the intersection of 121st and Wenonga. Dr. LaHue said that the City would pay all construction costs, would not form a benefit district, and no easements would be required.

Councilmembers Giblin and Moore felt the City should wait to hear from the Oxford Hills Homes Association. The Mayor felt it imperative that the homes association review the construction plans. She thought the plans would show that there would be less disruption to landscaping than homeowners initially thought; the sidewalk would be constructed around trees.

Councilmember Dunn moved that the project be deferred until the Oxford Hills Homes Association meets and expresses approval or disapproval of the project, seconded by Rasmussen. Councilmember LaHue felt that pedestrian safety is the responsibility of the City, not of the homes association; the City has an obligation to maintain safety.

Councilmember LaHue moved to amend the motion to add that the homes association’s opinion or response be conveyed to the Council by the June 21st Council meeting, seconded by Moore. Councilmember Rasmussen objected to the wording. He felt the City would be saying to those most adversely affected by the project that they are constituted in terms of the time they have to respond to the Council. The word "hopefully" would be more appropriate. Otherwise, the City would be saying that if the homes association can not meet, there is an assumption of approval, and he doesn’t feel that is correct. Motion to amend carried; LaHue, Clawson, Moore, Dunn in favor; Giblin, Rasmussen, Patterson opposed.

Mrs. Dunn’s motion as amended to defer the project carried unanimously.

MAYOR’S REPORT: Councilmember Clawson will represent Leawood at an informational meeting on June 1st at which the City of Kansas City, Missouri will announce plans for the Kansas City "City at Peace Festival" to be held October 9, 1993. This event is a follow-up to the 4-day "Urban Peace Summit" held in Kansas City in April, 1993 by gang members from all over the United States.

The Council received information on suggested 1994 membership fees for the County’s Debt Management Awareness (Advisory) Council.
Council Minutes
Tape No. 273

May 17, 1993

Councilmember Rasmussen moved that the Council instruct the City Administrator to include Leawood's membership fee of $2500 in the 1994 budget, seconded by Moore. Motion carried unanimously.

RESOLUTION NO. 1107 SETTING OUT FINDINGS AND DETERMINATIONS ON THE VISIBILITY OF IMPROVING 143RD STREET FROM MISSION ROAD TO 1,320 FEET EAST BY CONSTRUCTING A TWO-LANE UNDIVIDED ROADWAY WITH CONCRETE CURB AND GUTTER: Responding to a question from Councilmember Patterson, Dr. Gary Gordon, Director of Personnel and Planning for the Blue Valley School District, said that the district's contributions for improvements to 143rd Street in excess of the $130/front foot should be credited to the school district's share of future Mission Rd. improvement costs.

Councilmember Rasmussen asked who would pay the costs of interim improvements if they were done. Dr. Gordon said the school district would pay for those improvements on the north side of the street, then when the City constructed the street, the district would be given credit for the interim improvements against the $130 because they hoped the interim improvements would be permanent in nature. Dr. Gordon said it was the school district's understanding at the time of final plat approval that the $130/front foot was the district's outstanding cost, that they would contribute up to that amount. It was not their understanding that they would pay for interim improvements that would be totally lost because they believed at that time that they should and could construct the street and that $130 was their fair share. The district's original proposal was to widen the north side of the street; interim improvements were suggested later on.

It was confirmed that drainage improvements underneath Mission Rd. at the intersection of 143rd and Mission to drain the school property would be paid for by the school district, and that those costs are not part of the $130/front foot.

Councilmember LaHue felt it appropriate to form a benefit district at $130/front foot but not include any drainage improvements related to the school property on the north side of 143rd Street, and appropriate that Mr. Irwig not be held responsible for the costs of future improvements at 135th and Mission Rd. Dr. LaHue moved to adopt the resolution with the addition of a statement that drainage improvements required exclusively for drainage of the school property will be the school district's financial responsibility, and that Mr. Irwig will be relieved of the $43,900 which was to have gone towards improvements at 135th and Mission Rd. Motion seconded by Rasmussen.

City Administrator Garofano said the City would prefer to have right-of-way on the south side of 143rd Street to build, even to collector standards. It is possible to build the roadway to the north within the current right-of-way (the City's right-of-way plus the right-of-way the school district platted to the City) without taking additional right-of-way on Mr. Irwig's property. Future widening to 4 lanes will be done towards the south. Normally, a developer is required to plat right-of-way at the time of final platting. The problem now is that the City is ahead of any Irwig development in trying to build the street.

Public Works Director Brandt stated the City can build the street similar to 119th Street which was widened only on the north side. The
City would like to build the street based on the center of the road, but if the City is unable to negotiate with or obtain easement from Mr. Irwig, the City can still build the street within the right-of-way it now owns, confirming Councilmember Patterson's understanding that no right-of-way would be taken from Mr. Irwig. Without Mr. Irwig's right-of-way, there would be a misalignment on east along 143rd Street, but that would be tapered in.

Planning Director McKay confirmed that right-of-way would be dedicated to the City at the time of final platting of the Irwig property.

Councilmember Patterson moved to amend the motion to provide that Mr. Irwig would pay an assessment of $90/lineal foot, that assessment subject to his agreement to dedicate right-of-way along the south side of 143rd Street; that the City-at-large would pay not more than 23% of the project costs, the school district to pay the balance; and that Mr. Irwig would still be responsible for the $43,900 on a pay-as-you-go basis. Motion seconded by Dunn. Motion to amend failed; Giblin, Patterson in favor; LaHue, Clawson, Moore, Dunn, Rasmussen opposed.

Dr. LaHue's motion to adopt the resolution carried; LaHue, Clawson, Moore, Dunn, Rasmussen in favor; Giblin, Patterson opposed.

3132

RESOLUTION NO. 1108 AUTHORIZING THE IMPROVEMENT AND CONSTRUCTION OF 143RD STREET FROM MISSION ROAD TO 1,320 FEET EAST BY CONSTRUCTING A TWO-LANE UNDIVIDED ROADWAY WITH CONCRETE CURB AND GUTTER.

Councilmember LaHue moved to adopt the resolution with the addition of a statement that drainage improvements required exclusively for drainage of the school property will be the school district's financial responsibility, and that Mr. Irwig will be relieved of the $43,900 which was to have gone towards improvements at 135th and Mission Rd. Motion seconded by Moore and carried; LaHue, Clawson, Moore, Dunn, Rasmussen in favor; Giblin, Patterson opposed.

4034

9:45 P.M. Recess. Council returned to regular session at 9:50 P.M., same members present.

INTERLOCAL AGREEMENT WITH WATER DISTRICT NO. 1 FOR RELOCATION OF A WATER MAIN ADJACENT TO STATE LINE ROAD GENERALY LOCATED BETWEEN 113TH STREET AND 123RD STREET - required for State Line Road improvements, Phase 2: The agreement addresses payment for the relocation and payment for any future relocation which might be initiated by the City. The estimated project cost is $38,510.00. On motion of Rasmussen, seconded by Moore, Council unanimously authorized the Mayor to execute the agreement.

4677

CONTRACT FOR TRAFFIC SIGNAL MAINTENANCE: On motion of LaHue, seconded by Moore, Council unanimously authorized a contract with the low bidder Total Electric Company of Edwardsville, Kansas, based on unit prices rather than a total amount.

4733

CONTRACT FOR STREET LIGHT MAINTENANCE: On motion of LaHue, seconded by Dunn, Council unanimously authorized a contract with the low bidder Total Electric Company of Edwardsville, Kansas, based on unit prices rather than a total amount.
ORDINANCE AUTHORIZING THE IMPROVEMENT OF MISSION ROAD FROM 151ST STREET TO THE SOUTHERN CITY BOUNDARY: consideration deferred until after the executive session.

ORDINANCE AUTHORIZING THE IMPROVEMENT OF STATE LINE ROAD, PHASE 2, FROM APPROXIMATELY 119TH STREET TO APPROXIMATELY 123RD STREET: consideration deferred until after the executive session.

ORDINANCE NO. 1341 AUTHORIZING TEMPORARY NOTES; SERIES 93L, PROJECT 135: GOLF COURSE LAND; $700,000: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1342 AUTHORIZING TEMPORARY NOTES; SERIES L.I.D. 92-4-93I, PROJECT 130: TOWN CENTER DRIVE CONSTRUCTION; $600,000: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1343 AUTHORIZING TEMPORARY NOTES; SERIES L.I.D. 92-3-93H, PROJECT 132: STATE LINE ROAD IMPROVEMENTS, PHASE 1; $300,000: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1344 AUTHORIZING TEMPORARY NOTES; SERIES 93F, PROJECT 115: MISSION ROAD IMPROVEMENTS, 103RD STREET TO COLLEGE BOULEVARD; $200,000: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1345 AUTHORIZING TEMPORARY NOTES; SERIES 93G, PROJECT 124: 135TH STREET (K-150) IMPROVEMENTS, STATE LINE ROAD TO NALL AVENUE; $200,000: The ordinance was considered and passed on motion of Moore, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1346 AUTHORIZING TEMPORARY NOTES; SERIES L.I.D. 93-2-93K, PROJECT 128: OLD KENNETH ROAD IMPROVEMENTS; $200,000: The ordinance was considered and passed on motion of Giblin, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

APPROVAL OF APPROPRIATION ORDINANCE NO. 709: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

EXECUTIVE SESSION: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss matters under attorney-client privilege.
Council Minutes
Tape No. 273

May 17, 1993

5352 10:15 P.M. Council convened in executive session, same members present.

10:45 P.M. Council returned to regular session, same members present.

5369 ORDINANCE NO. 1347 AUTHORIZING THE IMPROVEMENT OF MISSION ROAD, A MAIN TRAFFICWAY, FROM 151ST STREET TO THE SOUTHERN CITY LIMITS, A DISTANCE OF APPROXIMATELY ONE-HALF (1/2) MILE: The ordinance was considered and passed on motion of LaHue, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

5508 ORDINANCE NO. 1348 AUTHORIZING THE IMPROVEMENT OF STATE LINE ROAD, PHASE 2, A MAIN TRAFFICWAY, FROM A POINT BEGINNING APPROXIMATELY 50 FEET NORTH OF THE CENTERLINE OF 119TH STREET AND ENDING 206.47 FEET SOUTH OF THE CENTERLINE OF 123RD STREET: The ordinance was considered and passed on motion of Dunn, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

5566 ORDINANCE NO. 1349 AUTHORIZING TEMPORARY NOTES; SERIES 93M, PROJECT 138; MISSION ROAD IMPROVEMENTS SOUTH OF 151ST STREET; $1,000,000: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

5593 ORDINANCE NO. 1350 AUTHORIZING TEMPORARY NOTES; SERIES L.I.D. 93-1-93J, PROJECT 134; STATE LINE ROAD IMPROVEMENTS, PHASE 2; $700,000: The ordinance was considered and passed on motion of Rasmussen, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

5617 10:50 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 274

# 50 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, June 7, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clavson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

58 The agenda was approved unanimously on motion of Campbell, seconded by Moore, after deletion of a contract for construction of a municipal golf course, and removal from the Consent Agenda of Councilmember Patterson's request for staff research on questions relating to private streets (request to be discussed in executive session at the end of regular business).

CITIZEN COMMENTS: Jack Bohm, 11300 Fontana Lane in Brittany Court, did not realize when he purchased his home that the streets in his subdivision are private; it is not indicated on the plat or in subdivision covenants. He is opposed to private streets; they're becoming more and more expensive to maintain, and he is being taxed twice for street maintenance - through his homes association and through property taxes. He suggested that the Council could amend City ordinance to make the existing private streets (approximately 7 miles of streets) public and start maintaining them without their being built to City standards, and to prevent the construction of private streets in the future. When homes associations are unable to maintain the streets, the City will deteriorate.

Barton Cohen, 12617 Briar, spoke on behalf of residents of Patrician Woods Townhouses and Patrician Woods Villas. He asked that the City live up to the dedication of their streets to the City and maintain those streets. The City accepted the streets as public and it's so stated on the plats.

466 John and Charlene McGuire reside at 12609 Ensley Lane in Leawood South. They strongly object to the construction of a 20-foot high, 15-foot long gazebo in the backyard of a neighbor in Royse subdivision directly behind them. Plans have been approved by the Planning Department. Also, a longtime drainage problem which affects the McGuires has not been resolved. They requested that Councilmembers visit the property before any construction approvals are granted.

Gary Hart, 12844 Sagamore in Leawood South, said that Sagamore in his area is used as a speedway; it's very hazardous. He urged the Council to consider making design changes when the street is scheduled for rehabilitation to make the street safer, to curtail hazardous driving.

Mr. Hart was also concerned about the ordinance relating to 6-foot
fences. He feels that the strictness of the ordinance or the complicated wording sometimes makes it difficult for residents to make changes on their property, changes which he believes do not hurt aesthetics. Section 2-7.3(e) of the "Leawood Development Ordinance" addresses fences and walls up to 6 feet in height permitted adjacent to patios and/or decks to provide privacy. If he built a deck and put a 6-foot fence around it, his neighbors would be looking at an 8-foot structure. This would be permitted by ordinance. Mr. Hart said he would like to build a 7-foot structure and not build a deck, but supposedly that would be a violation of the ordinance because it would be more than 6 feet. Ordinance wording could be interpreted many ways. He feels he should be entitled to build a lower structure that would be less objectionable to neighbors, more suitable to the existing property and less expensive.

875 David Kaplan, 11009 Alhambra, distributed a letter he received from HDR Engineering, design engineers for Mission Rd. improvements, I-435 to College Blvd. Longwood Forest residents will be working with HDR on their concerns listed in the letter. Landscaping will need to be addressed in any design criteria consideration this evening.

968 Tony Kostusik, President of the Longwood Forest Homes Association, said that 25 association residents are in favor of the sidewalk on the west side of Mission Rd. (I-435 to College Blvd.), 13 opposed.

1000 **PROCLAMATION:** The Mayor proclaimed June 6-12, 1993 as "National Safe Boating Week".

1004 **CONSENT AGENDA:** The minutes of the May 17, 1993 Council meeting, request for approval of partial roof replacements for Fire Stations 1 and 2 and the Police/Court Building, and a pay request from Wilson Plumbing Co. for construction of the Town Center water line (approximately 117th and Roe Ave.), were removed for further discussion.

Minutes: Councilmember Patterson requested clarification of a portion of the May 17th Council meeting minutes relating to the improvement project along Mission Rd. and 143rd St. (page 4134). He understood it was the city's position that this proposed improvement would not involve the acquisition of any right-of-way from John Irwig. He felt that should be reflected in the minutes. Mr. Patterson said he remembered that Mr. Irwig would convey land in lieu of right-of-way on the south side of 143rd St., and that staff said 143rd would be moved north to avoid acquiring any right-of-way or land from Mr. Irwig.

Planning Director McKay said it was also specified that Mr. Irwig would be required to dedicate right-of-way at the final platting of his property.

Councilmember LaHue moved to approve the minutes and request the City Clerk review the meeting tape and reflect what was said on this matter for clarification. Motion seconded by Moore and carried unanimously. (Note: City Clerk added 3 paragraphs, underscored, to the May 17, 1993 Council meeting minutes, tape meter #2866.)

1111 **Roof replacements:** Responding to a question from Councilmember Giblin, Finance Director Malnicof confirmed that roof replacement is needed in addition to the replacement needed due to hail damage; the City received $3250 from insurance coverage for hail damage to the
north fire station and that will be applied towards the total repairs.

The City does not have to put projects out for bid since it is a city of the second class. Councilmember Giblin felt the City was treating its residents as second-class citizens by giving City business to non-Kansas contractors (in this case, Industrial Roofing of Lee's Summit, Missouri). The City should keep tax dollars in the City, the County, or at least the state of Kansas. Mr. Giblin moved to put this project out for bid rather than accept staff recommendation that Industrial Roofing do the work, seconded by Patterson.

Mr. Malnicof explained that Industrial Roofing had been selected because of their previous roof installation on subject facilities. They have always responded to any need for repairs and accomplished repairs within the past few weeks at no additional charge. They installed the new portions of these roofs, and to use another installer would cause problems should anything happen in the future where responsibility for repairs could be controversial due to different parts of the roofs being installed by different companies.

Mr. Giblin's motion failed; Giblin, Rasmussen, Patterson in favor; LaHue, Campbell, Clawson, Moore, Dunn opposed.

Councilmember LaHue moved to accept the proposal from Industrial Roofing, Inc. in the amount of $16,872 for the fire stations and $10,210 for the police building, based on the fact that they were low at the time they submitted an amount for budgeting purposes. Motion seconded by Campbell and carried; LaHue, Campbell, Clawson, Moore, Dunn in favor; Rasmussen, Giblin, Patterson opposed.

1359 Pay request: After a question from Councilmember Giblin and discussion of an amount withheld and the amount of work completed, and on motion of Clawson, seconded by LaHue, Council unanimously approved Pay Request No. 1 for $12,683.70 to Wilson Plumbing Co. for water line construction, Town Center Drive.

1500 RESOLUTION NO. 1109 APPROVING THE REVISED PRELIMINARY SITE PLAN FOR LEAWOOD SOUTH, TRACTS G AND H, PARCEL I, LOCATED ON CAMBRIDGE ROAD: Adopted unanimously on motion of Moore, seconded by LaHue. Attached as part of the record.

1590 MAYOR'S REPORT: Thomas M. Cohen resigned from the Plan Commission effective May 26th. His term would have expired in 1996. Any Plan Commission interest forms/applications should be given to the Mayor by June 16th.

1684 The City's latest Drug Abuse Resistance Education (DARE) Program grant application was denied by the State of Kansas. Police Chief Cox said it appears the State feels the City has been so successful with its program that it should be able to take care of itself. The Mayor hopes the Council will find a way to continue the program. Councilmember Rasmussen was appalled at the denial, and feels the City was suckered into a very worthwhile program and then abandoned to its own resources. This abandonment sends a message that drug education is not important. Mr. Rasmussen moved that the Mayor write a letter to the Governor, particularly the Governor's Office of Substance Abuse, expressing the Governing Body’s displeasure with the State's position. Motion seconded by Moore and carried unanimously. Police Chief Cox
feels the City was singled out for the funding cutoff.

Councilmember Clawson attended Kansas City, Missouri's "City at Peace Festival" kickoff on June 1st. (See May 17, 1993 Council minutes, Mayor's report.) The Festival will be held on the south lawn of the Liberty Memorial the first or second weekend in October, and will be aimed at high school and middle school students and their families. The "City at Peace" is a performing troop made up of students of different ethnic and geographic backgrounds. The event will bring communities together in an effort to thwart crime and stem violence.

2050 DESIGN CRITERIA FOR MISSION ROAD, I-435 TO COLLEGE BOULEVARD: Lighting, landscaping plans, and sidewalks need to be resolved.

Councilmember Rasmussen was concerned about the piecemeal approach to Mission Rd. from basically 89th St. to 119th St.; the City hasn't treated it as a total package. From 89th St. to Cure of Ars Church, there's a sidewalk on the east side of Mission; at Cure of Ars, a sidewalk on private property in need of repair; Cure of Ars to 95th St., no sidewalk; 95th St. to 103rd St., hopefully Overland Park will construct a sidewalk on the east side; 103rd St. to College Blvd., the proposal is for a sidewalk on the west side, not on the east side; then there is the Greenway. It seems there has been a different landscape architect for each section. Mr. Rasmussen said there are no City standards for construction of a "parkway", but Tomahawk Creek Parkway was constructed between College Blvd. and 119th St. with no curbs and gutters and no sidewalks. He felt the City should try to maintain the park-like atmosphere in the area of I-435 to College Blvd., maintain as much of the recreation character as possible. He suggested the City use "parkway" standards (no curbs and gutters, no sidewalks) on the Mission Rd. extension and call it Tomahawk Creek Parkway. The City Administrator questioned whether there would be enough land for shoulders and ditches on the Mission Rd. extension to build without curbs and gutters.

Councilmember Rasmussen moved to approve the design criteria with the deletion of Type "B" curbs and gutters, deletion of the proposed 5-foot sidewalk on the west side of Mission (none was planned for the east side), with the addition that the landscaping should be in conformance with the landscape architect's recommendations and be compatible with the park-like setting and design, and with the name changed to Tomahawk Creek Parkway. Motion seconded by Giblin.

Councilmember Dunn moved to amend the motion to add that there be coordination of landscaping and lighting on all projects in the area, seconded by Rasmussen.

Motion to amend carried unanimously. Mr. Rasmussen's motion as amended to approve the design criteria failed; Rasmussen, Giblin, Patterson in favor; LaHue, Campbell, Clawson, Moore, Dunn opposed.

Councilmember LaHue moved to accept the design criteria as presented, (with curbs and gutters, and a 5-foot sidewalk on the west side of Mission), with landscaping to be in conformance with the landscape architect's recommendations, and that there be coordination of landscaping and lighting on all projects in the area. Motion seconded by Moore and carried; Giblin, Rasmussen, Patterson, Dunn opposed; LaHue, Campbell, Clawson, Moore in favor; Mayor Rinehart in favor.

RESOLUTION NO. 1110 AUTHORIZING THE EXECUTION OF (REVISED) AGREEMENT
NO. 109-92 WITH KDOT FOR THE IMPROVEMENT OF STATE LINE ROAD, PHASE 4, I-435 NORTH TO 103RD STREET, INCLUDING REPLACEMENT OF INDIAN CREEK BRIDGES: Original Agreement 109-92 was approved March 15, 1993. The Resolution was adopted unanimously on motion of Rasmussen, seconded by Clawson. Attached as part of the record.

3979 CONTRACT FOR 1993 STREET SLURRY SEAL PROGRAM: On motion of Rasmussen, seconded by Dunn, Council unanimously approved a contract with Musselman and Hall Contractors in the amount of $47,034.60.

4014 ORDINANCE NO. 1351C ADOPTING THE 1993 EDITION OF THE NATIONAL ELECTRICAL CODE: The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4236 APPROVAL OF APPROPRIATION ORDINANCE NO. 710: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4288 WORK SESSION: Will be scheduled for June 14th or 16th, 7:30 P.M., to discuss the proposed 1994-1998 Capital Improvements Program (CIP), and the results of the engineering analysis of needed improvements to the Leawood Sewer System.

4675 9:50 P.M. EXECUTIVE SESSION: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

Recess.

10:00 P.M. Council convened in executive session, same members present.

4692 10:30 P.M. Council returned to regular session, same members present. On motion of Rasmussen, seconded by Moore, Council voted unanimously to return to executive session for 10 minutes to continue discussion of the same matter under attorney-client privilege.

10:32 P.M. Council reconvened in executive session, same members present.

4701 10:42 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.
MINUTES
REGULAR COUNCIL MEETING

Tape No. 275

# 548 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, June 21, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. John R. Campbell, Jr., and Douglas Moore were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks & Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

558 The agenda was approved unanimously on motion of Rasmussen, seconded by Giblin, after the addition of an executive session to be held after regular business to discuss a matter under attorney-client privilege.

582 CITIZEN COMMENTS: None.

607 CONSENT AGENDA: The following were approved unanimously on motion of LaHue, seconded by Clawson:
1. Minutes of the June 7, 1993 Council meeting;
2. Departmental reports.

623 MAYOR'S REPORT: A resolution opposing the adoption of unfunded mandates by the United States Congress and Kansas Legislature was printed in the May issue of the Kansas Government Journal published by the League of Kansas Municipalities. Councilmember Rasmussen moved to adopt the resolution as printed, seconded by Giblin. Second and motion were withdrawn after discussion that the resolution was not on the agenda for consideration and had not been distributed to the Council. The resolution will be considered at the July 6th Council meeting.

735 DISCUSSION OF SIDEWALK CONSTRUCTION ALONG 121ST STREET IN OXFORD HILLS SUBDIVISION: Deferred from the May 17, 1993 Council meeting. The Oxford Hills Homes Association conducted a survey of the 111 homes in the subdivision requesting opinions of the construction of sidewalks in the subdivision. Seventy-three responses were received. Thirty-seven supported sidewalks, 35 opposed, 1 was neutral. Twenty-one felt sidewalks should be placed on all streets; 33 felt they should be placed only on through streets. Twenty-six would agree to a sidewalk being placed in front of their property; 38 would be opposed. Of the homes directly involved by the proposed sidewalk on 121st Street, 15 of the 20 responding opposed the sidewalk construction; 5 were in favor of it.

Several residents spoke in opposition to the proposed sidewalk - the street is not that unsafe without a sidewalk, the proposed construction is a questionable use of taxpayers' money, the expenditure is not a real priority, there is not a real clear mandate for the expenditure, property would be devalued since the sidewalk would destroy many front yards, and landscaping would be destroyed.

4143
1336 Councilmember Dunn felt that 121st Street and the general area are not really unsafe without sidewalks; she moved to honor the requests of those homeowners opposed to the proposed sidewalk and eliminate the 121st Street and Wenonga sidewalk construction project from the 1993 Public Works construction program, seconded by Rasmussen. Public Works Director Brandt said funds scheduled for 121st Street and Wenonga could be used to build a sidewalk on the east side of Mission Rd. from in front of the Cure of Ars Church south to 95th Street. Councilmember Patterson suggested a sidewalk be constructed on Mission Rd. between K-150 and 143rd St. since children will be walking to the new elementary school at 143rd and Mission Rd. (even a temporary sidewalk would improve safety).

1722 Mrs. Dunn's motion carried; Clawson, Giblin, Dunn, Rasmussen, Patterson in favor; LaHue opposed (since the City has an obligation to maintain safety, and he feels 121st St. is an appropriate route for children attending the Leawood Middle School - it's part of the recommended "safe school route" for Leawood Elementary and Middle Schools).

1728 AGREEMENT WITH JOHNSON COUNTY WATER DISTRICT NO. 1 FOR THE RELOCATION OF A WATER MAIN ON THE SOUTH SIDE OF K-150 BETWEEN NAIL AVENUE AND STATE LINE ROAD - required for the K-150 System Enhancement Project: The agreement will have to be rewritten to indicate that the City's cost will be $200,000 rather than $120,000. On motion of Giblin, seconded by Rasmussen, Council unanimously approved the agreement.

1981 INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON DYKES BRANCH; OVERHILL ROAD SOUTH OF 86TH STREET: Stipulates County requirements for the project to receive funds (75% funding) from the County's Stormwater Management Program; Leawood's estimated project costs - $124,205.25. This project is one of three storm drainage improvement projects for 1993. The other two are replacement of the 85th Terr. bridge at High Dr. and stormwater improvements at 98th St. and Aberdeen. Design work will be done in-house.

Councilmember Rasmussen said that $200,000 was budgeted for the City's share of storm drainage improvements. He was concerned that if Council approved the agreement, they would commit the City to expenditures in excess of that amount. He believes the City should fund the 85th Terr. bridge and 98th and Aberdeen projects. Overhill Rd. south of 86th St. however is another story. It does flood and is a safety hazard, but the project goes onto private property. That project should not be funded by the City to the same extent as the other 2; the City should pay for improvements on Overhill Rd., but not beyond that. He opposes the agreement. The project is a mixture of public responsibility and private investment and needs to be sorted out so the City stays within a $200,000-a-year limit in budget for the City's participation in public improvements to the storm drainage system. Public Works Director Brandt felt the City would stay within the budget because the in-house engineering would be refunded up to 75% of the City's costs.

2394 Councilmember LaHue moved to approve the agreement, seconded by Clawson.

2404 Councilmember Giblin moved to amend the motion to add that the
agreement would come back to the Council if the 3 projects together exceeded $200,000, seconded by Patterson.

Mr. Rasmussen said that many storm drainage systems/creeks are on private property. At the same time, some of the serious effects of stormwater affects the City's road system. He believes that in those cases where public safety is involved, the City has an obligation to correct the situation. Therefore, to fund the 85th Terr. bridge and the 98th and Aberdeen projects is a reasonable decision. If a road is affected, then City funds are properly expended. The City has an obligation to public safety, not to private property protection.

The Mayor stated that a majority of projects throughout the County in the County's stormwater management program are on private property. It is the City's responsibility to obtain private property to make it public easement because it is a threat to public safety.

Mr. Giblin's motion to amend the main motion carried; LaHue, Clawson, Giblin, Dunn, Patterson in favor; Rasmussen opposed.

Dr. LaHue's motion as amended to approve the agreement carried; LaHue, Clawson, Giblin, Dunn, Patterson in favor; Rasmussen opposed.

REvised agreement with Overland Park, Kansas, for the public improvement of an earthen ditch located in an area from 97th Place west of Engley Lane to 98th Street west of Windsor in the cities of Overland Park and Leawood: The original agreement was approved December 21, 1992. The revision was necessary because the estimated cost in the original agreement was not sufficient to cover the costs after the bids were received. Leawood's share of the costs increased by $14,000. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the agreement. Leawood's share of the costs, $46,000.

Ordinance No. 1352C relating to the cutting of weeds and vegetation, providing for notice and providing for cutting by the City of Leawood, and providing for charges therefor: The ordinance allows for a single yearly notice to property owners that will allow the City to abate weeds for the entire year or growing season, rather than having to send certified notices each time this type of property maintenance violation occurs. The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas—LaHue, Clawson, Giblin, Dunn, Rasmussen, Patterson. Nays—None.

Roadway license with Johnson County Unified Wastewater Districts for use of County property as an additional exit from Leawood Park after the fireworks display, July 4, 1993: Approved unanimously on motion of LaHue, seconded by Rasmussen.

Schedule public hearing regarding the Americans with Disabilities Act: On motion of Rasmussen, seconded by Clawson, Council voted unanimously to hold the public hearing on July 6, 1993, 6:30 P.M., in the Council Chamber, to inform Leawood residents and the general public of the City's efforts to comply to the greatest extent possible with the standards and regulations put forth under ADA and to discuss any and all aspects of the City's compliance efforts.
Council Minutes
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June 21, 1993

3308 APPROVAL OF APPROPRIATION ORDINANCE NO. 711: The ordinance was con-
ered and passed on motion of Rasmussen, seconded by Dunn. On roll
call, the vote was: Yeas---LaHue, Clawson, Giblin, Dunn, Rasmussen,
Patterson. Nays---None.

3346 EXECUTIVE SESSION: On motion of Dunn, seconded by Giblin, Council
voted unanimously to convene in executive session for a period not to
exceed 30 minutes to discuss land acquisition and a matter under
attorney-client privilege.

3370 OTHER BUSINESS: Julie Baer announced that City employees recently col-
lected 4,427 pounds of food during the annual employee "Feed the Need"
food drive for Harvesters. The employees collected 3,800 pounds last
year.

3451 9:00 P.M. Recess.

9:10 P.M. Council convened in executive session, same members
present.

9:40 P.M. Council returned to regular session, same members present.

3455 OTHER BUSINESS: Mr. Rasmussen recently attended a Johnson County Para
Transit Authority meeting. He pointed out to the Authority (even
though they didn’t have jurisdiction) that when a person crosses the
state line, there is a surcharge. On July 7th, St. Joseph Medical Cen-
ter in Kansas City, Missouri will open an adult day care center which
is designed for the disabled. The surcharge for 1,000 or 2,000 feet
over the state line needs to be reviewed. Also, on both sides of the
state line, the existing transit facilities make it difficult for the
medical community and patients to meet any sort of time schedule – a
transit is often late coming or going. He suggested the transit orga-
nizations might set up some communication network with each other to
help keep transits on schedule.

3677 Councilmember Patterson felt it would probably be impossible to
resolve the issue of existing private streets becoming public. He said
that residents feel a lack of communication with the City so they are
hiring attorneys. He suggested that a committee be formed comprised of
any Councilmembers who might want to participate and at least one per-
son from each subdivision in order to have structured dialogue and make
a recommendation.

The Mayor advised that Planning Director McKay and staff are in
the process of researching private street questions. On March 15th,
Council directed staff to prepare an amendment to the present ordinance
to allow the possibility of accepting private streets, now considered
to be private in perpetuity, as public streets by setting forth spe-
cific criteria for acceptance. The Plan Commission’s consideration of
the criteria has been put on hold until staff has completed their re-
search.

3966 Councilmember LaHue said that turning a private street into a pub-
lic one will be a monumental task – it will probably never happen. If
private streets are to remain private in perpetuity, Council has to de-
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cide if they are willing to partially fund the maintenance of private streets, and the legality of this funding would have to be determined.

Mr. Patterson felt the Plan Commission should cease work on this issue all together. The Plan Commission will never resolve the issue — it’s a financial issue, not a land use issue.

Mr. Patterson moved to commit to and establish a committee comprised of Councilmembers and as many homes associations as would volunteer to serve, seconded by Giblin. Mr. Patterson moved to amend his motion to state that the committee be limited to those subdivisions or homes associations with private streets, seconded by Giblin.

Councilmember Dunn reminded Council that one of the goals established in a recent goal setting session was to find a solution to the private street issue in 1994 — this could be communicated to the homes associations.

Planning Director McKay said that his staff lacks time to research questions immediately. They are trying to complete their research for a July work session with the Plan Commission and for the second Council meeting in July.

Mr. Patterson’s motion to amend his motion carried; LaHue, Giblin, Dunn, Patterson in favor; Clawson, Rasmussen opposed.

Mrs. Dunn moved to amend the motion to state that the committee be established and meet in the fall after staff has researched the questions, and that in the interim, the Mayor write a letter to the homes associations explaining the present status and the direction the Council plans to take. Motion seconded by LaHue and carried; LaHue, Giblin, Dunn, Patterson in favor; Clawson, Rasmussen opposed.

Mr. Patterson’s motion as amended twice to establish the committee carried; LaHue, Giblin, Dunn, Patterson in favor; Clawson, Rasmussen opposed. Mr. Rasmussen and Mrs. Clawson felt the decision to form the committee subordinates the City’s normal processes (of going through the Plan Commission), and establishes a precedent which might not be as productive as they would like.

Mr. Patterson received a letter from Boston Financial Property Management concerning the impact of the City’s rental inspection program on the Leawood Manor Apartments at 138th and Kenneth Rd. The firm proposed revisions to the program that would reduce the negative impact on large apartment communities while still maximizing the intended results of the program. They feel the cost of the program is excessive. Planning Director McKay will review the matter and make a recommendation to the Council in the next couple of months for possible amendments to the present ordinance.

10:25 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
PUBLIC HEARING

Tape No. 276

# 40 Minutes of a public hearing held Tuesday, July 6, 1993, at 6:30 P.M., in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

The purpose of the hearing was to inform citizens of Leawood and the general public of the City's efforts to comply to the greatest extent possible with the standards and regulations put forth under the Americans with Disabilities Act (ADA) and to discuss any and all aspects of the City's compliance efforts.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Douglas J. Moore, Peggy J. Dunn, and Doug Patterson. Graham G. Giblin, Sr. arrived 7:20 P.M. Marnie S. Clawson and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Director of Human Resources; Deidre Markley, Administrative Intern; and Martha Heizer, City Clerk. Interpreter Jim Swain was also present.

Mayor Marcia Rinehart opened the hearing.

Julie Baer presented an overview of the Americans with Disabilities Act (Public Law 101-336 with 4 Titles) which was passed by Congress in July, 1990. She described the process staff used to review/evaluate the City's employment practices, services, policies, facilities, and outside agencies used (i.e., city attorney, prosecutor, etc.) to determine compliance with the ADA. Staff's "Transition to Accessibility/Self-Evaluation Report" will be submitted to the City Council for their acceptance at the July 19th Council meeting. The City is in total compliance with the ADA except for changes that need to be made before January 26, 1995 - physical changes in certain facilities (i.e., buildings, recreational facilities, etc.).

The following members of the ADA Task Force were present: Margie Markine (2015 W. 86th St.), Mary Jacobi (a community education specialist with "The Whole Person"), Diana Wilkinson (9625 Lee Blvd.), and Dr. Ronald LaHue (Councilmember). Mrs. Markine said that businesses in north Leawood are not very accessible, especially for people in wheelchairs, making it difficult for the disabled to shop at those businesses. She hoped the City would make an effort to encourage business owners to change their facilities.

Sharon Joseph, an Overland Park resident, was pleased that the City had held employee sensitivity training, and that the training is ongoing in the Police Department.

Tom McKitrick, Lenexa resident but employed at Knight-Ridder Financial at 89th and State Line in Leawood, asked if the City has provisions for van accessible parking. The City does not have any now, but will when parking lots are brought into compliance. Mr. McKitrick encouraged the use of 8-foot access aisles instead of 5-foot aisles between parking spaces, and that the spaces be specifically marked for van accessibility. He also pointed out that the portable restrooms at the 119th St. park area should be accessible.
George Collins of Olathe said that the Public Works Department should be made aware of wheelchair accessibility during snow removal — snow should not be piled up on curb cuts.

Margie Markine felt the City needs to keep a list of disabled residents.

Kevin Siek of the Coalition for Independence in Kansas City, Kansas, and an Overland Park resident, offered his assistance as a consultant on the accessibility of outdoor spaces at no cost to the City.

The hearing was closed at 7:30 P.M.

Martha Heizer  City Clerk
#1830 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:40 P.M., Tuesday, July 6, 1993. Mayor Marcia Rinehart presided.

Council members present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson. Marnie S. Clawson and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Dunn, after the addition of 1) a resolution declaring the necessity to appropriate private property for K-150 improvements, 2) an ordinance authorizing and providing for the acquisition of the private property, and 3) (under the Consent Agenda) a Sister City Committee report (minutes) of their June 17, 1993 meeting.

CITIZEN COMMENTS: None.

PROCLAMATION: The Mayor proclaimed July 26, 1993, as "Disability Awareness Day".

CONSENT AGENDA: The Mayor’s appointment to the Plan Commission and a resolution to approve the final plat of Tomahawk Creek Estates were removed for further discussion. The following were approved unanimously on motion of Dunn, seconded by Campbell:

1. Minutes of the June 21, 1993 Council meeting;
2. Sister City Committee report (minutes) of their June 17, 1993 meeting;
3. Appointments to the Leawood Historic Commission:
   T. James Hardwick, 2960 W. 123rd Terr., through April 1996
   Alice Hawk, 2841 W. 118th Terr., through April 1994
   Beverly Hurley, 12724 Sagamore, through April 1994
   Jon Meulengracht, 8028 Lee Blvd., through April 1995
   Elaine Steinke, 10415 Lee Blvd., through April 1995
   Debbie Welch, 8400 Ensley Lane, through April 1996
4. Acceptance of donations from the Leawood Woman’s Club - $969.00 to the Fire Department for 2 portable suction units for ambulances, and $969.00 to the Police Department for the D.A.R.E. Trust Fund;
5. Declaration of surplus property - 16 Police mobile radios, and 3 1991 Chevrolet Caprices (VIN 5151, 4775, 4758) no longer used as police patrol vehicles;

Councilmember Giblin felt a new member of the Plan Commission should have a development background rather than a planning background. Councilmember Patterson had a similar concern, but felt the Mayor’s
recommend appointee would be a good addition to the Commission. On motion of Moore, seconded by Campbell, Council approved Lucy Earnest, 2344 W. 118th Terr., to fill the unexpired term through April 1996 of Thomas Cohen who resigned in May; Giblin opposed, all others in favor.

Tomahawk Creek Estates located north of 119th and Mission will have private streets. Mr. Giblin voted to approve the preliminary site plan and preliminary plat, but is not for final plat approval because the issue of private streets has become very controversial. Planning Director McKay said that the streets are private because there is a gate at the subdivision entrance. The streets do meet the City's public street requirements. On motion of Campbell, seconded by Moore, Council adopted Resolution No. 1111 approving the final plat of Tomahawk Creek Estates; Giblin opposed, all others in favor. Resolution attached as part of the record.

2261 MAYOR'S REPORT: The Mayor thanked City staff for planning a very successful July 4th celebration.

2371 RESOLUTION NO. 1112 OPPOSING THE ADOPTION OF UNFUNDED MANDATES BY THE UNITED STATES CONGRESS AND KANSAS LEGISLATURE: Adopted unanimously on motion of Campbell, seconded by Dunn. Attached as part of the record.

2384 CONTRACT FOR SURVEYING SERVICES FOR STORMWATER IMPROVEMENT PROJECT, 86TH AND OVERHILL ROAD: On motion of LaHue, seconded by Campbell, Council unanimously approved a contract with Ponzer-Youngquist in the amount of $8,975.00.

2414 CONTRACT FOR SAGAMORE ROAD REHABILITATION NEAR 128TH STREET IN LEAWOOD SOUTH: On motion of LaHue, seconded by Campbell, Council unanimously authorized the Mayor to execute a contract with the low bidder Seal-O-Matic Paving Co. in the amount of $346,062.91.

2602 ORDINANCE NO. 1353 VACATING A SANITARY SEWER EASEMENT SHOWN ON THE PLAT OF PATIO HOMES AT HALLBROOK 1ST PLAT: 2.5 feet of the easement vacated to allow a new home to be constructed on Lot 11. The ordinance was considered and passed on motion of Giblin, seconded by Campbell. On roll call, the vote was: Yeas—LaHue, Campbell, Giblin, Moore, Dunn, Patterson. Nays—None.

2631 ORDINANCE NO. 1354 ACCEPTING A DEED FOR LAND TO BE USED FOR STREET PURPOSES (PANNEE LANE BETWEEN 119TH STREET AND THE SOUTH LINE OF TOMAHAWK CREEK ESTATES): The ordinance was considered and passed on motion of Giblin, seconded by Campbell. On roll call, the vote was: Yeas—LaHue, Campbell, Giblin, Moore, Dunn, Patterson. Nays—None.

2707 APPROVAL OF APPROPRIATION ORDINANCE NO. 712: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas—LaHue, Campbell, Giblin, Moore, Dunn, Patterson. Nays—None.

2756 RESOLUTION NO. 1113 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING A SURVEY AND DESCRI-
TION OF THE LAND AND INTEREST TO BE CONDEMNED FOR K-150 HIGHWAY IMPROVEMENTS, STATE LINE ROAD TO NALL AVENUE: Adopted on motion of Campbell, seconded by Moore; LaHue, Campbell, Moore, Dunn in favor; Giblin, Patterson abstained to avoid a conflict of interest. Resolution attached as part of the record.

ORDINANCE NO. 1355 AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING SURVEY AND DESCRIPTION OF THE LAND AND INTEREST TO BE CONDEMNED FOR K-150 HIGHWAY IMPROVEMENTS, STATE LINE ROAD TO NALL AVENUE: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Moore, Dunn, Mayor Rinehart. Nays---None. Abstentions---Giblin, Patterson to avoid a conflict of interest.

OTHER BUSINESS: A work session will be held July 19th, 5:45 P.M., to meet with municipal court judges.

8:20 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
PUBLIC HEARING

Tape No. 277

# 46 Minutes of a hearing for public comment on the proposed 1994 Budget, held Monday, July 19, 1993, at 7:00 P.M. in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

There were no public comments.

656 After a few questions from Councilmembers, the hearing was closed at 7:30 P.M.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 277

# 656 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:40 P.M., Monday, July 19, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

671 The agenda was approved unanimously on motion of Dunn, seconded by Moore, after the addition of 1) presentations by Police Chief Cox and D.A.R.E. Officers, and 2) a discussion of the proposed 1994 Budget.

706 PRESENTATIONS BY POLICE CHIEF COX AND D.A.R.E OFFICERS: Police Chief Cox and D.A.R.E. Officers Randy Wiler and Mike Pelger presented plaques of appreciation to Evelyn Grafrath of the Leawood Woman’s Club and to Don Huntington of Quik Copy Printing Co. The Leawood Woman’s Club has contributed money from their philanthropic fund to the D.A.R.E. program since at least 1990. Quik Copy Printing has done several thousand dollars worth of printing for the program since 1990.

886 CITIZEN COMMENTS: Bettie Bridges, Leawood’s Emergency Preparedness Coordinator, advised that the Federal Emergency Management Agency (FEMA) would be in the County this week to assess flood damage from the July 10th storm. If anyone had major damage to personal property, uninsured, they should call FEMA’s county office.

912 CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Clawson:

1. Minutes of the July 6, 1993 public hearing on the Americans with Disabilities Act (ADA);
2. Minutes of the July 6, 1993 Council meeting;
3. Departmental reports.

920 APPEAL OF A DENIAL OF A PERMIT TO KEEP 3 DOGS: Jeff and Ann Cilek, 2536 W. 90th St., had applied for a permit to keep 3 dogs (Chows). Animal Control denied the request based on 9 written objections from neighbors, and advised the Cileks that they would have to remove one of the dogs from the premises by July 23rd.

Several neighbors voiced their objections to the Cileks keeping 3 dogs. The largest dog jumps the fence, and all 3 are threatening.

Mr. Cilek wanted to find a compromise to solve the problem. Even if he was forced to remove one dog, neighbors would still be afraid of the other two. He said the dogs are not vicious. He felt that a 6-foot privacy fence around his yard would contain the dogs and alleviate his neighbors’ fears. He applied to the Board of Zoning Appeals.
1565 Councilmember Clawson moved to deny the permit to keep 3 dogs, seconded by Campbell. (There were too many objections.) Motion carried unanimously. City ordinance provides that a vicious dog shall be kept inside the dwelling of the owner or in a locked enclosure. Councilmember Dunn would like that provision enforced if the largest Chow is kept. Police Chief Cox said the dog would have to be declared vicious first in accordance with the procedure established by ordinance.

1666 RESOLUTION NO. 1114 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING A SURVEY AND DESCRIPTION OF THE LAND AND INTEREST TO BE CONDEMNED - condemnations on 2 properties for the replacement of the bridge at 85th Terr. and High Dr.: Adopted on motion of LaHue, seconded by Campbell; Rasmussen opposed, all others in favor. Mr. Rasmussen said that from the beginning, as far as stormwater management was concerned, he has tried to get some principles established. One would be that the City would not pay for easements. The bridge improvements are necessary, however, the City is now getting into a situation where it would be paying over $200,000 to improve a stormwater hazard to the public. The City would be setting a precedent by paying for the easements. Residents involved in other projects would want payment for their easements also. Mr. Rasmussen would set up a benefit district instead. Public Works Director Brandt confirmed that the County under its Stormwater Management Program will not pay 75% of the costs of acquiring the easements.

Resolution attached as part of the record.

1935 ORDINANCE NO. 1356 AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR THE USE OF THE CITY - condemnations on 2 properties for the replacement of the bridge at 85th Terr. and High Dr.: The ordinance was considered and passed on motion of LaHue, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen (same reason as for Resolution No. 1114).

1950 CONTRACT FOR THE CONSTRUCTION OF IMPROVEMENTS TO 143RD STREET BETWEEN MISSION ROAD AND 1200 FEET TO THE EAST: Sealed bids were received. The low bidder was McAnany Construction Co. at $283,073.32, 100 days to complete the project. The second low bidder was Holland Corp. at $299,445.39, 60 days to complete the project. Neither contractor could meet the August 23rd opening of the new elementary school at 143rd and Mission Rd. Public Works recommended the Council select Holland Corp. Councilmember Rasmussen moved to authorize the Mayor to execute a contract with Holland Corp., seconded by LaHue.

After the bids were opened, McAnany Construction said they would reduce the number of construction days to 60. Councilmember Giblin asked why the Council would not select McAnany. Public Works Director Brandt explained that the bids were sealed bids, that allowing McAnany to change their bid in this fashion would undermine the bidding process. There was discussion that the Blue Valley School District could be asked to pay the additional $16,000+ if Holland Corp. is selected. The City Attorney said that the contract that is offered should be the
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July 19, 1993

2804 ORDINANCE NO. 1361C AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR DRUG OFFENSES: The ordinance was considered and passed on motion of Giblin, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2804 ORDINANCE NO. 1362C REPEALING SECTION 11-202 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO THE GIVING OF WORTHLESS CHECKS - this is already covered in the "Uniform Public Offense Code": The ordinance was considered and passed on motion of Dunn, seconded by Moore. On roll call,
the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2850 APPROVAL OF APPROPRIATION ORDINANCE NO. 713: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2951 DISCUSSION OF THE PROPOSED 1994 BUDGET: Councilmember LaHue preferred to consider the budget at a later date in order to further discuss stormwater management projects and the streets/roads program.

Councilmember Rasmussen moved to adopt the 1994 Budget with expenditures in the amount of $19,019,260, seconded by Giblin. Motion failed; Rasmussen, Giblin in favor; all others opposed (preferred to consider adoption at a later time to allow for further discussion). (See meter #6105.)

3400 DISCUSSION OF STORMWATER MANAGEMENT PROJECTS: Projects eligible for funding in the 1994 Johnson County Stormwater Management Program are Sagamore Rd., 97th/98th ($497,000); High Dr.-Lee Blvd., Vic 93rd St. ($363,000); D.S. Lee Blvd.-86th St. & Belinder, and 91st E of Chadwick-Wenonga & 93rd ($2,542,000). The County will pay 75% of planning, design and construction costs. An "Intent to Proceed" form for each project must be returned to the County by August 6th. The largest project was moved up on the project priority list. The City did not budget for its share of the costs ($635,500) in 1994. Staff recommended that Council find a funding mechanism for that project.

Council discussed the July 10th 25-year storm which caused property damage, including sewer backups.

Councilmember Clawson said she would support a utility fee for stormwater improvements. Councilmember Rasmussen said a utility fee would not pay for the costs, and would not be tax deductible. Councilmember LaHue would propose a utility fee ordinance for the entire City. Mr. Rasmussen felt funding should be part of a tax system (the budget), not a utility fee which could go up. Councilmember Patterson felt it was not fair to charge south Leawood for improvements to stormwater facilities in north Leawood. He would favor a base utility fee plus a surcharge to those who would benefit from a project. Councilmember Campbell would favor a utility fee rather than funding on an ad valorem tax basis.

4662 Councilmember LaHue suggested staff prepare a charter ordinance establishing a utility fee (say $3.00 per month for the duration of the ordinance), with a sunset provision to take place at the time the County ceases funding, with special provisions for agricultural and commercial property, with north Leawood paying a higher fee (say $4.00 per month) than south Leawood, and with residents adjacent to creeks paying more (say $5.00 per month). He would like to see approximately $400,000 collected.

Mr. Rasmussen would oppose a utility fee under any circumstances because of tax consequences. He felt Leawood residents should be allowed to vote on the utility fee issue.

Councilmember LaHue moved to direct staff to prepare the ordinance that he suggested, to include a sunset provision, a gradient in fees.
between north and south Leawood, and higher fees for residents adjacent to creeks. Motion seconded by Campbell.

5632 Mr. Rasmussen moved to amend the motion to include a vote of the people in the ordinance, seconded by Giblin. Motion failed; Giblin, Dunn, Rasmussen, Patterson in favor; LaHue, Campbell, Clawson, Moore opposed. The Mayor did not vote to break the tie.

5690 Mr. Patterson moved to amend the motion to add 1) that the fee ratio between north and south Leawood be 2 to 1 (the north paying the higher fee), 2) all vacant land be exempt from the fee, and 3) all commercial properties now serviced by their own internally-held retention and detention basins be exempt from the fee, and commercial properties without their own facilities be dealt with in some manner. Motion seconded by Giblin and failed; Campbell, Giblin, Patterson in favor; all others opposed.

5942 Dr. LaHue's motion to direct staff to prepare an ordinance carried; Rasmussen opposed; all others in favor. A proposed ordinance will be placed in the August 16th Council packet for informational purposes only, and will be discussed at a work session in August or September. (See meter #6169.)


6169 The 3 stormwater management projects for 1994 discussed earlier will be discussed at the August 2nd Council meeting.

6213 DISCUSSION OF A COMMUNICATION FROM THE MINORITY PRESS ASSOCIATION:
Samuel Jordan, publisher of the Kansas State Globe newspaper and Chief Executive Officer of the Minority Press Association, wanted the Council to address the "Fair Share Program" (Fairness in Budgets for African Americans). He wants to publish an annual profile of Leawood to educate, share information with, minorities on what Leawood has to offer. At the same time, Leawood would advertise for general purposes in the Globe. The City would pay approximately $2200.

The City Administrator stated that money is not budgeted for general "advertising". Only employment openings, notices to contractors and bidders, and other notices/items required to be published by law are published.

Mr. Jordan said that he attached $2200 to the profile because he hadn't received any of Leawood's notices, employment ads to publish.

Councilmember Campbell asked staff to look into the possibility of placing employment ads in minority publications appropriate for given jobs based on circulation, rates, etc. - consider all options, and make an administrative decision.

6811 Council considered a Fair Share Resolution and took no action. Mr. Jordan said his paper is the only minority paper in Kansas. The minority paper Leawood is now "sharing" in is in Missouri, and looking at this from a tax basis, he would think the City would want to address the people within their own state. This is a very serious matter, and it reflects on the Council. He will publish the Council's "no action" response to the Fair Share Resolution.
7380 10:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
29 The agenda was approved unanimously on motion of Moore, seconded by
Campbell, after the addition of 1) (under the Consent Agenda to ac-
knowledge receipt of) a petition/request for additional street lighting
on the 96th & High Dr. cul-de-sac because of recent burglaries in the
immediate vicinity; 2) (under the Consent Agenda to acknowledge receipt
of) a letter from the Corinth Meadows Homes Association in Prairie Vil-
lage served by the Leawood Sewer System requesting that the City inves-
tigate and make necessary corrections to remedy sewer backups and
flooding problems resulting from full sewer lines and/or improper run-
off; and 3) a request by Councilmember Rasmussen that staff be directed
to prepare a resolution relating to contractors’ quality of work to be
considered by Council at a later date.

105 PRESENTATION OF KEY TO THE CITY TO DR. LYUSHUN SHEN, DIRECTOR GENERAL
OF THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS, KANSAS CITY OF-
FICE: The Mayor presented a Key to the City to Dr. Shen who will be
going to Washington, D.C. on August 10th to become the Director of the
Secretariat of the Coordination Council of the U.S.A. for Taiwan,
R.O.C.

400 RECOGNITION OF CITY CLERK MARTHA HEIZER FOR SERVICE TO THE CITY:
Resolution No. 1115 recognizing Ms. Heizer’s 20 years of service (July
16, 1973 to July 16, 1993) was adopted by unanimous consent. Resolution
attached as part of the record.

492 CITIZEN COMMENTS: Chuck Houghton, 9709 High Dr., and Sarah Kesler,
9713 High Dr., described drainage problems in the vicinity of 97th &
High Dr. Storm sewer openings are inadequate to accommodate runoff.
They wanted to call this matter to the Council’s attention. Public
Works Director Brandt said this will be a stormwater management project
next year.

Councilmember Rasmussen referred to another proposed stormwater
management project at the back of Mr. Houghton’s property, the creek
between Sagamore and High Dr. He asked how Mr. Houghton expected the
City to pay for that project. Mr. Houghton said it should be paid for on a tax basis.

693 Gordon Thomas, 10516 Mohawk Lane, felt the July 19th public hear-
Council Minutes
Tape No. 278

August 2, 1993


Consent Agenda: The minutes of the July 19, 1993 Council meeting, an assignment to the Public Works Committee, and a resolution to approve the final plat of Knight-Ridder Financial at 2020 W. 89th St., were removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Moore:

1. Minutes of the July 19, 1993 public hearing on the 1994 Budget;
2. Renewal of retail liquor occupation license - Faust’s Retail Liquor, 11841 Roe, Camelot Court Shopping Center;
3. Purchase of a truck dump body for the Public Works Dept. from the low bidder Scherer Truck Equipment in the amount of $10,050.00;
4. Declaration of surplus property - 1987 Chevrolet Caprice (VIN 8753) no longer used by the Planning Dept.’s Rental Codes Inspector;
5. Acknowledged receipt of petition/request for additional street lighting on the 96th & High Dr. cul-de-sac because of recent burglaries in the immediate vicinity;
6. Acknowledged receipt of a letter from the Corinth Meadows Homes Association in Prairie Village served by the Leawood Sewer System requesting that the City investigate and make necessary corrections to remedy sewer backups and flooding problems resulting from full sewer lines and/or improper runoff.

On motion of Rasmussen, seconded by Clawson, Council unanimously approved the minutes of the July 19, 1993, Council meeting with one addition - on page 4158 at meter #5632, add the statement that "the Mayor did not vote to break the tie".

The Public Works Committee requested that they be assigned to meet on Wednesday, August 4th, to select a consultant to prepare an automated map of south Leawood. The City Administrator asked that the meeting not be scheduled at this time since staff needs to complete discussions with the County concerning the possibility of having mapping information made available through the County’s Geographic Information System (GIS). On motion of Rasmussen, seconded by Campbell, Council voted unanimously to remove the committee’s request from the agenda.

Re the final plat of Knight-Ridder Financial at 2020 W. 89th St., Council briefly discussed replatting of 3 lots into 1 and the new ownership of the property. On motion of Moore, seconded by Rasmussen, Council unanimously adopted Resolution No. 1116 approving the final plat. Resolution attached as part of the record.

Mayor's Report: The Mayor reported that Robert McKay, Director of Planning and Development, recently passed the American Institute of Certified Planners exam.

The Governing Body extended its condolences and sympathy to the
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Council Minutes August 2, 1993

Schmidt family of Leawood, whose daughter Stephanie was murdered near Pittsburg, Kansas, end of July. Councilmember Lahue wanted staff to investigate the City's participation in the Lost Child Network, in terms of time spent and perhaps more aggressive financial backing.

1205

CONTRACT FOR CONSTRUCTION OF A MUNICIPAL GOLF COURSE IN AN AREA SOUTH OF 151ST STREET BETWEEN MISSION RD. AND NALL AVE.: Two permits must be issued before construction can begin - 1 from the Corps of Engineers approving creek channel changes and the other from Water Resources concerning flood control, impact downstream, proper handling of stormwater. Councilmember Rasmussen moved that the Council authorize the Mayor to execute a contract (with the low bidder Landscapes Unlimited, Inc. of Lincoln, Nebraska, for $3,198,092.00) for the construction, subject to the City's obtaining the appropriate permits and review of the appropriate language in the contract. Motion seconded by Moore.

Project Manager Phil Gibbs of Continental Consulting Engineering said staff was also talking to the Fish & Game Department concerning effects that changes might have on wildlife in the area. He hoped the permits would be received in 30-40 days.

Council discussed contract reductions - elimination of bunker sand, 3 walk bridges, and irrigation.

1630

Councilmember Giblin felt he could not vote for the contract; he wanted to see the finalized contract (only a draft had been distributed); there were too many errors in the draft. Council discussed Mr. Giblin's concerns about assignability of the contract and the documents included in and made a part of the contract. The contract language would be based partly on the instructions to bidders.

2204

Mr. Rasmussen's motion to approve a contract carried unanimously.

2277

Councilmember Campbell said that the Golf Course Development Committee recommended that the course be named the Iron Horse Golf Club. There is some historical connection - pieces of an old railroad track still remain on the property. Apparently only 2 other courses in the country or the world have this name.

2394

CONTRACT FOR DESIGN ENGINEERING SERVICES FOR COLLEGE BOULEVARD IMPROVEMENTS, EL MONTE TO STATE LINE ROAD: Councilmember Giblin moved to authorize the Mayor to execute a contract with Johnson, Brickell, Mulcahy and Associates, Inc., in the amount of $661,720.50, seconded by Campbell.

Councilmember Rasmussen said that part of the construction will be paid for by Hallbrook. $5,000,000 will supposedly come from ISTEA funds (the Intermodal Surface Transportation Efficiency Act - a Mid-America Regional Council program). He was concerned that the City had nothing in writing to assure that it would receive the funds. Public Works Director Brandt stated that M.A.R.C. had approved the project for funding. Also, there is no C.A.R.S. money for College Blvd. Approval of the design contract seemed risky. He mentioned that the County has loosened up a little on C.A.R.S. money for Mission Rd. improvements, I-435 to College Blvd. (roughly a $1,200,000 project), and for 83rd St. improvements.

2727

Motion to approve the contract carried unanimously.
2777 **CONTRACT FOR 1993 CURB REHABILITATION:** Public Works requested that all bids be rejected; all were higher than the engineer's estimate. On motion of LaHue, seconded by Rasmussen, Council voted unanimously to reject all bids. Public Works will review the scope of the curb project and make a recommendation in the near future.

2977 **CONTRACT FOR 9725 OVERBROOK STORM SEWER PROJECT:** On motion of Moore, seconded by Rasmussen, Council unanimously authorized a contract with the low bidder Bazin Excavating Co. of Overland Park in the amount of $29,815.00.

2996 **ORDINANCE NO. 1363 AUTHORIZING THE MAYOR TO EXECUTE A DEED CONVEYING A TRACT OF LEAWOOD CITY PARK LAND TO THE STATE OF KANSAS (KDOT) FOR I-435 HIGHWAY/STATE LINE ROAD INTERCHANGE IMPROVEMENTS** (and repealing Ordinance No. 1334 due to revision of the legal description of the land to be conveyed): The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen. Nays---None.

3031 **APPROVAL OF APPROPRIATION ORDINANCE NO. 714:** The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen. Nays---None.

3083 **RESOLUTION NO. 1117 APPROVING THE REVISED PRELIMINARY PLAT AND PLAN FOR LEAWOOD FALLS, 5TH PLAT, LOCATED AT APPROXIMATELY 138TH AND MANOR:** Adopted unanimously on motion of Giblin, seconded by Campbell. Attached as part of the record.

3149 **OTHER BUSINESS:** Councilmember Rasmussen said that many citizen complaints are about the poor quality of work performed by contractors hired by the City. Councilmembers receive calls and staff is unjustifiably blamed. Mr. Rasmussen moved that Council authorize staff to prepare a resolution to state that the Public Works Director, at his discretion, could deny a contractor the right to bid in Leawood for 1 year if, in his judgment, the contractor's work was less than quality, and to protect the contractor, there be an appeal process through the Public Works Committee. Motion seconded by Giblin.

Councilmember LaHue felt the City might open itself up to significant criticism not allowing someone to bid; the City is a public corporation, not a private one.

Mr. Rasmussen's motion carried unanimously.

3558 Council discussed driveway fillets. Councilmember LaHue said they obstruct drainage flow, and as a rule, are not in the best interest of the City. He moved that they not be allowed in the City, except under special circumstances determined by the Public Works Department. Motion died for lack of a second.

The City Administrator stated that present ordinance does not allow curbs and gutters to be filled with any material which tends to restrict or divert the flow of water therein, except that the Public Works Director may upon request grant written permission for an excep-
tion thereto. Dr. LaHue suggested the ordinance be enforced.

4003 After some general Council comments, the meeting was adjourned at 9:40 P.M.

Martha Heizer  City Clerk
Tape No. 279

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, August 16, 1993. Mayor Marcia Rinehart presided.

Council members present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Becky Garten, Planning Department; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Dunn, after the addition of 1) (under the Consent Agenda) acceptance of bid for the 1993 Street Marking Program; 2) a discussion of driveway fillets; 3) a discussion of sewer backups and flooding problems in Corinth Meadows subdivision of Prairie Village, served by the Leawood Sewer System; 4) a discussion of a drainage problem at 12600 Overbrook Rd.; and 5) a status report on staff's review of court fines and penalties.

CITIZEN COMMENTS: None.

CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Giblin:

1. Minutes of the August 2, 1993 Council meeting;
2. Departmental reports;
3. Renewal of retail liquor occupation license - Mertz Liquor Store, 3740 W. 95th St., Ranchmart Shopping Center;
4. Request to keep a caiman (alligator), Mr. Lynn DeMarco, 9717 Cherokee Lane (request approved with stipulations);
5. Bid of Twin Traffic Marking Corp. in the amount of $12,660.20 for the 1993 Street Marking Program.

RESOLUTION NO. 1118 APPROVING A REQUEST TO AMEND THE MASTER DEVELOPMENT PLAN, AND REQUEST FOR REZONING FROM AG TO SD AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR LEAWOOD PLACE, APPROXIMATELY K-150 AND MISSION RD.: Land planner Andy Schlagel gave a presentation. The old Oxford Church on the northwest corner of K-150 and Mission Rd., not presently on a historic register, will be in future City right-of-way. The Leawood Historic Commission will be studying this matter.

Mr. Schlagel said that the present plan calls for full median breaks at Mission Rd. and at Roe Ave. There will be right turns in and right turns out at Fontana and Briar. Councilmember Rasmussen felt that traffic pattern was inadequate. He wanted to be sure there was coordination between this plan and the design of K-150 being done by Howard Needles Tanmen & Bergendoff. The developer would like to have (1/8 mile) right turn in access to retail areas along K-150 at mid-block locations, not presently allowed by the City. That type of access on K-150 frontage has been allowed by Overland Park and Olathe. Mr.
Rasmussen said HNTB should be told about the access plans so they won’t have to go back and redesign medians and be paid twice for a job which should have been done correctly in the first place. Public Works Director Brandt said there are median breaks at the half-mile points along K-150 in accordance with the improvement plan adopted in 1987; that’s the current design in all 3 cities along K-150; there are right turns in and right turns out at the quarter-mile points. Mr. Schlagel said the other two cities allow 2-mile right turns only access points. Mr. Brandt stated that as the Leawood Place plan expands along K-150, the developer will be responsible for designing third lanes and providing right turn access. This is not in the original plans for the K-150 improvement project. Mr. Rasmussen wants plan coordination so the City won’t have to go back and spend ($40,000) to tear out a fairly new landscaped median.

On motion of Giblin, seconded by Rasmussen, Council unanimously adopted the Resolution (attached as part of the record).

ORDINANCE NO. 1364 REZONING PROPERTY (LEAWOOD PLACE) LOCATED AT K-150 AND MISSION ROAD FROM AG (AGRICULTURAL) TO SD (SPECIAL DEVELOPMENT DISTRICT): The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

RESOLUTION NO. 1119 APPROVING A REQUEST FOR A SPECIAL USE PERMIT FOR A CHURCH, AND PRELIMINARY SITE PLAN, PRELIMINARY PLAT AND FINAL PLAT APPROVAL, FOR CHURCH OF THE RESURRECTION, 137TH AND ROE AVENUE: Adopted unanimously on motion of Patterson, seconded by Rasmussen. Attached as part of the record.

RESOLUTION NO. 1120 APPROVING A REQUEST FOR REZONING FROM CP-1 TO CP-2, AND REVISED PRELIMINARY SITE PLAN AND FINAL SITE PLAN APPROVAL, FOR MCDONALD’S RESTAURANT, 119TH AND ROE AVENUE, CAMELOT COURT SHOPPING CENTER: Land planner Andy Schlagel gave a presentation. Councilmember Moore moved to adopt the Resolution, seconded by Patterson.

Councilmember LaHue was concerned that the City would permit a fast food restaurant on the corner of a well-designed shopping center; it distracts from the overall appearance of the center. Mr. Schlagel reminded Council that the center has many pad sites, so this plan is in accordance with what was approved for the shopping center.

The Resolution (attached as part of the record) was adopted unanimously.

ORDINANCE NO. 1365 REZONING PROPERTY (FOR MCDONALD’S RESTAURANT) LOCATED AT 119TH AND ROE AVENUE FROM CP-1 (PLANNED NEIGHBORHOOD RETAIL) TO CP-2 (PLANNED GENERAL RETAIL): The ordinance was considered and passed on motion of Clawson, seconded by Moore. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

MAYOR’S REPORT: None.

ORDINANCE NO. 1366 ESTABLISHING THE 1994 ANNUAL ASSESSMENT (USER CHARGE) FOR THE LEAWOOD SEWER SYSTEM: The ordinance was considered and

4166
passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

1658 REQUESTS FOR STREET LIGHT INSTALLATIONS - TO IMPROVE STREET LIGHTS ALONG 103RD STREET BETWEEN STATE LINE ROAD AND MISSION ROAD, AND TO INSTALL LIGHTS ALONG 123RD STREET BETWEEN STATE LINE ROAD AND MISSION ROAD: Due to 1994 Budget restrictions, staff recommended the City lease the street lights from Kansas City Power & Light Co. The annual cost for 103rd St., $8,906.64; annual cost for 123rd St., $10,484.76. On motion of LaHue, seconded by Dunn, Council unanimously authorized the lease of lights for a total annual cost of $19,391.40.

1750 AUTHORIZE AGREEMENT FOR RIGHT-OF-WAY NEGOTIATIONS FOR MISSION ROAD IMPROVEMENTS, 95TH STREET TO 103RD STREET: Councilmember LaHue moved to authorize the City Administrator to execute a letter proposal from Right of Way Associates to undertake negotiations for an estimated cost of $6,250, not to exceed $8,000. Motion seconded by Dunn. Councilmember Rasmussen said the design for the improvements has sidewalks on the east side of Mission. He pointed out a gap in the sidewalks, just as a gap exists along the east side of Mission north of 95th St. Again, a lack of coordination. There are sidewalks from 103rd St. to approximately 95th Terr., none between 95th Terr. and 95th St. Public Works Director Brandt described the project limits; the project begins approximately 300 feet south of 95th St. Overland Park chose not to extend the limits north to 95th St.

There was a consensus of the Council that there should be a continuous sidewalk on the east side of Mission, and Mr. Rasmussen was authorized to convey this opinion at a project meeting on August 19th.

Councilmember LaHue's motion to approve the agreement for negotiations carried unanimously.

1992 ORDINANCE NO. 1367C ESTABLISHING A LEAWOOD PUBLIC GOLF COURSE FUND:
The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2222 ORDINANCE NO. 1368 GRANTING RIGHTS-OF-WAY TO LATERAL SEWER DISTRICT NO. 20 OF TOMAHAWK CREEK SEWER DISTRICT NO. 5 REQUIRED FOR SANITARY SEWER CONSTRUCTION IN TOMAHAWK CREEK ESTATES (NORTH OF 119TH AND MISSION):
The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2238 ORDINANCE NO. 1369 GRANTING A RIGHT-OF-WAY EASEMENT TO KANSAS CITY POWER & LIGHT CO., CITY HALL/LIBRARY SITE, 117TH & ROE AVE. - TO INSTALL THE ELECTRICAL UTILITY TO THE NEW JOHNSON COUNTY LIBRARY, LEAWOOD PIONEER BRANCH: The ordinance was considered and passed on motion of Clawson, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2255 APPROVAL OF APPROPRIATION ORDINANCE NO. 715: The ordinance was consid-
Discussed at the August 2nd Council meeting. City ordinance does not allow curbs and gutters to be filled with any material which tends to restrict or divert the flow of water therein, except that the Public Works Director may upon request grant written permission for an exception thereto.

The Mayor suggested staff send letters to property owners who have driveway fillets, informing them that the fillets must be removed, thereby trying to obtain voluntary compliance with City ordinance (within the next 6 to 8 months). It might be helpful to issue a press release about the ordinance.

Councilmember LaHue said the City would replace a high back curb with a low back curb at no charge to the homeowner. Public Works Director Brandt said the City would remove fillets at no charge and repair curbs damaged by the fillets. Staff will enforce the ordinance.

Discussion of Stormwater Inflow into the Leawood Sewer System: At the August 2nd Council meeting, Council acknowledged receipt of a letter from the Corinth Meadows Homes Association in Prairie Village served by the Leawood Sewer System requesting that the City investigate and make necessary corrections to remedy sewer backups and flooding problems resulting from full sewer lines and/or improper runoff. The Public Works Director felt the backups were caused by inflow from private property.
TC Council Minutes August 16, 1993

Tape No. 279

4185 DISCUSSION OF STORMWATER MANAGEMENT FINANCING: The Council must resolve 2 major issues - 1) a request from the County for an Intent to Proceed on the following 1994 stormwater projects:

- Sagamore Rd., 97th St.-98th St.; $497,000
- High Dr.-Lee Blvd., Vic. 93rd St.; $363,000

and 2) determination of a financing mechanism for a third 1994 project (total project estimate of $2,542,000) and projects beyond 1994. The City must generate funds required for its 25% share of project costs under the County's Stormwater Management Program.

Staff generated a proposal for consideration by the County which addresses the problem associated with raising the 25% share for the $12 million in projects currently slated for Leawood. The proposal advocates the use of equal annual payments ($300,000 per year, of which $200,000 is budgeted each year) to the County over a ten-year period without the use of debt financing.

3690 The City Administrator said that the Johnson County Wastewater District subsidized some repair costs to correct inflow problems a few years ago.

3760 Staff was directed to notify property owners by letter to cease the inflow. Property owners will pay the repair costs. The Public Works Director will recommend a time frame for correcting the inflow, possibly at the September 7th Council meeting.

3824 DISCUSSION OF STORM DRAINAGE PROBLEM AT 12600 OVERBROOK: An existing, City-owned improved concrete drainage channel ends at the Leawood South Country Club property line, and an unimproved drainage ditch continues onto the Club's golf course. The latter has eroded and washed out onto the course. Two residents adjacent to the improved concrete channel and golf course complained to Councilmember Giblin about the problem. There was discussion that the Country Club should have the drainage ditch improved at their expense since it's on their property. Public Works determined that it would cost $37,607 to rehabilitate the open channel.

Public Works Director Brandt will try to schedule a meeting with the homeowners and the Country Club to see if they can resolve the problem.

4154 STATUS OF STAFF’S REVIEW OF COURT FINES AND PENALTIES: Police Chief Cox will try to have a report at the September 7th Council meeting.
If Council cannot determine an immediate solution for generating $635,000, the City's share required to complete the third 1994 project, that project will retain its position on the priority list and be submitted to the City again for funding in 1995. Staff's funding proposal is aimed directly at this dilemma, i.e., the funding of larger projects without delaying or phasing construction.

Council discussed a proposed charter ordinance which would establish a stormwater utility to generate a specific amount of money each year for construction projects. The ordinance would allow for utility fees to be determined each year. Six favorable votes are required to pass a charter ordinance.

Councilmember Rasmussen stated he would not vote for the charter ordinance which he felt would create another level of debt-issuing agencies - a utility district with bond-issuing powers. He will work only through the budget and tax levy for funding stormwater projects.

Councilmembers Patterson, Moore, and Giblin would vote against the ordinance. Councilmembers Campbell and Clawson would vote for the ordinance. Councilmember Dunn wanted further information on the rates to be charged before considering the ordinance.

51 Councilmember LaHue moved to have a work session August 23rd, 7:30 P.M., to discuss the charter ordinance, possibly with rate information. Motion seconded by Patterson and failed; LaHue, Dunn, Patterson in favor; all others (5) opposed.

160 10:55 P.M. Councilmember Rasmussen moved to adjourn the meeting, seconded by Campbell; unanimous.
MINUTES
REGULAR COUNCIL MEETING

Tape No. 280

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Tuesday, September 7, 1993. Mayor Marcia Rinehart presided.

Council members present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer, Human Resources Director; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Clawson.

PRESENTATION TO ASSISTANT FIRE CHIEF LEE ALLEN BLEDSOE FOR SERVICE TO THE CITY: Retirement plaques were presented to Asst. Chief Bledsoe by Mayor Rinehart and Chief Jerry Strack. Bledsoe served the City from April 15, 1969 to September 10, 1993.

CITIZEN COMMENTS: None.

PROCLAMATIONS: The Mayor proclaimed:
1. September 17-23, 1993, as "Constitution Week";
2. September 11-17, 1993, as "The National Association of Women in Construction Week".

CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Dunn:
1. Minutes of the August 16, 1993, Council meeting;
2. Declaration of surplus property - 1984 Ford F-150 Pickup (VIN 5107) no longer used by the Parks and Recreation Department;
3. Appointment of Golf Course Review Committee:
   Cal Spradley, 12649 Overbrook Rd., term - 3 years
   Jim Dickson, 3601 W. 85th St., term - 2 years
   Bobby Davidson, 5348 W. 153rd Terr., term - 1 year
4. Agreement with Draw the Line in the amount of $23,303 to print the 1993 Master Plan/Economic Development Plan Map;
5. Designation of official delegation traveling to I-Lan, Taiwan, October 5, 1993: Mayor Marcia Rinehart, Richard Rinehart, Sue Wilson, Don Wilson, Cecil Hammonds, Thomas Hammonds, Cyrus Alley, Barbara Alley, Alice Putman, Cecilia Thompson.

REQUEST FOR A SPECIAL USE PERMIT BY AMOCO OIL COMPANY: to allow the installation of a building to house the remedial system for recovery and treatment of contaminated groundwater at 8450 State Line Rd. This system will replace the system that is installed at 8500 State Line Rd. The building will be located behind the house at 8450 State Line. Council member LaHue felt the homes association should review this matter, and that the building should be landscaped to hide it.
Council Minutes
Tape No. 280

September 7, 1993

Councilmember Campbell moved to approve the special use permit (limited to 5 years and with other stipulations), seconded by Moore. Dr. LaHue moved to amend the motion to add that the homes association review the building design, seconded by Rasmussen; unanimous. Mr. Campbell's motion as amended to approve the permit carried unanimously.

ORDINANCE NO. 1370 ADOPTING AN AMENDMENT TO THE 1993 MASTER DEVELOPMENT PLAN MAP: The amendment modifies the 1993 Plan Map by redesignating a tract of land approximately 10 acres in size, located at the southwest corner of 151st and Mission, commonly referred to as the Rose property, from Medium Density Residential-Single Family Detached to Planned Business. The ordinance was considered and passed on motion of LaHue, seconded by Patterson. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays—None.

RESOLUTION NO. 1121 APPROVING REQUEST FOR REZONING FROM AG TO RP-1, AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR WORTHINGTON, LOCATED AT APPROXIMATELY 143RD AND ROE AVE.: Attorney Pete Heaven presented the plan on behalf of the developers.

Plan Commission Stipulation No. 6 of the resolution stated that provisions for the future connection of 142nd Drive be made a condition of the plat. Mr. Heaven requested that the Council not require 142nd Drive to be part of the development plan, and remove the stub of that street which could perhaps ultimately connect with the existing 142nd Dr. cul-de-sac in Merry Lea Farms to the east. Merry Lea Farms has no plans to change their development/cul-de-sacs. 142nd Drive will never be a through street; Merry Lea Farms plat restrictions do not permit roads other than those currently indicated on the plat.

Several residents from adjoining subdivisions Merry Lea Farms and Leawood Meadows were opposed to the new subdivision, expressing concern about increased traffic, K-150 construction traffic, possible drainage problems. They also felt the subdivision was too dense, houses too close together on smaller lots, not comparable to the larger lots of the surrounding areas. One resident on the 142nd Dr. cul-de-sac in Merry Lea Farms objected to any future connection of 142nd Dr.; it would destroy his driveway and extensive landscaping.

Councilmember Campbell moved to adopt the resolution with the elimination of Plan Commission Stipulation No. 6 concerning 142nd Drive, seconded by LaHue. Councilmember Giblin moved to amend the motion to add the stipulation that construction traffic be restricted on Fontana until 80% of Phase 1 of the development is completed, seconded by Patterson. Motion to amend carried unanimously.

Councilmember Moore moved to amend the motion to also eliminate the 140th Dr. stub from the plan, but leave a right-of-way easement (leaving grass rather than asphalt a stub). Motion seconded by Patterson and carried unanimously.

Mr. Campbell's motion as amended twice carried; LaHue, Campbell, Clawson, Giblin, Moore, Patterson in favor; Rasmussen, Dunn opposed. Mrs. Dunn found it difficult to approve a plan that caused so much concern to surrounding homeowners, the density of particular concern. She would like to see the subdivision less dense. Mr. Rasmussen had similar concerns. Resolution attached as part of the record.
ORDINANCE NO. 1371 REZONING PROPERTY (WORTHINGTON) LOCATED AT 143RD AND ROE AVENUE FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL): The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas--LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.


INTERLOCAL AGREEMENT (REVISED) WITH OVERLAND PARK FOR THE PUBLIC IMPROVEMENT OF MISSION ROAD FROM 380 FEET SOUTH OF 95TH STREET TO 525 FEET SOUTH OF 103RD STREET: Since approval of the first agreement in January, 1993, funds from the Intermodal Surface Transportation Efficiency Act (ISTEA) have become available, necessitating a new interlocal agreement. Total project costs, excluding design and right-of-way, $1,530,000; Leawood's share, $87,516. On motion of Campbell, seconded by Dunn, Council authorized the Mayor to execute the revised agreement; Rasmussen opposed, all others in favor. Mr. Rasmussen has expressed his concern about lack of sidewalk coordination, gaps in the sidewalks, in previous discussions of Mission Road improvements from approximately 89th St. to College Blvd.

RESOLUTION NO. 1123 AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT NO. 81-93 BETWEEN KDOT, OVERLAND PARK, AND LEAWOOD, FOR THE GRADING AND SURFACING OF MISSION ROAD FROM 95TH STREET TO 103RD STREET: Councilmember Campbellmoved to adopt the resolution, seconded by Clawson. Councilmember Rasmussen said that subdivision (Saddlewood) entryway monuments will have to be moved, and it is not clear in the agreement that the expense of moving the monuments will be borne by KDOT. Public Works Director Brandt stated that monuments will be relocated by KDOT if they are in the way of a construction project; that is part of the project.

Mr. Campbell's motion carried; Rasmussen opposed, all others in favor. Resolution attached as part of the record.

ADDENDUM AGREEMENT BETWEEN LEAWOOD AND PRAIRIE VILLAGE FOR THE PUBLIC IMPROVEMENT OF THE INTERSECTION OF MISSION ROAD AND 89TH STREET: The original interlocal agreement was approved April 5, 1993. The addendum is necessary because the negotiated cost for design services exceeded the original estimated amount, and Prairie Village added additional wording to clarify that if a warrant study proved that traffic signals were not warranted, then either city could terminate the agreement upon...
written notice. On motion of LaHue, seconded by Moore, Council unanimously authorized the Mayor to execute the addendum.

5935
ORDINANCE NO. 1372 AUTHORIZING THE IMPROVEMENT OF STATE LINE ROAD.
PHASE IV: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1373 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES 93N.
PROJECT 133; MUNICIPAL GOLF COURSE; $3,400,000: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1374 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES 93P.
PROJECT 115; MISSION ROAD, 103RD-COLLEGE BOULEVARD; $400,000: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1375 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES 93Q.
PROJECT 124; 135TH STREET (K-150), STATE LINE-NALL AVE.; $1,000,000: The ordinance was considered and passed on motion of Clawson, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1376 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES L.I.D. 92-3-93R, PROJECT 132; STATE LINE ROAD, PHASE I; $900,000: The ordinance was considered and passed on motion of Clawson, seconded by Moore. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1377 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES L.I.D. 92-4-93S, PROJECT 130; TOWN CENTER DRIVE; $500,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1378 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES L.I.D. 93-3-93T, PROJECT 129; 143RD STREET, MISSION-1,320 FEET EAST; $400,000: The ordinance was considered and passed on motion of Dunn, seconded by Giblin. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1379 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES 93U.
PROJECT 126; MISSION ROAD, 95TH STREET-103RD STREET; $100,000: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen (lack of sidewalk coordination).
ORDINANCE NO. 1380 AUTHORIZING ISSUANCE OF TEMPORARY NOTES: SERIES 93V.
PROJECT 137: STATE LINE ROAD, PHASE IV: $100,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

6398 AGREEMENT GRANTING A TUNNEL EASEMENT TO HALLBROOK FARMS COUNTRY CLUB easement for the maintenance of a tunnel under Brookwood Street (approximately 11600 block) previously constructed with the Hallbrook Country Club golf course. On motion of Rasmussen, seconded by Giblin, Council unanimously approved the agreement.

6418 ORDINANCE NO. 1381 GRANTING A SANITARY SEWER SERVICE LINE EASEMENT TO BELL DEVELOPMENT, INC. FOR THE FUTURE CONSTRUCTION OF A SANITARY SEWER SERVICE LINE FOR THE PROPOSED LOT 16, LEAWOOD MISSION VALLEY SUBDIVISION: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

6600 RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC WORKS TO ESTABLISH CRITERIA FOR EVALUATION OF CONTRACTORS FOR THE PURPOSE OF ASSISTING THE GOVERNING BODY IN DETERMINING RESPONSIBLE BIDDERS FOR CONSTRUCTION PROJECTS OF THE CITY: Deferred until the September 20, 1993, Council meeting.

7100 DESIGNATION OF VOTING DELEGATES TO THE OCTOBER 3-5, 1993, ANNUAL LEAGUE OF KANSAS MUNICIPALITIES CONFERENCE IN OVERLAND PARK AND KANSAS CITY, KANSAS: The City Administrator was designated.

7172 DESIGNATION OF VOTING AND ALTERNATE VOTING DELEGATES TO THE ANNUAL CONGRESS (NATIONAL LEAGUE) OF CITIES, DECEMBER 2-5, 1993, IN ORLANDO, FLORIDA: Those attending will be the delegates; if they are unable to attend the business meeting, they can give voting cards to the Kansas delegation.

7266 WORK SESSION: Discussion - continued on new Tape No. 281.

11:00 P.M. Councilmember Moore moved to extend the Council meeting until 11:30 P.M., seconded by Clawson; unanimous.

END OF TAPE

7547

Tape No. 281

WORK SESSION - discussion continued: Private streets will be discussed at a work session on September 27th, 7:00 P.M. A work session will be held September 13th, 5:30 P.M., to discuss the 1994 Public Works Program and the design of Mission Rd. south of 103rd St.

The September 20, 1993, Council meeting will be held at 4:30 P.M. instead of 7:30 P.M.
341 APPROVAL OF APPROPRIATION ORDINANCE NO. 716: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

487 After a few Council comments, the meeting was adjourned at 11:20 P.M.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 281

# 515  The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 4:35 P.M., Monday, September 20, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Louis Rasmussen.
* Marnie S. Clawson arrived 4:43 P.M.; ** Doug Patterson arrived 5:50 P.M.; *** Mr. Rasmussen left the meeting at 5:45 P.M. Staff present: J. Stephen Cox, Police Chief; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; Julie Minegar, Public Works Secretary; and Richard S. Wetzler, City Attorney.

528  The agenda was approved unanimously on motion of Dunn, seconded by Campbell, after the addition of 1) a discussion of a bid for the construction of the new city hall plaza; 2) a discussion of sound barriers along I-435; and 3) a discussion of a letter from Terracon Consultants regarding site observations of the condition of the south bank of Tomahawk Creek east of Roe Ave., and abandonment of a walking trail.

561  CITIZEN COMMENTS: John Overman, 9901 Ensley Lane, expressed concern about a storm drainage problem in his area. Storm drainage from the basin roughly between 99th St. on the north, 102nd St. on the south, Wenonga on the west, and Chartwell West subdivision on the east, is concentrated into one outlet which has caused progressive erosion. With the additional drainage from the Chartwell West subdivision, there is now a continuously wet open channel which has become a breeding ground for mosquitoes. He requested that the appropriate people review this problem. Andy and Chris Scott (9820 Belinder), Phil Collingwood (9814 Belinder), and Ray Golly (9815 Ensley Lane) had the same concerns. A citizen request for storm drainage improvements will be considered under the Consent Agenda.

Todd Morgan, 11601 Norwood in Hallbrook, was very concerned about the 11% increase in the mill levy. He wanted to know why citizens were not given the opportunity to vote on whether or not a new city hall was to be constructed, as they were given the opportunity to vote on the construction of a golf course. He does not favor construction of a city hall without a vote of the people, especially one which he and others feel is too elaborate.

* 4:43 P.M. Councilmember Clawson arrived.

881  PROCLAMATIONS: The Mayor proclaimed:
   1. October 10, 1993, as "Double Tenth Day" (to observe the 82nd anniversary of the Republic of China on Taiwan);
   2. October 1993, as "SWOOPE (Students Watching Over Our Planet Earth) Awareness Month";
   3. October 4-10, 1993, as "National Juvenile Arthritis Awareness Week".
890 **CONSENT AGENDA:** A citizen’s request for storm drainage improvements at 9814 Belinder was removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Rasmussen:

1. Minutes of the September 7, 1993, Council meeting;
2. Parks & Recreation Advisory Board report (minutes) of their September 14, 1993, meeting;
3. Departmental reports;
4. Acceptance of $500 donation to the DARE (Drug and Alcohol Resistance Education) Trust Fund from Joseph Bellafiore, D.D.S., dental clinic at 10346 State Line Rd.;
5. Declaration of surplus property - Police Department CMI Intoxilyzer Model 4011A, a breath alcohol testing device no longer accepted by the State of Kansas for testing;
6. Pay Request No. 3 (FINAL); $128,608.00; 1993 Asphalt Rehabilitation; Seal-O-Matic Paving Co.;
7. Iron Horse Golf Club - approved as the name of the new municipal golf course to be constructed in the vicinity of 151st St., Mission/Nall.

Phil Collingwood, 9814 Belinder, requested improvement of a drainage ditch in his area which has eroded private property, ponds water, and is a health hazard. The drainageway is on private property; Public Works does not work on this drainage system. Mr. Collingwood indicated that the 2-year old Chartwell West subdivision at approximately 99th and Lee Blvd. contributes increasing runoff to the system. Public Works determined that a 36" concrete storm sewer extension into the James Branch was warranted and would cost approximately $59,062.50 which could be budgeted for 1995 construction. Public Works recommended that this improvement be submitted to the County’s Stormwater Management Advisory Council (SMAC) for possible future County funding.

Councilmember Rasmussen said that a letter from Shafer, Kline & Warren to the developer of Chartwell West mentioned the construction of a private storm sewer from the northwest corner of Chartwell West westery and northerly to a public storm sewer system at approximately 99th and Ensley Lane to alleviate some "sheet" flow to the west. What was a natural swale handling surface water became a public drainage system. The letter appeared to create a shift in liability to the City. It was Mr. Rasmussen’s opinion that the Chartwell West development redirected the drainage, thereby changing the flow of water. The developer should be held responsible if warranted. Mr. Rasmussen wanted residents to know that this type of project (private property erosion problems) would be low on SMAC’s priority list of projects; it could be several years before improvements are done. He felt strongly that residents have been wronged.

Councilmember Clawson felt some responsibility should be placed on the developer of Chartwell West.

Councilmember LaHue moved to refer this matter to the Public Works Committee for review, and direct Public Works to submit the improvement to SMAC. Motion seconded by Moore and carried unanimously.

Councilmember Dunn would like to see language included in agreements with developers that would force them to guarantee the design of storm drainage systems on their properties for ten years after developments are started. Councilmember Moore suggested Council review...
current City ordinances; they may want to expand on them. Staff will provide that information, preferably by the next Council meeting, but definitely within the next month.

1400 RESOLUTION NO. 1124 APPROVING REQUEST FOR REZONING FROM AG TO RP-1, AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR LEAWOOD PAVILIONS, NORTHWEST CORNER OF 151ST AND MISSION ROAD: The plan was presented by planner Brick Owens. The north portion will have large estate acreage with approximately 3/4-acre sized lots (gross density). The southern portion will have 1/4 to 1/3-acre sized lots (gross density). mh

1720 Councilmember Giblin moved to adopt the resolution, seconded by Rasmussen.

1840 Councilmember Dunn, due to her concern about density, moved to amend the motion to state that the acreage be a minimum of 1/3-acre (net acreage) per lot in the southern portion of the development, rather than 1/4-acre lots. The motion died for lack of a second.

2000 Councilmember Campbell asked if there would be 2 different homes associations/covenants because of the disparity in lot sizes and values of the homes between the north and south portions. The developer plans to have one homes association for the entire development.

2338 Councilmember Giblin’s motion to adopt the resolution carried unanimously. Resolution attached as part of the record.

2343 ORDINANCE NO. 1382 REZONING PROPERTY (LEAWOOD PAVILIONS) LOCATED AT THE NORTHWEST CORNER OF 151ST AND MISSION ROAD FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL): The ordinance was considered and passed on motion of Moore, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2364 MAYOR’S REPORT: At a recent County stormwater management funding meeting, the City presented a proposal which would help the City pay its share ($3 million plus) of over $12 million in stormwater management projects identified for Leawood under the County’s Stormwater Management Program. Part of the proposal was an increase from 75% to 90% in the County’s share. The proposal was defeated by the SMAC. mh

Kuang-ming Cheng is the new Director General of the Coordination Council for North American Affairs, Office in Kansas City (for the Republic of China on Taiwan).

2480 CONTRACT FOR THE CONSTRUCTION OF SANITARY SEWERS FOR THE MUNICIPAL GOLF COURSE IN THE VICINITY OF 151ST STREET BETWEEN MISSION ROAD AND NALL AVENUE: On motion of Rasmussen, seconded by Dunn, Council unanimously authorized a contract with the low bidder Luttrell Construction Co. in the amount of $231,160.00.

2493 CONTRACT FOR THE CONSTRUCTION OF AN IRRIGATION WATER SUPPLY LINE FROM THE BLUE RIVER TO THE MUNICIPAL GOLF COURSE IN THE VICINITY OF 151ST STREET BETWEEN MISSION ROAD AND NALL AVENUE: On motion of Rasmussen, seconded by Clawson, Council unanimously authorized a contract with the
low bidder KLC, Inc., in the amount of $149,531.00.

2502 **APPROVAL OF APPROPRIATION ORDINANCE NO. 717:** The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2570 **DISCUSSION OF SOUND BARRIERS ALONG I-435:** Councilmember Rasmussen learned that KDOT and Howard Needles Tammen and Bergendoff engineers are planning a continuous 16-foot wall (barrier). Residents did not request this; they want appropriate barriers from State Line Rd. to Saddle & Sirloin, recognizing that in some areas there would be 16-foot concrete walls, but berms with suitable landscaping in other areas where the right-of-way is wide enough.

Council directed the Public Works Director to contact KDOT and/or HNTB to clarify that it was the intent to have the most aesthetically pleasing barriers as practicable, and to report back to the Council.

Council discussed whether or not the sound barriers (walls) would assist in preventing flooding problems. Mr. Rasmussen was assured by KDOT, HNTB, and Public Works Director Brandt that construction would not worsen present flooding problems. Mr. Brandt will find out what KDOT and HNTB are doing and report at the next Council meeting if possible.

2757 **DISCUSSION OF A LETTER FROM TERRACON CONSULTANTS REGARDING SITE OBSERVATIONS OF THE CONDITION OF THE SOUTH BANK OF TOMAHAWK CREEK EAST OF ROE AVE. AND THE ABANDONMENT OF A WALKING TRAIL:** It was Terracon's opinion that the asphalt surface along most of the abandonment could be removed and the area seeded with appropriate vegetation. Councilmember Rasmussen referred to the last sentence of the letter in which Terracon felt it would be prudent to monitor the asphalt surface left intact for continued movement. Mr. Rasmussen understood the City would not be spending any more money on that area. Council will meet in executive session at the end of the meeting to discuss this matter under attorney-client privilege.

*** 5:45 P.M. Mr. Rasmussen left the meeting.

2799 **GROUNDBREAKING CEREMONY FOR NEW MUNICIPAL "IRON HORSE GOLF CLUB":** Scheduled for Wednesday, September 22, 1993, 5:30 P.M.

**LEAWOOD PARKS AND RECREATION FOUNDATION:** The Parks and Recreation Advisory Board hired a consultant in the amount $4,600 to help form a foundation. The Council supports the forming of a foundation to provide amenities that can not or would not be possible with property tax dollars.

** 5:50 P.M. Councilmember Patterson arrived.

2902 **DISCUSSION OF BID FOR CONSTRUCTION OF THE NEW CITY HALL PLAZA:** All bids received in October 1992 for construction of the complete facility were rejected because they exceeded the architect's estimate. The scope of work was reduced. Bachman Construction (the contractor for
the new library adjacent to the new city hall) submitted a proposal in the amount of $451,453 for a reduced project (the original low bid for the entire project was $694,500). Bachman also submitted further deductions totaling $62,368.

Staff’s recommended funding plan for construction of the reduced plaza project was to lease-purchase $300,000 worth of furniture for the new city hall, in lieu of using project funds. This would release $300,000 to be applied towards the plaza construction. The $300,000 plus $109,000 of Special Parks and Recreation funds, plus $32,500 included in the project budget, plus $9,953 of the current unallocated balance of the project would fund the reduced plaza project completely.

Council discussed the deductions submitted by Bachman Construction. The Mayor felt lights (deduct #2) should not be deleted for public safety reasons; it’s the City’s responsibility to light the area.

Councilmember Campbell moved to approve the funding of the reduced plaza project without the deductions suggested by Bachman Construction, earmark for the plaza the $300,000 budgeted for the furniture and lease-purchase the furniture, and that any additional funds accumulated in unallocated balance from the construction be earmarked to reduce the balance on the lease-purchase agreement; and any monies given to the Parks and Recreation Foundation be used to reduce the balance. Motion seconded by Moore.

Councilmember Patterson moved to amend the motion to add that in order to get the debt paid off as soon as possible, Council urges the next Council to include in its budget a payoff of the unpaid balance of the borrowed amount (the levy established would satisfy the debt in full). Motion seconded by Dunn.

Mrs. Dunn suggested that the Parks and Recreation Foundation prepare a list of projects as soon as possible for everything in the plaza area so people can readily decide if they would like to fund particular portions.

Councilmember LaHue wanted the decision on the funding postponed to give Council another opportunity to visit the city hall site, and not spending money on stormwater projects because the City has furniture to pay off concerned him.

Mr. Patterson’s motion to amend carried; Campbell, Clawson, Moore, Patterson in favor; LaHue, Giblin, Dunn opposed.

Mr. Campbell’s motion as amended to approve the funding carried; Campbell, Clawson, Moore, Patterson in favor; LaHue, Giblin, Dunn opposed. Mr. Giblin felt it irresponsible to borrow to pay for furniture and put the City further in debt; the City has stormwater problems and the private street issue which can be additional expenses for the City.

**EXECUTIVE SESSION:** On motion of LaHue, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 10 minutes to discuss a matter under attorney-client privilege.

Executive session began at 6:20 P.M. Council returned to regular session at 6:30 P.M. There being no further business before the Council, the meeting was adjourned.
# 30 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, October 4, 1993. Mayor Marcia Rinehart presided.

Council members present: John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Ronald LaHue was absent. Staff present: Richard J. Garofano, City Administrator; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Campbell, seconded by Giblin, after the addition of 1) a discussion of the Tomahawk Creek walking trail east of Roe Ave.; 2) a discussion of the City’s procedure for accepting and approving zoning protest petitions; and 3) a discussion of the financing of the proposed new City Hall plaza.

158 RECOGNITION OF BETTIE BRIDGES, LEAWOOD’S EMERGENCY PREPAREDNESS COORDINATOR: Mrs. Bridges was one of twelve Greater Kansas City area people who received the "Symbol of Caregiving" award at a September 30th ceremony at the Overland Park Marriott Hotel. The award, sponsored by D.W. Newcomer’s Sons and NEWSCHANNEL 4, honors "front-line" volunteers and professionals who provide "extraordinary service and care". Mrs. Bridges was nominated for the award by the Salvation Army.

The Mayor presented a Key to the City to Mrs. Bridges.

234 CITIZEN COMMENTS: Cindy Wayland, President of the Brookwood Elementary School PTA, asked the Council to consider reconstructing the curb cuts on 103rd St. between State Line and Mission Rd. to make them safer for disabled people, children who walk and bicycle to Brookwood School at 103rd and Wenonga, and pedestrians who walk or jog along 103rd St.

Mark Arensberg, a resident in the area of 103rd and Mission, said that the present curb cuts were constructed in such a manner that when children fall while biking on the sidewalk, they are "spilled" out into 103rd St. instead of into a side street.

(See tape meter #3220.)

Brian Gardner, 2901 W. 124th St., addressed the Council about the dangerous intersection at 124th and Fairway in the Hunter’s Ridge subdivision. The design lends itself to excessive speeds on the curves and vehicles traveling in the wrong direction on the curves. It’s a dangerous situation for children going to Leawood Elementary School. He asked that the Council consider a safer design.

(See Consent Agenda.)

455 PROCLAMATIONS: The Mayor proclaimed:

1. October 18-22, 1993, as "National Business Women’s Week";
2. October 3-9, 1993, as "Fire Prevention Week".

4182
CONSENT AGENDA: The minutes of the September 20, 1993, Council meeting, 2 requests for sidewalk construction, and the 1992 Audit were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Clawson:

1. Leawood Historic Commission report (minutes) of their August 31, 1993 meeting;
2. Acceptance of donations to the DARE Trust Fund: Mr. and Mrs. Lee Harris of Prairie Village donated $600.00, which will buy all DARE supplies for Corinth Elementary School at 83rd and Mission for the entire year; Steve Emerson, 8325 High Dr., donated $100.00; and Mr. and Mrs. Larry Schanzer donated $150.00 through their business, Napoleon, Inc.;
4. Resolution No. 1125 (attached as part of the record) approving the final plat of Leawood Falls, 5th Plat, at approximately 138th and Manor;
5. Establishment of a reduced speed limit school zone in the vicinity of 119th St. and Mission Rd. (for the Church of the Nativity School- 20 mph; 7:30-8:30 a.m., 2:30-3:30 p.m.);
6. Assignment to staff/Public Works Committee to study the intersection at 124th and Fairway in Hunter's Ridge subdivision for possible redesign.

Minutes of the September 20, 1993, Council meeting: On page 4179, first paragraph of the discussion of Resolution No. 1124 (tape meter #1400), Councilmember Dunn asked Planning Director McKay to clarify whether the densities referred to are "gross" or "net". On motion of Dunn, seconded by Moore, Council unanimously approved the minutes subject to that clarification. Mr. McKay advised the City Clerk after the meeting that the densities are "net". The minutes were corrected.

Petitions for the construction of sidewalks 1) along Mission Rd. between 135th St. and 143rd St. for students walking to the new elementary school at 143rd and Mission, and 2) along 143rd St. between Kenneth Rd. and Windsor Dr.: for #1, Public Works recommended a temporary asphaltic walkway until Mission Rd. improvements are completed. For #2, Public Works advised that a permanent sidewalk will be constructed with the 143rd St. paving project from Mission Rd. to 1200' east; the rehabilitation of the remainder of 143rd St. will be done in 1994, and no sidewalk is planned in conjunction with that project. Public Works recommended an asphaltic pathway be constructed.

Councilmember Patterson wanted to defer discussion to the October 18th Council meeting. Public Works Director Brandt said he needed to provide the Council with a cost analysis/feasibility study to determine if the sidewalks should be temporary or permanent. Councilmember Moore moved to accept the Public Works reports on the petitions and authorize staff to prepare a cost analysis. Motion seconded by Rasmussen and carried unanimously.

Acceptance of 1992 Audit: Councilmember Giblin asked questions about deferred compensation funds and the amount of street construction contracts. Page 39 of the Audit stated that matters involving internal control structure would be reported in a management letter. Finance
Director Malnicof advised Mr. Giblin that that letter would be formally issued soon.

Councilmember Rasmussen referred to page 19, "Notes to General Purpose Financial Statements". He thought that one reason for establishing a Public Building Commission to construct the new city hall was to keep that debt separate and distinct from other City debt. Mr. Malnicof explained that PBC debt is not chargeable as City debt, but because the PBC is a subordinate organization of the City, debt must be disclosed and is reported in financial statements. PBC debt is not subject to the City's debt limitations.

Councilmember Campbell moved to accept the 1992 Audit prepared by KPMG Peat Marwick, seconded by Clawson. Mr. Rasmussen moved to amend the motion to add that acceptance be subject to receipt by the Council of the management letter, seconded by Dunn; unanimous. Mr. Campbell's motion as amended carried unanimously.

867 RESOLUTION NO. 1126 APPROVING THE REVISED PRELIMINARY PLAT AND PRELIMINARY PLAN OF LEAWOOD FALLS, 6TH PLAT, APPROXIMATELY 138TH AND FAIRWAY: Adopted unanimously on motion of Patterson, seconded by Giblin. Attached as part of the record.

1012 RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM AG TO RP-4, AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR BRITWOOD LOCATED SOUTHEAST CORNER OF 151ST AND NALL: This property abuts the new Leawood municipal "Iron Horse Golf Club". Planning Director McKay stated that as part of the plan review and in accordance with the (golf course) agreement with Bell Development, Inc., a Golf Course Advisory Board (Review Committee) was formed, 3 members from the City and 3 members from the Bell organization, and they have met. Mr. McKay and the City's 3 members met today to review Bell's deed restrictions. Mr. McKay requested that the Board meet again and provide him with a written document that states what the parties have agreed to and what they haven't agreed to so staff can add some of that information to the resolution of approval. He wants to do this so staff will have written authority to handle problems affecting the golf course that may arise in the future since the City does not enforce deed restrictions. Mr. McKay requested discussion this evening, but wants to bring the resolution back to the Council on October 18th for the vote.

Councilmember Moore asked about the 20-foot rear yard setback in relation to the 20-foot golf course buffer easement. It appeared to him from looking at the plan that the setback and easement overlap in places where in fact they're supposed to be one and the same, not permitting any structures whatsoever in the 20-foot area. Mr. McKay said the plan shows outlines of homes which are not necessarily the actual outlines that exist.

Councilmember Campbell asked if there had been any discussion about putting a provision in the deed restrictions regarding the City's ability to enforce those restrictions. Mr. McKay said he didn't want to enforce all the restrictive covenants, only those that would affect the golf course, those he'd like to put in the resolution of approval.

Councilmember Rasmussen objected to the density; it's too great along the tee line, looks like a solid wall of housing. Mr. McKay said the Advisory Board reviewed the distance between the tees and the backs
of the homes to be sure that when golfers tee off, they won't be slicing into the homes. Mr. Giblin and Mrs. Dunn were also concerned about the density.

A protest petition had been filed. Mr. Rasmussen asked why it failed, was insufficient. Mr. McKay said that state statute required the petition to have the signatures of the owners of 20% of the property within 200 feet of the plat; there were not enough signatures to qualify for the 20%. He said the 20% requirement includes the golf course (City property), but not street right-of-way. Mr. McKay said that if the petitioners had had one more property owner, the petition would have been ruled sufficient. When a petition is submitted, he looks at the 200 feet, figures total square footage within the 200 feet, and takes out City-owned right-of-way to arrive at a net area. He did not exclude the golf course in the figures. He said the petitioners object to the density, the number of homes, the size of the lots being considerably smaller than their lots. Mr. Rasmussen asked Mr. McKay when he made the determination that the petition did not meet the 20%. Mr. McKay said he did so after the statutory period for filing had expired. He never makes such determinations prior to that time.

Councilmember Patterson requested copies of the protest petition and agreement with Bell Development, Inc., in the next Council packet.

Mr. Patterson moved to defer this item to the October 18, 1993, Council meeting, seconded by Giblin. Motion carried; Rasmussen, Giblin opposed, all others in favor. Mr. Giblin had voted "ay", but was allowed to change his vote (see discussion of Brittwood Estates, 1st Plat, tape meter # 1850).

ORDINANCE REZONING PROPERTY (BRITTWOOD) LOCATED AT APPROXIMATELY 151ST AND NALL FROM AG (AGRICULTURAL) TO RP-4 (PLANNED CLUSTER RESIDENTIAL): Deferred to October 18, 1993, Council meeting by consent.

RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM R-1 TO RP-1, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, AND FINAL PLAT APPROVAL, FOR BRITTWOOD ESTATES, FIRST PLAT, LOCATED AT APPROXIMATELY 154TH AND MISSION RD.: This property abuts the new Leawood municipal "Iron Horse Golf Club". Planning Director McKay said, as he stated during the discussion of Brittwood, that some additional information needs to be included in the resolution of approval for enforcement purposes - one item of concern being that the 25-foot clear and open space be left undisturbed. As with Brittwood, he wants a written report from the Golf Course Advisory Board (Review Committee). Mr. McKay requested that Brittwood Estates be deferred to the October 18th Council meeting.

Councilmember Giblin thought that the last motion made during the discussion of Brittwood was to defer Brittwood and Brittwood Estates; that's why he voted "ay". He said he was changing his vote to "nay" on that motion to defer to October 18 in view of the petitions.

Councilmember Campbell wanted to see the deed restrictions before voting on Brittwood and Brittwood Estates.

Councilmember Rasmussen said that the petition had not been reviewed by an attorney, and staff had concluded that the petition did not meet statutory requirements. Mr. Rasmussen felt that by deferring these matters, the Council was saying that the rejection of the peti-
tition denies the petitioners their statutory right to a two-thirds vote of the Council. He had been told by staff that the petition was valid. He had asked staff why they didn't make a decision about the sufficiency of the petition such that the petitioners had the right to correct deficiencies before the statutory period for filing expired. He was told that staff doesn't do that. He said he will propose to the Council that it instruct staff to inform petitioners within 48 hours of a filing whether or not the petition is valid. The fact that the City's signature (as a property owner) was excluded from the petition changed the whole 20% picture, and that's not fair to the petitioners.

Mr. McKay stated that he did not say the petition was valid regarding the 20%. He told Mr. Rasmussen and one of the petitioners that the petition was valid only as far as the form that was used. He said he waited until after the statutory period to check signatures so no one could accuse the City of being "in cahoots" with anyone, or of being anything but nonpartisan.

Mr. Rasmussen said that since City property abutting this development was included in the 20% count, the City Council, because they never had an opportunity to consider signing the petition, effectively precluded the petitioners from exercising a statutory right.

City Attorney Wetzler said that the City, by intervening at an early stage in the petition process, could sway a decision one way or another. The City follows the same policy election commissioners follow in evaluating petitions. When the petition is in and finally concluded, then and only then would staff make a determination as to the validity of the petition. Otherwise, how would anyone know the petition was concluded. There has to be a point in time at which everything is final and, in his judgment, that is the period of time when no further petition is permitted. He realized that Mr. Rasmussen was addressing the unusual position of the City. There was nothing to prohibit the petitioners from seeking independent counsel and determining that the City could also choose to vote on the petition.

Mr. Rasmussen said that he felt Mr. Wetzler was saying that the statutory period for filing the petition had expired before the Council had even had an opportunity to consider signing the petition. He asked him if he had reviewed the petition; Mr. Wetzler said that he had not.

Councilmember Campbell moved to defer discussion of the resolution and ordinance relating to Brittwood Estates, First Plat, to the October 18th Council meeting. Motion seconded by Clawson and carried; Rasmussen opposed, all others in favor.

Mr. Campbell requested that the City Attorney review the petitions in order to determine whether or not they were legally rejected.

Mr. Wetzler said, to clarify, that he believes that staff can only make a recommendation as to whether or not a petition is sufficient or insufficient; the determination of adequacy or inadequacy ultimately rests with the Council. Mr. Campbell asked why, in that case, the petition wasn't submitted to the Council.

Mr. Giblin asked if the Governing Body would want to sign the petition. Mr. Wetzler said that as a property owner, the City is subject to the same notice requirements as anyone else, and the time for modification of the petition has expired, the petition is complete.

Mr. Rasmussen said that discussion of this matter was complete, therefore, he deleted the request he made at the beginning of the meet-
ing for a discussion of protest petitions under new business.

ORDINANCE REZONING PROPERTY (BRITTMORE ESTATES, FIRST PLAT) LOCATED AT APPROXIMATELY 154TH AND MISSION ROAD FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL): Deferred to October 18, 1993, Council meeting by consent.

2466 CONTRACT TO RELOCATE GAS FACILITIES FOR 143RD STREET IMPROVEMENTS IN THE VICINITY OF MISSION ROAD: On motion of Rasmussen, seconded by Moore, Council unanimously approved a contract with Western Resources, Inc., in the amount of $5,901.63, to relocate the facilities.

2498 CONTRACT FOR ENGINEERING SERVICES FOR 89TH AND MISSION ROAD INTERSECTION IMPROVEMENTS: On motion of Rasmussen, seconded by Clawson, Council unanimously authorized the Mayor to execute a contract with Larkin Associates in the amount of $56,171.00. Prairie Village will share in the cost.

2519 CONTRACT FOR 1993 CURB REHABILITATION: On motion of Moore, seconded by Rasmussen, Council unanimously authorized the Mayor to execute a contract with the low bidder Vision Construction Co. of Kansas City, Missouri, in the amount of $110,730.10.

2577 CONTRACT FOR APPRAISAL AND RIGHT-OF-WAY NEGOTIATION SERVICES FOR STATE LINE ROAD PHASE 3 IMPROVEMENTS - 123rd St. to K-150 Highway: Councilmember Moore moved to authorize the execution of a contract with Right-of-Way Associates, Inc., in the amount of $18,300; seconded by Patterson.

Mr. Rasmussen was looking at this agenda item and the next agenda item concerning Phase 4 improvements together. He noted that the appraisals on easements and right-of-way for Phase 4 did not account for any contamination which may exist. The Council and property owners have faced contamination all along State Line Rd. He felt it was wrong for an appraiser to evaluate property without taking the contamination of the property into consideration. When the City hires Right-of-Way Associates, their responsibilities should be greater. Appraisers should take contamination into consideration when they determine the value of land. The City doesn’t want to pay fair market value for contaminated land.

The City Attorney said an engineer would have to prepare an (expensive) evaluation of the cost of the cleanup of the source of the contamination. It was not cost effective to do this for the Phase 4 appraisals. If the Council was aware of a real serious contamination problem that would warrant investment of additional dollars, then he would advise the Council to do so. Council can authorize staff to hire an appraiser who would take environmental concerns into account, but it’s a monetary consideration. If the City was aware of a serious likelihood of contamination and the City was acquiring the source, there would be no doubt that the City would spend additional money.

Mr. Moore’s motion to authorize a contract with Right-of-Way Associates carried unanimously.
3114 **AUTHORIZE PAYMENTS TO PROPERTY OWNERS FOR RIGHT-OF-WAY FOR STATE LINE ROAD PHASE 4 IMPROVEMENTS** - 103rd St. to I-435: $44,200 to Koger and Reimer, owners of the Jiffy Lube site at 103rd and State Line; and $8,215 to Mallow, owner of the property immediately south of Jiffy Lube; total of $52,415.00 (Leawood to pay 1/3 of this amount).

Councilmember Moore moved to authorize the payments, seconded by Campbell. Mrs. Dunn said she would like to see hold harmless language added to agreements with KDOT concerning contamination. If the City is forced to acquire land by KDOT’s regulations with which the City doesn’t agree, in an area which may be potentially contaminated, and contamination is found later, then KDOT should assume the liability. Mr. Moore’s motion carried unanimously.

3200 **ORDINANCE NO. 1383 GRANTING RIGHTS-OF-WAY TO JOHNSON COUNTY WASTEWATER DISTRICT FOR SANITARY SEWER LINE CONSTRUCTION AT THE IRON HORSE GOLF CLUB IN THE VICINITY OF 151ST STREET, MISSION ROAD TO NALL AVENUE:** The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yea---Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3220 **DISCUSSION OF CURB CUTS ON 103RD STREET, STATE LINE ROAD TO MISSION ROAD:** Councilmember Clawson said that more disabled children will be attending neighborhood public schools instead of being bussed to regional centers - this is a national trend among public schools. She asked if the City could use some of the funds budgeted in 1994 for compliance with the Americans with Disabilities Act (ADA) to accomplish 2 things - bring the curb cuts into compliance with ADA, and make the sidewalks safer. She would like curb cuts around schools to be a priority.

Mrs. Clawson moved that the matter of the reconstruction of curb cuts on the south side of 103rd St. (from Lee Blvd. to Mission Rd., and possibly State Line to Mission Rd.) be referred to the Public Works Committee for a recommendation as to how the City might appropriately use ADA funds and to see what the situation is at other schools. Motion seconded by Rasmussen and carried unanimously.

3584 **APPROVAL OF APPROPRIATION ORDINANCE NO. 718:** The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yea---Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3655 **DISCUSSION OF THE TOMAHAWK CREEK WALKING TRAIL EAST OF ROE AVENUE:** Councilmember Moore moved to authorize the City Attorney to meet with all property owners adjoining the trail and negotiate an agreement that relates to the closing of a portion of the trail in a manner that is consistent with Terracon Consultants’ latest letter report dated September 15, 1993, re site observations, south bank of Tomahawk Creek east of Roe Ave. Motion seconded by Giblin and carried unanimously.

3783 **DISCUSSION OF THE FINANCING OF THE NEW CITY HALL PLAZA:** Mr. Rasmussen referred to page 4181 of the September 20, 1993, Council minutes, tape meter # 3610, which related to the motion to approve the funding of the plaza. It was unclear to him who the leasee is - the City or the Pub-
lic Building Commission - in the lease-purchase agreement for the furniture for the new city hall. If it's the PBC, it should be made clear. If it's the City, it should be made clear, and if it's the City, the lease agreement should be presented to the Council for approval.

Finance Director Malnicof reviewed the city hall funding plan. The City, as the lessee under the lease-purchase, is responsible for paying for the furniture. The PBC authorizes the plaza construction.

Mr. Rasmussen said that the City Council had in essence approved a lease agreement without knowing the terms and conditions.

Mr. Rasmussen moved that the lease-purchase agreement be brought back to the Council for approval to make certain of the terms and conditions of the agreement, seconded by Giblin. Motion carried; Moore opposed, all others in favor. Mr. Moore felt it was a moot point to review the lease; it was approved at the last Council meeting, and a copy could simply be distributed to the Council as an informational item.

9:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
Tape No. 283

# 36 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, October 18, 1993. Councilmember John R. Campbell, Jr., presided in the absence of Mayor Marcia Rinehart who was visiting Leawood's Sister City, I-Lan, Taiwan.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; Captain Sid Mitchell, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

60 The agenda was approved unanimously on motion of Moore, seconded by Clawson.

70 HEARING TO CONSIDER REVOCATION OF A SOLICITATION PERMIT: The City has received numerous complaints about employees of American Community Services of Michigan City, Indiana, selling magazine subscriptions door-to-door. A pattern of ordinance violations is ongoing and has occurred the past several years. No representative of the company attended the hearing. Councilmember Giblin moved that the company's current Solicitation Permit No. 066-93 be revoked on the basis of the certified letter sent to the company on September 28, 1993, setting forth the facts upon which the City acted in suspending the permit. Motion seconded by Dunn and carried unanimously. The company can apply for a permit in the future, but past actions will be taken into consideration when the City considers issuing another permit.

190 CITIZEN COMMENTS: Bettie Bridges, Leawood's Emergency Preparedness Coordinator, advised the Council about 2 training courses for elected City officials and department heads to be held at the Salvation Army headquarters in Kansas City, Missouri, at no charge: November 18th, "Public Policy in Emergency Management"; and November 19th, "Continuity of Local Government". The "Public Policy" course would be helpful in determining how the City and media can work together to get correct information to the public in an emergency.

Mrs. Bridges also said that local ham radio operators will have an emergency exercise at city hall on Saturday morning, November 6th. The Salvation Army communications system will augment other systems. Prairie Village, Roeland Park, and Overland Park were invited to participate in the exercise.

366 CONSENT AGENDA: An assignment to the Public Works Committee and Change Order No. 2 to the contract for Town Center Drive construction were removed for further discussion. The following were approved unanimously on motion of Dunn, seconded by LaHue:

1. Minutes of the October 4, 1993, Council meeting;
2. Parks and Recreation Advisory Board report (minutes) of their Oc-
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October 12, 1993 meeting;
3. Public Works Committee report (minutes) of their October 6, 1993 meeting;
4. Departmental reports.

Assignment to Public Works Committee: Public Works requested that the Committee meet in November to discuss 1) ADA (Americans with Disabilities Act) sidewalk improvements (103rd St. and ADA transition plan), 2) a dangerous intersection at 124th and Fairway in Hunter’s Ridge subdivision, and 3) a storm drainage problem at 98th and Ensley Lane previously discussed at the September 20, 1993, Council meeting. Councilmember Patterson said he had written a letter to Public Works Director Brandt, indicating other storm drainage problems similar to that in the area of 98th and Ensley Lane. Mr. Patterson wanted the Committee to consider the other problem areas. On motion of Moore, seconded by LaHue, Council unanimously approved the Committee’s request to meet in November to consider the 3 items, and requested the Committee remain aware of Mr. Patterson’s request.

Change Order No. 2 to the contract for Town Center Drive construction: The change order was for the placement of concrete pavers in the cobblestone pattern in the islands on Town Center Drive from Nall Ave. to Roe Ave. in the amount of $9,825.60. Sod was planned for the median before the change order. Councilmember Moore moved to approve the change order, seconded by Clawson.

Councilmember LaHue said there was some maintenance with pavers—weeds grow up between them; he would prefer grass/landscaping. Public Works Director Brandt said that the median is narrow, less than 2 feet wide. In the summer, heat from the pavement would keep grass constantly dry, and in the winter, salt and slush would kill it. Grass is difficult to maintain.

Council discussed solid concrete as an alternative. It is not aesthetic. Patterned concrete pavers has been the City’s standard median treatment used on other collector and arterial projects for several years. If the Council wants to deviate from the standard, they need to review it. Aesthetically, it’s far superior to any solid concrete which tends to crack. It’s the most durable and requires the least amount of maintenance.

Mr. Moore’s motion to approve the change order carried unanimously.

RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM AG TO RP-4, AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR BRITTWOOD LOCATED SOUTHEAST CORNER OF 151ST AND NALL; ORDINANCE REZONING PROPERTY (BRITTWOOD) LOCATED AT APPROXIMATELY 151ST AND NALL FROM AG (AGRICULTURAL) TO RP-4 (PLANNED CLUSTER RESIDENTIAL); RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM R-1 TO RP-1, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, AND FINAL PLAT APPROVAL, FOR BRITTWOOD ESTATES, FIRST PLAT, LOCATED AT APPROXIMATELY 154TH AND MISSION RD.; ORDINANCE REZONING PROPERTY (BRITTWOOD ESTATES, FIRST PLAT) LOCATED AT APPROXIMATELY 154TH AND MISSION ROAD FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL). These matters concerning Brittwood and Brittwood Estates, First Plat, were discussed at the Oc-
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October 4th Council meeting and deferred to tonight. Planning Director McKay requested another continuance; he had not received information requested from the Golf Course Advisory Board (Review Committee), information he wanted to include in the resolutions of approval. Councilmember LaHue moved to continue the matters to the November 1, 1993, Council meeting. Motion seconded by Dunn and carried unanimously.

764 ORDINANCE NO. 1384 AMENDING SECTION 2-7 (FENCES AND WALLS) OF THE LEAWOOD DEVELOPMENT ORDINANCE - to address the construction of retaining walls, to regulate their height and location: Councilmember Clawson felt wording needed to be changed in Section 2-7.2 g) so that the second sentence would read, "Applications for retaining walls exceeding 4 feet in height, whether terraced or not, shall be accompanied by design calculations and plans sealed by a professional engineer registered in the State of Kansas". She added "design calculations" and changed structural engineer to professional engineer registered in Kansas since Kansas does not register structural engineers.

Mrs. Clawson asked if the ordinance should also apply to basement and swimming pool walls since they are also retaining walls. Planning Director McKay said that would be outside the realm of the zoning ordinance which deals with retaining walls completely separate from a home. The home is dealt with in the building code and swimming pools in a separate swimming pool code.

Mrs. Clawson felt wording needed to be added to Section 2-7.2 e) that would apply to drainage behind walls, that would apply to hydrostatic pressure that can build up behind a wall if there isn't sufficient drainage. Mr. McKay said that was also outside the realm of the zoning ordinance. Mr. Brandt said drainage considerations are part of a plan design, that design calculations cover hydrostatic pressure.

Mrs. Clawson moved to change the wording of Section 2-7.2 g), so that the second sentence would read as stated above. Motion seconded by LaHue and carried unanimously. Councilmember Dunn moved to pass the ordinance, seconded by Moore. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays—None.

1298 ORDINANCE NO. 1385 ESTABLISHING THE TERMS AND CONDITIONS AND AUTHORIZING THE EXECUTION OF A BASE LEASE OF CERTAIN FURNISHINGS AND EQUIPMENT, AND AUTHORIZING THE EXECUTION OF A LEASE/PURCHASE AGREEMENT FOR SAME - for furniture for the new city hall: Councilmember Moore moved to pass the ordinance, seconded by Clawson.

Councilmember Patterson wanted to defer the matter. He wanted to review the base lease and lease/purchase agreement which were exhibits attached to the ordinance; they were not distributed to the Council. Council decided at the last meeting that the lease/purchase would be brought back to them for approval. Mr. Patterson said he wanted the lease/purchase paid off in the 1995 Budget. He preferred a 1-year lease (which would not be renewable) over the 64-month, renewable lease prepared by bond counsel, to assure that it would be paid off. Finance Director Malnicof explained that the 64-month lease could be paid off at any time.

On roll call to pass the ordinance, the vote was: Yeas—LaHue,
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Campbell, Clawson, Moore, Dunn, Patterson. Nays---Giblin (opposed to borrowing on the furniture for the new city hall to pay the cost overrun on the new city hall plaza).

1871 **APPROVAL OF THE 1994 PUBLIC WORKS PROGRAM**: Unanimously approved on motion of LaHue, seconded by Giblin.

2183 **INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON DYEKES BRANCH: 86TH TERRACE AND LEE BOULEVARD - 83RD STREET AND SAGAMORE - PHASE I** - replacement of bridge at 85th Terr. and High Dr.: The County is committing funding, approximately $154,500 (75% of an estimated $206,000) from the County's Stormwater Management Program. On motion of LaHue, seconded by Moore, Council unanimously authorized the Mayor to execute the agreement.

2248 **INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE PUBLIC IMPROVEMENT OF 83RD STREET, STATE LINE RD. TO WENONGA**: The County is committing C.A.R.S. funds in the amount of $375,000 for the project. On motion of Moore, seconded by Giblin, Council unanimously authorized the Mayor to execute the agreement.

2362 **INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE PUBLIC IMPROVEMENT OF THE INTERSECTION AT 89TH STREET AND MISSION ROAD**: The County is committing C.A.R.S. funds for the project. On motion of Moore, seconded by Giblin, Council voted unanimously to defer consideration of the agreement to the November 1, 1993, Council meeting in order to clarify amounts stated in staff's fact sheet and in the agreement.

2699 **AMENDMENT TO INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE IMPROVEMENT OF 135TH STREET (K-150), STATE LINE ROAD TO NALL AVENUE**: The amendment increases the County's commitment of C.A.R.S. funds from $1,000,000 to $1,471,500. On motion of LaHue, seconded by Giblin, Council unanimously authorized the Mayor to execute the amendment.

2806 **LETTER AGREEMENT FOR TRAFFIC SIGNAL DESIGN AT ROE AVE. AND TOWN CENTER DRIVE**: On motion of Patterson, seconded by Giblin, Council unanimously authorized execution of the agreement with Shafer, Kline and Warren in an amount not to exceed $9,000 for surveying and traffic signal design. The costs of the design and construction will be shared by the properties on the four corners.

2912 **AUTHORIZE PAYMENT TO KANSAS CITY POWER & LIGHT COMPANY** - in the amount of $4,339.00 for the installation/connection of electrical service to a pump station at 15300 Kenneth Road which will provide water for the Iron Horse Golf Club irrigation system. On motion of LaHue, seconded by Moore, Council unanimously authorized the payment.

3013 **RESOLUTION NO. 1127 AUTHORIZING EXECUTION OF AN AGREEMENT WITH MISSOURI PACIFIC RAILROAD COMPANY WHICH GRANTS THE CITY OF LEAWOOD THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE AN IRRIGATION WATER LINE CROSSING FOR THE IRON HORSE GOLF CLUB**: Councilmember Moore moved to adopt the resolution, seconded by Dunn. Councilmember LaHue moved to amend the motion to add that the City Administrator be authorized to execute the
agreement in the absence of the Mayor, seconded by Moore; unanimous. Councilmember Campbell moved to amend the motion to add that signatures be attested by a notary in order to record the agreement, seconded by Clawson; unanimous. Mr. Moore’s motion as amended to adopt the resolution carried unanimously. Resolution attached as part of the record.

3212 AGREEMENT WITH WILLIAMS PIPELINE COMPANY FOR THE RELOCATION (LOWERING) OF GAS PIPELINES REQUIRED FOR THE 143RD AND MISSION RD. IMPROVEMENTS IN THE VICINITY OF THE NEW ELEMENTARY SCHOOL ENTRANCES: On motion of LaHue, seconded by Dunn, Council unanimously authorized the Mayor to execute the agreement. The City will pay Williams Pipeline approximately $19,500 for the relocation.

3428 AUTHORIZE "INTENT TO PROCEED" WITH STORMWATER MANAGEMENT PROJECT: On motion of LaHue, seconded by Clawson, Council unanimously authorized execution of the "Intent to Proceed". The project is Meadow Lane-Manor Road, Vicinity of 95th St. The estimated total project cost is $185,000. The County will pay 75% through the County’s Stormwater Management Program. The City will pay approximately $46,250.

3614 UTILITY AGREEMENT WITH KANSAS CITY POWER AND LIGHT COMPANY FOR THE RELOCATION OF TRANSMISSION FACILITIES IN THE VICINITY OF THE IRON HORSE GOLF CLUB AND THE MISSION ROAD IMPROVEMENTS SOUTH OF 151ST STREET: On motion of Dunn, seconded by Clawson, Council unanimously authorized execution of the agreement. The estimated relocation cost is $31,413. KCPL will submit an invoice for payment upon completion of the work. The cost will be paid by the Mission Rd. improvement project south of 151st St.

3746 ORDINANCE VACATING THE EXISTING KENNETH ROAD (FOR THE IMPROVEMENT OF K-150 HIGHWAY): The City Administrator said this vacation could have some impact on how the City proceeds with the financing of K-150 improvements. He requested that Council discuss this matter at the October 25th work session. On motion of Moore, seconded by Dunn, Council voted unanimously to defer consideration of the ordinance to the November 1st Council meeting.

3957 APPROVAL OF APPROPRIATION ORDINANCE NO. 719: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

4080 OTHER BUSINESS: Management letter for the 1992 Audit. Councilmember LaHue was most concerned about the segregation of duties in the Finance Department discussed on page 3 of the letter; it leaves the City open to improprieties. Finance Director Malnicof said that hiring additional people would solve the problem. "One person should do one function" has been a comment in all audits. Mr. Malnicof has 2 people to do 4 or 5 duties. He tries to segregate the duties as much as possible.

Councilmember Giblin wanted to see a written plan on how the City intends to solve internal control problems mentioned in the letter. Mr. Malnicof said that such a plan is addressed in the 1994 Budget.
$12,500 was approved for Peat Marwick to help the City convert to accrual accounting. Peat Marwick is in the process of doing that now. They feel the City can make the conversion with present personnel, utilizing a manual they will prepare. They still recommend the City hire a degreed accountant. All internal control problems remaining with the exception of one or two will be solved through accrual accounting.

4430 Solicitation ordinance: Councilmember Moore received complaints about door-to-door solicitation during hours of darkness. Present City ordinance permits door-to-door solicitation between the hours of 10:00 a.m. and 9:00 p.m. daily, all year. He asked the City Attorney to give an opinion by the next meeting on the possibility of changing the 9:00 P.M. time to an earlier hour during the winter season.

4557 Sound barriers along I-435: Council might meet with KDOT on November 8th for a presentation of design alternatives for the sound barriers.

4746 Mission Rd. improvements, 380 feet south of 95th St. to 525 feet south of 103rd St.: Council received copies of a petition in opposition to several aspects of the project. The City Administrator said that a number of residents attended a recent Overland Park Public Works Committee meeting (Overland Park is administering the project). They may have been there to seek a possible compromise in the design. He hasn't heard what Overland Park's Public Works Committee might propose; it's still under discussion there. Public Works Director Brandt said that the sidewalk south of 103rd St. on the east side of Mission Rd. will be eliminated from the plans.

Work session - October 25, 1993: Council will meet at 6:00 P.M. to discuss the financing of K-150, and will discuss private streets at 7:00 P.M.

5110 10:00 P.M. There being no further business before the Council, the meeting was adjourned.
MINUTES
REGULAR COUNCIL MEETING

Tape No. 284

The City Council of the City of Leawood, Kansas, met in regular session in the conference room of the temporary municipal office building, 9617 Lee Boulevard, at 5:08 P.M., Monday, November 1, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

On motion of LaHue, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 50 minutes to discuss a matter under attorney-client privilege. Public Building Commission members Jerry Underwood, Robert Adams, and John Elliott; City Engineer Terry Uhl; and Tom Milligan of Abend Singleton Associates architects attended the executive session.

Council returned to regular session at 5:55 P.M., and moved to the Council Chamber, 9615 Lee Boulevard, for a work session on the construction of sound barriers along I-435.

7:30 P.M. Council resumed their regular Council meeting in the Council Chamber, all Councilmembers present.

The agenda was approved unanimously on motion of Moore, seconded by Dunn, after the addition of a discussion of sound barriers along I-435.

RECOGNITION OF RONALD AND DOLORES MCCREASH: Mrs. McCreash is the secretary for the City’s Planning and Development Department. Mr. McCreash crafted a clock as a gift for Leawood’s sister city I-Lan, Taiwan. The Mayor presented it to I-Lan government officials during her visit to I-Lan in early October. The Mayor thanked the McCreashes for their help in making the trip to I-Lan a memorable one.

RECOGNITION OF LEAWOOD DELEGATION TO SISTER CITY I-LAN, TAIWAN: Leawood residents Cecil and Thomas Hammonds, Sue and Don Wilson, Cecilia Thompson, Alice Putman, Cyrus and Barbara Alley traveled with the Mayor and her husband Richard Rinehart to I-Lan in early October.

PRESENTATION OF GIFTS TO LEAWOOD FROM I-LAN: The delegation presented sister city jackets to Councilmembers. The Mayor officially presented a white marble statue, Kuan Yin (Goddess of Mercy), to the City. Another gift from I-Lan, a wood sculpture for the plaza area at the new city hall, arrived several weeks ago and is in storage.

ACCEPTANCE OF GIFT TO THE POLICE DEPARTMENT: Council formally accepted
a check in the amount of $6,000 from Leawood residents Mr. and Mrs. Louis Accurso for the purchase of a drug detection/tracking dog and training of a handler.

2310 **RESOLUTION NO. 1128 RECOGNIZING POLICE CAPTAIN RON L. ANDERSON FOR 20 YEARS OF SERVICE TO THE CITY (October 15, 1973-October 15, 1993):** The resolution, attached as part of the record, was adopted by unanimous consent and presented to Captain Anderson. Police Chief Cox presented a plaque to Captain Anderson.

2417 **CITIZEN COMMENTS:** None.

2432 **PROCLAMATIONS:** The Mayor proclaimed:
1. November 1-6, 1993, as "Community Club Awards Week";
2. October 17-23, 1993, as "Radon Action Week".

2435 **CONSENT AGENDA:** A resolution to approve the final plat of Leawood Country Manor, 10th Plat, was removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Campbell:
1. Minutes of the October 18, 1993, Council meeting;
2. Leawood Historic Commission report (minutes) of their September 21, 1993 meeting;
3. Renewal of Cereal Malt Beverage License - Hy-Vee Food Stores, 12200 State Line Rd.;
4. Pay Request No. 1 by KLC, Inc., for $48,692.25, for construction of the irrigation water line to serve the municipal Iron Horse Golf Club.

Resolution No. 1129 approving the final plat of Leawood Country Manor, 10th Plat: After clarification that 115th St. between Rosewood and Cedar is public right-of-way, Council unanimously adopted the resolution on motion of Patterson, seconded by Clawson. Attached as part of the record.

2474 **RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM AG TO RP-4, AND PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL FOR BRITTWOOD LOCATED SOUTHEAST CORNER OF 151ST AND NALL; ORDINANCE REZONING PROPERTY (BRITTWOOD) LOCATED AT APPX 151ST AND NALL FROM AG (AGRICULTURAL) TO RP-4 (PLANNED CLUSTER RESIDENTIAL); RESOLUTION TO APPROVE A REQUEST FOR REZONING FROM R-1 TO RP-1, PRELIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, AND FINAL PLAT APPROVAL, FOR BRITTWOOD ESTATES, FIRST PLAT, LOCATED AT APPX 154TH AND MISSION RD.; ORDINANCE REZONING PROPERTY (BRITTWOOD ESTATES, FIRST PLAT) LOCATED AT APPX 154TH AND MISSION ROAD FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL).** These matters concerning Brittwood and Brittwood Estates, First Plat, were discussed at the October 4th Council meeting, deferred to the October 18th Council meeting, and deferred again to tonight. Planning Director McKay requested another continuance. Councilmember Rasmussen moved to continue the matters to the November 15, 1993, Council meeting. Motion seconded by LaHue and carried unanimously.
2490 **MAYOR'S REPORT:** The Mayor congratulated City Engineer Terry Uhl on his position as Chairperson of the Professional Engineering/Land Surveying Committee of the Kansas State Board of Technical Professions.

The Mayor attended a Kansas City Crime Commission luncheon last week. The speaker was Dr. Lee Brown, Director of the Office of National Drug Control Policy, who supports the D.A.R.E. (Drug Abuse Resistance Education) Program, and is opposed to legalizing drugs.

2552 **DISCUSSION OF IMPROVEMENTS TO THE INTERSECTION OF 89TH AND MISSION ROAD:** A traffic analysis by Larkin Associates indicated that a traffic signal was not warranted, and probably would not be warranted in the near future. The interlocal agreement between Leawood and Prairie Village for the intersection improvements states that either city can terminate the project if a signal is not warranted. Also, right-of-way will need to be acquired from 2 corner properties, 8845 and 8901 Mission. The Council must decide if they want to continue the project given these conditions.

Councilmember Rasmussen asked about traffic flow on Mission. Public Works Director Brandt said that JBM traffic consultants previously told the Council that there was an estimated 12,000 vehicles per day on Mission. Mr. Rasmussen said that people are told that Mission is a major traffic artery and yet there are very few traffic signals between 75th St. and 95th St. Larkin didn't take the 12,000 vehicles or the number of signals on Mission into consideration when they did the traffic analysis. Mr. Brandt said Larkin could only do warrants based on current situations.

Councilmember LaHue felt the project should proceed without the signal because the intersection continues to be a problem and the cities need to take advantage of funding that is now available. He moved to approve the project as proposed without the signal, seconded by Moore. Dr. LaHue moved to amend his motion to add that Prairie Village be asked to consider moving the right-of-way more to the west to keep Leawood from having to take more right-of-way at 8901 Mission in order to keep the house in conformance with zoning regulations. Motion seconded by Moore and carried unanimously. Dr. LaHue and Mr. Moore withdrew their motion and second to approve the project without the signal after discussion of increased project costs for construction and right-of-way acquisition. (The main motion and amendment did not stand.)

Dr. LaHue moved to instruct the Public Works Director to propose to Prairie Village that the road be moved to the west, to check on any increased costs that Prairie Village might sustain, and to check on increased costs of the improvements. Motion seconded by Dunn and carried unanimously.

3457 **CONSIDERATION OF A CONTRACTORS’ PERFORMANCE POLICY:** Two resolutions were distributed. Version "A" incorporated comments from
Councilmembers, and would allow the Council to determine a lowest and most qualified bidder. Version "B" incorporated the comments, and would prohibit a contractor from bidding on city projects for one year following final acceptance of the project being evaluated.

Councilmember Rasmussen felt it's the objective of the City Council to establish policy and let staff administer the policy. He said version "A" would put the onus on the Council to consider all bids, including bids from contractors who historically had not performed satisfactorily. Version "B" makes it very clear that there is a procedure established whereby the City would announce to all who bid on city projects that the City would evaluate their performance, and Council would leave it up to the Public Works Director to decide whether or not a contractor's performance warranted being part of the next request for bids within a one-year time period. If a contractor felt the Director's evaluation was unfair, he could appeal to the Public Works Committee. So when bids come in for a project, the Council will know that all who bid will do suitable work.

Mr. Rasmussen moved to approve version "B" resolution, seconded by Giblin.

City Attorney Wetzler said that if the Council liked version "B", he would like the matter deferred so he could look at the legalities of the resolution. By state statute, Council has the ability to determine not just the lowest bid, but also the best bid. Mr. Wetzler needs to determine if the Council can delegate that authority to the Public Works Director. Mr. Rasmussen said he did not intend to give up determining the lowest and best bid; he was merely suggesting that when the City seeks proposals, it says that based on its experience, its not going to ask a contractor to be on its bid list for a year. Mr. Wetzler mentioned that a non-qualified contractor who was not on an approved list of bidders might submit a bid after seeing an ad (notice to contractors) in the newspaper. He asked how that bid would be handled. (Later at meter #4232, Mr. Rasmussen said the bid would be dead; since the contractor did not taken advantage of an appeals process, Mr. Rasmussen would tend to believe there's an "admission of guilt".)

Mr. Rasmussen and Mr. Giblin withdrew their motion and second to approve version "B" resolution.

Section 5 of version "B" is titled "Final Evaluations to be Considered in Connection with Solicitation of Bids for Contracts". Councilmember Dunn wanted a paragraph added to that section that would relate to final evaluations to be considered with awards of contracts. The Public Works Director, in presenting bids for construction projects to the Governing Body, would provide the Governing Body with any and all evaluations of work performed by a contractor or subcontractor bidding on a city project. Such a paragraph would go beyond the one-year time period. Several years can elapse between a project and the time that a company might bid again on another city project.

The City Administrator suggested the City might need a pre-qualifications process.

On motion of Rasmussen, seconded by Giblin, Council voted unanimously to defer consideration of a policy to a Council meeting within the next month.

DISCUSSION OF THE CONSTRUCTION OF SOUND BARRIERS ALONG I-435:
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Councilmember Rasmussen moved to select Alternate #3 design (noise wall placed on earth berm for $1,887,200), seconded by Moore. Councilmember Clawson moved to amend the motion to add that the Council prefers vertical striations in the wall, seconded by Rasmussen; unanimous. Mr. Rasmussen's motion as amended to select Alternate #3 carried unanimously.

RESOLUTION NO. 1130 AUTHORIZING EXECUTION OF AGREEMENT NO. 134-93 WITH KDOT FOR NALL AVE. IMPROVEMENTS, 119TH STREET TO 135TH STREET: Council discussed funding of the improvements. The resolution was adopted unanimously on motion of LaHue, seconded by Clawson. Attached as part of the record.

AMENDMENT TO INTERLOCAL AGREEMENT WITH OVERLAND PARK FOR THE IMPROVEMENT OF NALL AVENUE FROM 369 FEET SOUTH OF 119TH STREET TO THE CENTERLINE OF 133RD STREET, AND CERTAIN PORTIONS OF 127TH STREET FROM THE CENTERLINE OF NALL AVENUE TO 500 FEET WEST OF NALL AVENUE: The amendment reflects changes necessitated by language contained in KDOT Agreement No. 134-93 for the same project. On motion of Campbell, seconded by Dunn, Council unanimously authorized the Mayor to execute the amendment.

CONTRACT FOR DRIVEWAY RECONSTRUCTIONS IN PRAIRIE VILLAGE: A sanitary sewer line trench failure caused the collapse of seven driveways in the 7900 block and 8000 block of Reinhardt Lane, 7900 block of Windsor Dr., and 7900 block of Canterbury Dr. On motion of LaHue, seconded by Campbell, Council unanimously approved a contract with the low bidder Vision Construction Co. in the amount of $9,919.75.

RESOLUTION NO. 1131 DECLARING THE BOUNDARIES OF THE CITY OF LEAWOOD: Required by state statute following annexation - in this case, 41 acres annexed (from Overland Park) 12:01 a.m., April 7, 1993, for the new municipal Iron Horse Golf Club in the vicinity of 151st St., Mission Rd. to Nall Ave. The resolution was adopted unanimously on motion of LaHue, seconded by Moore. Attached as part of the record.

APPROVAL OF APPROPRIATION ORDINANCE NO. 720: The ordinance was considered and passed on motion of LaHue, seconded by Moore. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays—None. Mr. Rasmussen was not seated for the vote.

DISCUSSION OF THE FINANCING OF K-150 IMPROVEMENTS: Finance Director Malincof described 4 funding alternatives.

Councilmember LaHue moved to instruct staff to proceed with the funding of the K-150 project similar to that described in Alternative #4, with the formation of a benefit district either by square footage or linear footage. Motion seconded by Dunn. Alternative #4 funding is based on subdivision regulations requiring property owner to pay one-half of a collector street. Impact fees would pay $2,728,899 and would have to be increased by 36.4%. The City-at-large would pay $1,489,264. A benefit district by area - $.1610/s.f; benefit district by front foot - $130.00/lf.

Councilmember Rasmussen moved to amend the motion to state that
the City-at-large portion be such that the City's share of $500,000 approved in 1988 be adjusted for inflation and that all other sums be accumulated in accordance with Alternative #4 (instead of the City-at-large paying $1,489,264, it would pay $500,000 adjusted for inflation - say roughly $700,000 - and the difference would be paid through a benefit district). Motion to amend seconded by Moore. Councilmember Giblin felt impact fees and benefit districts are counter-productive to the improvement and development of the K-150 Corridor, an important area for widening the City's tax base. The City is going to make land too expensive and price itself out of the market. The motion to amend carried; Campbell, Clawson, Moore, Dunn, Rasmussen in favor; LaHue, Giblin opposed; Patterson abstained to avoid the appearance of a conflict of interest.

After a discussion aimed at simplifying the issue, Councilmember Clawson moved to rescind the previous amendment, seconded by Campbell. Motion carried; Moore opposed; Patterson abstained; all others in favor.

Councilmember Campbell moved to amend the main motion such that the City would commit $1,000,000 in City-at-large funds and any balance would be paid by a benefit district, seconded by Dunn. The City would be committing the same proportion of funds to the project as it committed 5 years ago, to wit, 10% of the overall cost of the project. Since the cost of the project has doubled, the City needs to be fair and double its commitment. Motion to amend carried; Giblin, Moore opposed; Patterson abstained; all others in favor.

END OF TAPE

# 18 Dr. LaHue's main motion as amended to proceed with the funding carried; Giblin, Moore opposed; Patterson abstained; all others in favor.

10:00 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
Tape No. 285

REGULAR COUNCIL MEETING

# 80 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, November 15, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, * John R. Campbell, Jr., Marnie S. Clawson, ** Graham G. Giblin, Sr., Douglas Moore, Louis Rasmussen, and Doug Patterson. Peggy J. Dunn was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Ben Florance, Fire Department Training Officer; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

90 The agenda was approved unanimously on motion of Rasmussen, seconded by Clawson.

* & ** Councilmembers Campbell and Giblin arrived.

100 PRESENTATION OF LEAGUE OF KANSAS MUNICIPALITIES CITY SERVICE AWARDS:

The Mayor presented a League Certificate of Appreciation, 10-year pin, and 1993 award booklet to Howard Mann, Fleet Maintenance Supervisor, Public Works Department, employed November 15, 1982; and to Gary Polter, Police Officer II, employed May 30, 1983.

245 CITIZEN COMMENTS: None.

250 PROCLAMATION: The Mayor proclaimed November 14-20, 1993, as "American Education Week".

257 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Moore:

1. Minutes of the November 1, 1993, Council meeting;
2. Parks and Recreation Advisory Board report (minutes) of their October 12, 1993 meeting;
3. Departmental reports;
4. Assignment to Public Works Committee to consider permanently closing the State Line Rd. access to the 2000 block of West 86th Street, to consider design, costs, and scheduling.

263 APPEAL OF A DENIAL OF A PERMIT TO KEEP 4 DOGS: In October Animal Control denied the request of Geoff and Heidi Martens, 2807 W. 91st Terr., to keep 4 dogs, based on the written objections of 2 neighbors within 200 feet of the Martens' residence. The Martens requested an appeal before the City Council. Animal Control Officer Paul Atzenweiler visited the Martens and recommended approval of the permit with review of the situation in a few months. Councilmember Moore moved to approve the permit to keep 4 dogs for a period of 1 year, seconded by Campbell. Motion carried; Rasmussen, LaHue opposed (since there were 2 written objections originally, in accordance with City ordinance); all others (5) in favor.
RESOLUTION NO. 1132 APROVING A REQUEST FOR REZONING FROM AG TO RP-4, AND THE PRELIMINARY PLAN AND PRELIMINARY PLAT, FOR VILLAS OF IRON HORSE (FORMERLY BRITTWOOD), AT APPROXIMATELY 151ST & NALL: The resolution incorporated 2 attachments by reference - "Attachment A", Golf Course Committee Recommendation; and "Attachment B", Declaration of Easements, Covenants, Conditions and Restrictions for the Villas of Iron Horse Residential Development. The Iron Horse Golf Club project manager Phil Gibbs suggested by letter additional stipulations which should be incorporated by reference as "Attachment C". Planning Director McKay reviewed those stipulations.

Section 2.14 on page 6 of "Attachment B" related to landscaping. Councilmember Campbell said he would like to see a higher landscape allowance, perhaps $2,000, and a statement as to how much must be planted in the backyards. Mr. McKay said that gardens and composting will be prohibited in the open space on the back 20 feet of all lots abutting the golf course.

City Attorney Wetzler talked about the protest petition which had been declared invalid. He said the City did have the ability to sign the petition, but it did not. He said it has been the unwritten policy for many years that staff not give advice to petitioners on zoning protests and other petitions so they would not be placed in the position of being friend or foe of whoever was encouraging a particular position; so staff, in this instance, did not advise petitioners on any rights. There is some risk in giving inappropriate advice. The City, being an owner of property, could have signed the petition. The City Clerk was informed of the zoning application, so the City technically was aware of the application. The Council might want to consider changing the "policy" for handling petitions when they are filed with staff. Council could direct that whenever zoning involves City property, the matter be immediately presented to the Council.

Mr. Campbell said it would be inconsistent behavior for the Council to vote in favor of signing a protest petition, then later vote in favor of the zoning. If the Council voted to sign a protest petition, he would expect them to deny the zoning application. He felt the Council should be advised when a petition is received by the City, but not necessarily vote to sign the petition. How many times should the Council vote on a particular issue - there's ample opportunity during the zoning process to vote for or against a zoning application.

Councilmember Rasmussen felt the Council should listen to the petitioners plead their case "in law". He said Mr. Campbell was right - it didn't make sense that the City should be placed in the present position. Under various definitions, the City's property should never have been included as a measure of the validity of the petition.

Fred Farr of Brittany Woods subdivision spoke on behalf of the petitioners. They felt the golf course should be considered a "public way". The definition of a "public way" in state statutes is vague, however, there is a definition in the Uniform Building Code which the City uses, and that definition caused petitioners to believe that the golf course should have been excluded from the petition calculations.

Mr. Rasmussen said the petition was denied because of the inclusion of City-owned property (the golf course) in the petition calculations.

Mr. Wetzler believed that "way" refers primarily to public access,
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and the golf course will not be operated as a public access.

The developers gave a presentation on the Villas of Iron Horse.

Rick Ensz, 5412 W. 153rd St. in Brittany Woods subdivision, was concerned about the setbacks in the new subdivision. His lot abuts the Villas. He wanted the setbacks to be equal to or comparable to those in Brittany Woods.

Councilmember LaHue moved to adopt the resolution (including the incorporation by reference of "Attachment C"), seconded by Patterson. Councilmember Rasmussen moved to amend the motion to add that a 20-foot building setback line be continuous along the south property line of the Villas. Motion seconded by Moore and carried; Giblin opposed, all others in favor.

Dr. LaHue’s motion as amended to adopt the resolution carried; Giblin opposed (he’s against the high density), all others in favor. Resolution attached as part of the record.

ORDINANCE NO. 1386 REZONING PROPERTY (VILLAS OF IRON HORSE) LOCATED AT APPROXIMATELY 151ST AND NALL FROM AG (AGRICULTURAL) TO RP-4 (PLANNED CLUSTER RESIDENTIAL): The ordinance was considered and passed on motion of Campbell, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Moore, Rasmussen, Patterson. Nays---Giblin (opposed to the high density).

RESOLUTION NO. 1133 APPROVING A REQUEST FOR REZONING FROM R-1 TO RP-1, AND THE PRELIMINARY PLAN AND PRELIMINARY PLAT, FOR IRON HORSE ESTATES (FORMERLY BRITTWOOD ESTATES, FIRST PLAT), AT APPROXIMATELY 154TH AND MISSION RD.: Adopted unanimously (including an "Attachment C" as in Resolution No. 1132) on motion of LaHue, seconded by Patterson. Attached as part of the record.

ORDINANCE NO. 1387 REZONING PROPERTY (IRON HORSE ESTATES) LOCATED AT APPROXIMATELY 154TH AND MISSION RD. FROM R-1 (SINGLE FAMILY RESIDENTIAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL): The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

INTERLOCAL AGREEMENT (NO. 3) WITH OVERLAND PARK FOR THE PUBLIC IMPROVEMENT OF MISSION ROAD FROM 380 FEET SOUTH OF 95TH STREET TO 525 FEET SOUTH OF 103RD STREET: The Overland Park City Council, at the request of residents adjoining the public improvement, voted to narrow the roadway width from 52 feet to 48 feet back-to-back of curb.

Responding to a question from Councilmember Rasmussen, Police Chief Cox confirmed that Mission Rd. between 95th St. and I-435 is not a truck route.

Mark Arensberg, 10300 Howe Lane in Dorset Manor subdivision, objected to the widening of Mission Rd.

Alfred Hagemann, 10314 Howe Lane, felt the same. If the road is widened to 4 lanes, he would be particularly concerned about the replacement of trees and the safety factor — cars presently run up off of Mission into the backyards of homes in Dorset Manor; 4 lanes would be even more of a hazard. The safety aspect would have to be addressed, perhaps with a retaining wall.
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Bill George, 10320 Howe Lane, did not receive a letter advising him of the proposed improvements, and he thought it was ridiculous to improve a roadway which goes into a floodplain area.

It was noted that the plat of Dorset Manor shows the right-of-way for the widening of Mission, so residents should have been aware that improvements would be made at some point.

Councilmember LaHue moved to approve the agreement, seconded by Moore. Motion carried; Rasmussen opposed (he voted against the first agreement), all others in favor.

4307 REQUEST TO PROCEED WITH THE DESIGN OF A SIDEWALK ON MISSION ROAD BETWEEN 94TH STREET AND 95TH STREET: Staff presented two alternatives - 1) for $71,987.13, construction with complete replacement of the sidewalk on Cure of Ars Church property, and 2) for $62,613.48, construction with partial replacement of the Church’s sidewalk.

Councilmember LaHue moved to approve the complete replacement alternative for $71,987.13, seconded by Campbell. Councilmember Rasmussen moved to amend the motion to state that the project will be built if funds are available, seconded by Clawson. Motion to amend carried; Patterson opposed (sidewalks in other areas of the City should have priority), all others in favor.

Dr. LaHue’s motion as amended carried; Patterson, Giblin opposed (Mr. Giblin preferred the less expensive alternative), all others in favor.

Staff will proceed with the design of the sidewalk.

4680 AUTHORIZE RIGHT-OF-WAY NEGOTIATION SERVICES FOR NALL AVE. IMPROVEMENTS, 119TH ST. TO 135TH ST.: On motion of Rasmussen, seconded by Clawson, Council unanimously approved a proposal from Right-of-Way Associates for negotiation services for 29 tracts for an estimated $26,100.

4714 AUTHORIZE PRELIMINARY SURVEY FOR MISSION ROAD IMPROVEMENTS, 143RD ST. TO 151ST ST.: On motion of LaHue, seconded by Moore, Council unanimously approved a proposal from Shafer, Kline & Warren for the survey in the amount of $7,985.00.

4755 AUTHORIZE SURVEYING SERVICES FOR STORM DRAINAGE IMPROVEMENTS IN THE VICINITY OF 96TH STREET AND BELINDER/MANOR/MEADOW LANE: On motion of LaHue, seconded by Clawson, Council unanimously approved a proposal from Rhodes Surveyors in the amount of $7,800.00.

4767 PAYMENT FOR RIGHT-OF-WAY FOR 85TH TERR. AND HIGH DR. BRIDGE REPLACE-
MENT: At the beginning of the project, the City agreed to expend approximately $25,000 on aesthetics in lieu of directly compensating the adjacent property owners for easements. To date, four of the five property owners have returned executed easements to the City without being directly compensated. The fifth property owner, Keith Copaken, 2310 W. 85th Terr., has requested additional landscaping for replacement of bushes and trees, in addition to some other requests. Staff opposes the expenditure of additional funds on Mr. Copaken’s property. City Attorney Wetzler said that negotiated amendments to the temporary construction and drainage easements could be made - the changes are not insurmountable.
Mr. Copaken said he is in favor of giving the easements and of the bridge being built. However, he is concerned about replacement of his driveway, a walkway, and trees, and about flooding problems on his property. He was only asking that his property be put back to the same condition as it was before construction; he was not asking to be paid for the easements. He asked that the Council not defer the matter, but approve the expenditure of funds to take care of his concerns subject to Council approval of final easement documents which were agreed upon before the Council meeting. He asked that the terms be approved this evening subject to complete legal documents being presented to the Council.

Council preferred to see the completed documents before making a decision. On motion of Rasmussen, seconded by Clawson, Council voted unanimously to defer the matter to the December 6th Council meeting.

5369 AUTHORIZE PAYMENT FOR RIGHT-OF-WAY AND PERMANENT DRAINAGE EASEMENTS FOR 143RD ST. IMPROVEMENTS, MISSION ROAD TO 1200 FEET EAST: On motion of Rasmussen, seconded by Patterson, Council unanimously approved payment of $3,500 to John Irwig.

5386 AUTHORIZE PAYMENTS FOR EASEMENTS AND/OR RIGHTS-OF-WAY FOR MISSION ROAD IMPROVEMENTS, 95TH ST. TO 103RD ST.: On motion of Rasmussen, seconded by Clawson, Council unanimously approved payments totaling $9,650 to 10 property owners. The approval assumes a new land appraisal and review will not be required due to the change in the roadway width approved by Overland Park. (See tape meter #3245 above.) If they are required, the bill will be submitted to Overland Park.

5564 RESOLUTION NO. 1134 DESIGNATING HOLIDAYS IN 1994: Adopted unanimously on motion of Moore, seconded by Rasmussen. Attached as part of the record.

5575 APPROVAL OF APPROPRIATION ORDINANCE NO. 721: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen, Patterson. Nays---None.

5630 10:10 P.M. Recess. Council returned to regular session at 10:15 P.M., same members present. Tours of the Iron Horse Golf Club property will be given Thursday, November 18th, 3:30 P.M., and Tuesday, November 23rd, 3:00 P.M.

The Council will meet Monday, November 29th, 7:00 P.M., to discuss the City Administrator's performance evaluation. A follow-up meeting will be held December 13th, 7:00 P.M.

The Council will meet with State Representative David Adkins on January 3rd to discuss upcoming 1994 legislative issues.

6021 10:25 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
SPECIAL COUNCIL MEETING

Tape No.

The City Council of the City of Leawood, Kansas, met in special session in the conference room of the municipal office building, 9617 Lee Boulevard, at 7:00 P.M., Monday, November 29, 1993. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson, for the purpose of convening an executive session to discuss a personnel matter. Councilmember Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator.

On motion of Giblin, seconded by Dunn, Council voted unanimously to convene in executive session for a period of 3 hours to discuss a personnel matter.

10:00 P.M. Council returned to special session, same members present. Councilmember Moore moved to return to executive session until 11:00 P.M. to continue discussion of the same matter. Motion seconded by Clawson and carried; Giblin, Rasmussen, opposed; all others in favor.

10:50 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
PUBLIC HEARING

Tape No. 286

# 31 Minutes of a public hearing held Monday, December 6, 1993, at 7:00 P.M., in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

The purpose of the hearing was to hear public comment on a 1994 Community Development Block Grant application for funds to help the City in its ADA (Americans with Disabilities Act) compliance efforts.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Louis Rasmussen, and Doug Patterson. Peggy J. Dunn was absent. Staff present: Richard J. Garofano, City Administrator; Ronald Brandt, Public Works Director; J. Stephen Cox, Police Chief; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Deidre Markley, Administrative Intern.

Mayor Marcia Rinehart opened the hearing.

Deidre Markley presented information on the ADA and the Community Development Block Grant program. The City has identified over 120 structural accommodations which must be completed so that existing City buildings and park facilities comply with ADA. Also, the City is responsible for rebuilding to ADA specifications 87 sidewalk curb ramps in high pedestrian traffic areas. The total cost of these modifications is $122,624. The City budgeted $72,500 in 1994 for this project. The City will apply for CDBG funds in the amount of $50,124.

Councilmember LaHue asked if there were other funding alternatives in the event the City does not receive grant funds. Ms. Markley said there were no other grants available from the state or federal governments that would cover ADA.

Councilmember Rasmussen said some new curb cuts in Kansas City, Missouri had been constructed like those on 103rd St. (at an angle rather than squared to the street). Curb cuts on 103rd St. will be reconstructed because they have been deemed a safety hazard. Mr. Rasmussen wanted to know if Kansas City had built the curb cuts correctly, and if so, did Leawood really have to reconstruct the cuts on 103rd St. Public Works Director Brandt thought that the main criterion on curb cuts and ADA ramps is the steepness of the grade away from the gutter or the street. Mr. Rasmussen voted in favor of reconstructing the curb cuts on 103rd St., but considering the lack of money, and if the City does not receive CDBG funds, the City may have to prioritize, and he would like to do that around cuts that are not cut now. He would like to know how Kansas City justifies their curb cut construction. Mr. Brandt will investigate.

4:46 7:20 P.M. On motion of Moore, seconded by Clawson, Council voted unanimously to conclude the hearing.

[Signature]
Martha Heizer, City Clerk
Tape No. 286

MINUTES
REGULAR COUNCIL MEETING

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, December 6, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Moore.

RECOGNITION OF FIRE DEPARTMENT CAPTAIN DENNIS A. THOMASON FOR SERVICE TO THE CITY: Plaques were presented to Captain Thomason by Mayor Rinehart and Fire Chief Strack in honor of his 25 years of service to the City (December 1, 1968-December 1, 1993). Mayor Rinehart also presented a League of Kansas Municipalities Certificate of Appreciation, Cross pen and pencil set, and 1993 League award booklet to Captain Thomason.

RECOGNITION OF MISSION TRAIL ELEMENTARY SCHOOL COMMUNITY FOR CONTRIBUTIONS TO THE D.A.R.E. TRUST FUND; FORMAL COUNCIL ACCEPTANCE OF DONATIONS: Police (D.A.R.E.) Officer Mike Pelger presented certificates of appreciation to the following:
1. Jacque Harkness and her family. Mrs. Harkness organized a walk-a-thon on November 6th which raised $2,300.
2. Don Huntington who provided food for walk-a-thon participants (Mr. Huntington has also given money to D.A.R.E. in the past).
3. Al Hagemann of Arthur Andersen & Co. accountants - the firm raised approximately $1,300.
4. 5th grade students Crissy Murray and Ann Marie Jones who raised $103.

The Council formally accepted the contributions.

CITIZEN COMMENTS: Charles Schaefer, 13701 Fontana, asked the Council to discuss the final plat of Worthington when it considered the Consent Agenda. He felt the funding of Roe Avenue was not definitive as it related to Worthington (Leawood) and Timbers Edge (Overland Park) sharing the cost of construction. He was also concerned about a barrier as opposed to signage being placed on Fontana to restrict construction vehicle traffic.

Adam Bracco, 12303 Aberdeen, and Ryan Brook read a petition requesting that rollerblading and skateboarding be permitted on subdivision streets (not main through streets) because they are good exercise and means of transportation, and because of annual competition meets.
Wayne Johnson, 4561 W. 138th Terr., was concerned about drainage in the area of Worthington/Quail Crest/Timbers Edge subdivisions. There didn't seem to be a coordinated effort to address the area runoff.

1078 PROCLAMATIONS: The Mayor proclaimed:
1. November 22, 1993 as "Joe Carter Day";
2. December 1-17, 1993 as "Take Care Kansas City Weeks" (for AIDS awareness).

1083 CONSENT AGENDA: Resolutions to approve the final plats of Villas of Iron Horse, Iron Horse Estates, and Worthington subdivisions, and the Public Works Committee minutes of their November 17, 1993 meeting, were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Dunn:
1. Minutes of the November 15, 1993, Council meeting;
2. Minutes of the November 29, 1993, Special Council meeting;
3. Appointment of Phillip A. Collingwood (9814 Belinder) to the Public Works Committee through April 1994;
4. Acceptance of a permanent drainage easement and temporary construction easement from Keith and Amy Copaken, 2310 W. 85th Terr., required for the bridge replacement at 85th Terr. and High Dr.

Public Works Committee minutes of their November 17, 1993 meeting:
Correction to Page 3, New Business, ADA Sidewalk Improvements - the motion should read, "LaHue moved and Giblin seconded a motion to reconstruct ADA-related curb cuts along preferred school routes in advance of curb cuts that are solely ADA related. Motion passed."

1164 Resolution No. 1135 approving the final plat of Villas of Iron Horse (approximately 152nd & Mall), and Resolution No. 1136 approving the final plat of Iron Horse Estates (approximately 154th & Mission): Councilmember Rasmussen wanted clarification of a Plan Commission stipulation of approval in both resolutions which said that all separate agreements and attachments per preliminary plat Resolutions 1132 and 1133 respectively, adopted by the Governing Body on November 15, 1993, dealing with the golf course, must be approved by the Golf Course Committee prior to submission to the Governing Body for final action. Planning Director McKay confirmed that Attachments A (Golf Course Committee Recommendation), B (Declaration of Covenants, Conditions and Restrictions for the development), & C (City's engineering consultant's review comments) of Resolutions 1132 and 1133 were approved by the Golf Course Committee prior to submission to the Council of the final plat resolutions tonight. On motion of Rasmussen, seconded by Moore, Council unanimously adopted Resolutions 1135 and 1136. Attached as part of the record.

1289 Resolution No. 1137 approving the final plat of Worthington (approximately 143rd & Roe): Council discussed citizen concerns (see Citizen Comments, meter #880) about Roe Ave. financing (concern that additional financing further south on Roe had not been agreed to), barriers on Fontana to restrict construction vehicle traffic, and drainage. Planning Director McKay said there needed to be a physical bar-
rrier that would prohibit construction vehicles from entering Fontana; the Police Department said signage would not help. He also said that drainage would be handled - APWA standards would have to be met.

Plan Commission stipulation of approval #5 of the resolution states that construction of Roe Ave. is required to the southern limits of the first phase of the subdivision. The developer is responsible for the cost of one-half of the roadway, eventually all the way to 143rd St., but at the present time, only the north 40 acres are being platted. The second phase of the development can not be approved without construction of Roe Ave. being a part of the requirements.

Public Works Director Brandt confirmed that he is looking at the total storm sewer basin as far as Worthington drainage is concerned.

On motion of LaHue, seconded by Campbell, Council unanimously adopted Resolution No. 1137. Attached as part of the record.

1663 MAYOR’S REPORT: The Mayor commended staff on their "Have a Heart-Help a Child" Christmas project luncheon on December 3rd.

1708 RESOLUTION AMENDING THE K-150 CORRIDOR TRANSPORTATION IMPACT FEE:
Council had previously discussed the necessity to increase the share of the costs which property owners abutting K-150 will pay for the improvement of K-150 in light of KDOT’s increased cost estimates. Staff had proposed the formation of a benefit district to accommodate the increase in the property owner share and to eliminate the need for the City to front the entire local share of the costs while awaiting reimbursement as the impact fee is collected from future development. This is just one of several methods staff will be proposing to soften the impact of future mill levy increases that would result from executing the Capital Improvements Plan (CIP) as it is currently proposed.

The establishment of a benefit district along K-150 is not a sure thing as state statute provides a mechanism for the property owners to protest and preclude its formation. In order to preserve the City’s ability to collect the increased property owner share, staff proposed that the Council amend the current impact fee. Revising the fee would guarantee that the City would be able to collect the amount it is seeking through the impact fee in the event it is unable to form a benefit district.

Councilmember Patterson wanted this matter deferred for at least one month to give property owners along K-150 who had just learned about the proposed impact fee amendment an opportunity to discuss the K-150 financing issue. Staff confirmed for Councilmember Rasmussen that any action on the impact fee resolution (this evening) had nothing to do with the acquisition of right-of-way (through condemnation at the beginning of 1994) which KDOT requires before bids can be let (in April). Mr. Rasmussen said that the issue was what is a fair and just way of arriving at the amount of money that will be necessary to develop K-150, so with that in mind, he moved to defer consideration of the resolution to the January 3, 1994 Council meeting, seconded by Giblin. Councilmember LaHue was concerned about an April deadline for bid letting and the possibility of state funding being pulled, so he favored voting on the matter to establish the impact fee since it could be changed later at any time if necessary by resolution, or the Council could vote to form a benefit district. He did not want to jeopardize
2958  Mr. Rasmussen's motion to defer carried; LaHue opposed, all others in favor.

2984  **CONTRACT FOR MISSION ROAD IMPROVEMENTS SOUTH OF 151ST STREET:**
Councilmember Rasmussen moved to authorize the Mayor to execute a contract with O'Donnell & Sons Construction Co. in the amount of $1,219,097.77, seconded by Clawson. Councilmember Campbell was concerned that O'Donnell's bid was so close to the engineer's estimate of $1,221,267.67. Public Works Director Brandt said that a part of the City's agreement with Bernard O'Donnell for his conveyance of land to the City for the Iron Horse Golf Club provided that he be given the opportunity to bid on the construction of Mission Rd. south of 151st St. As long as the bid was under the engineer's estimate, Council would be asked to approve it. If the Council approved the contract, the City would avoid paying the $60,000 acquisition costs (plus reimbursement for out-of-pocket costs estimated at $20,000) for the ground conveyed. City Administrator Garofano said that O'Donnell's bid was a negotiated price, negotiated down to come under or equal to the engineer's estimate. O'Donnell's original bid was also close to the estimate.

3276  Councilmember Giblin had a problem with the concept of the agreement with O'Donnell; the City gets a $60,000 consideration and he gets a contract.

3320  Councilmember Rasmussen said there was another consideration in addition to the $60,000 and $20,000. This project requires a lot of fill. Due to timing of the construction of the roadway, it is important that the City not have the difficulties it may or may not have with previous contractors. Coordinating the construction with O'Donnell was an important consideration.

3423  **CONTRACT FOR CONSTRUCTION OF BELL DRIVE (entry road to the Iron Horse. Golf Club clubhouse):** On motion of Rasmussen, seconded by Dunn, Council unanimously authorized the Mayor to execute a contract with O'Donnell & Sons Construction Co., Inc., in the amount of $247,345.56.

3438  **AUTHORIZE REVISED PAYMENT FOR RIGHT-OF-WAY FOR STATE LINE RD. IMPROVEMENTS, PHASE 4:** The Council had previously approved a payment of $44,200 to Koger and Reimer partnership which owns the site occupied by Jiffy Lube at 103rd & State Line. Subsequently, Reimer questioned the method used in establishing the valuation of the property. The matter was presented to the review appraiser, who modified the review appraisal to $49,500. Councilmember Moore moved to authorize the revised payment, seconded by Campbell. Motion carried; Rasmussen, Giblin opposed; all others in favor. Mr. Giblin opposed because Koger and Reimer will get the easement back, and Mr. Rasmussen opposed because the property may be contaminated.

3582  **AGREEMENT TO DEDICATE PROPERTY IN THE VICINITY OF 127TH STREET & NALL AVENUE:** Council had previously discussed negotiations with the owner of 13.3 acres in the vicinity of 127th and Nall for the dedication of the land for park purposes. This tract will complete the last leg of
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the greenway from Roe to Nall Avenues. The County has agreed to construct this section of the bike/hike trail which will provide another link up to the Overland Park system.

City Attorney Wetzler said that the property owner Wallace McKee had signed the agreement to dedicate and a general warranty deed. Mr. Wetzler asked that the Council authorize the Mayor to execute the agreement. The deed will be filed after the City receives a clear title policy. An ordinance to accept the deed will probably be considered later.

On page 3 of the agreement, there is a statement that "The sole consideration for the Dedication of the foregoing described property by Grantors to the City shall be the agreement of the City to assume responsibility for all unpaid taxes and special assessments outstanding upon the property...". Councilmember Rasmussen wanted to be assured before the City took title to what is now floodplain, that there was a clear understanding on the part of the County that the City doesn't pay taxes. Finance Director Malnicof said that the delinquent special assessments will be paid by and returned to the City. The delinquent real property taxes will be paid under protest and will be reduced when the property is revalued as floodplain.

On motion of LaHue, seconded by Dunn, Council unanimously authorized the Mayor to execute the agreement.

4193 APPROVAL OF 1994 CLASSIFIED EMPLOYEE PAY PLAN: On motion of Dunn, seconded by Clawson, Council unanimously approved the plan.

4670 RESOLUTION NO. 1138 DESIGNATING THE CITY ADMINISTRATOR AS THE OFFICIAL REPRESENTATIVE OF THE CITY UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM - for a 1994 grant application to assist the City with ADA (Americans with Disabilities Act) compliance: A hearing on the grant application was held earlier in the evening at 7:00 P.M. The Resolution, attached as part of the record, was adopted unanimously on motion of LaHue, seconded by Moore.

4684 RESOLUTION NO. 1139 RELATING TO SPEED LIMITS: Adopted unanimously on motion of Moore, seconded by Giblin. Attached as part of the record.

4843 APPROVAL OF APPROPRIATION ORDINANCE NO. 722: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4936 OTHER BUSINESS: City ordinance permits door-to-door solicitation daily between the hours of 10:00 a.m. and 9:00 p.m. all year. During the winter months, when it gets dark earlier, the City receives more complaints about late evening solicitors. The City Attorney had been asked to investigate the possibility of changing 9:00 p.m. to an earlier time. He told the Council that nothing he read in his research persuades him to change his opinion that the present hours for solicitation are appropriate and should not be changed.

5180 EXECUTIVE SESSION: On motion of Moore, seconded by Clawson, Council voted unanimously to convene in executive session until 11:00 P.M. to
discuss land acquisition and a matter under attorney-client privilege.

5203 9:45 P.M. Recess.
9:50 P.M. Council convened in executive session, same members present.

5204 10:57 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
The City Council of the City of Leawood, Kansas, met in special session in the conference room of the municipal office building, 9617 Lee Boulevard, at 7:15 P.M., Monday, December 13, 1993. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson, for the purpose of convening an executive session to discuss a personnel matter. Staff present: Richard J. Garofano, City Administrator.

On motion of Campbell, seconded by Moore, Council voted unanimously to convene in executive session until 10:00 P.M. to discuss a personnel matter.

9:30 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 287

# 30 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, December 20, 1993. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, * John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. ** Marnie S. Clawson arrived 8:35 P.M. * Mr. Campbell left the meeting at 9:55 P.M. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

39 The agenda was approved unanimously on motion of Dunn, seconded by Moore, after the addition of: 1) a status report on the new city hall during the executive session to be scheduled at the end of the meeting, and 2) (under the Consent Agenda) 2 additional assignments to the Public Works Committee - to review drainage problems in the vicinity of 9711 Lee Blvd., and the nonperformance of the contractor on the Manor Road improvement project, 95th St. to 98th St., specifically at 9617 Manor Rd.

80 PRESENTATION ON THE BLUE VALLEY SCHOOL DISTRICT'S JANUARY 1994 BOND ELECTION: Dr. Gary Gordon of the Blue Valley School District described the bond issues. The school district’s 5-year capital improvements plan is identical to the strategy used in 1988. It gives the Board of Education authority to sell up to a maximum amount in general obligation bonds to construct facilities as they are needed. It allows the district to continue to monitor enrollment and plan for growth without having to go to the voters with annual bond proposals.

Between January 6 and January 25, the district will ask voters to complete a mail-in ballot which poses two questions authorizing the sale of district bonds for the next five years. Question #1 provides for the construction of new schools, additions of classroom spaces to existing schools, improvements to a number of schools, and instructional technology for classroom use. Question #2 contains additional dollars for instructional technology for the next five years, and swimming pools at the two high schools without pools.

323 CITIZEN COMMENTS: Edward Mardiat, 10525 Pawnee Lane, expressed concern about the reclassification of the 100-year floodplain by FEMA in 1991. Approximately 18 lots in Leawood Estates subdivision adjacent to I-435 are in that floodplain. They were not before 1991. Residents who have tried to sell their property have seen the value of their homes reduced, and those who refinanced were required to pay very high flood insurance premiums. Mr. Mardiat was concerned about the widening of I-435 and construction of the sound barrier. The barrier will push the floodplain back to the north which will impact on those residents already in the floodplain and place several others in the floodplain. Homes will be affected by increased water runoff from the widening of
Several improvements have been made along the Indian Creek channel on the Overland Park side which makes the water runoff a worse problem for Leawood - water gets to Leawood faster. Mr. Mardiat understood that FEMA had asked Leawood not to improve the Indian Creek channel because of the impact on the Missouri side of the state line. Mr. Mardiat felt that if the city looked at the impact of the reclassification and impact of the sound barrier and highway widening, it might have a good opportunity to eliminate those properties from the floodplain with some additional construction work during the construction project.

Public Works will review this matter and report back to the Council at the January 17, 1994 Council meeting.

CONSENT AGENDA: Contract Change Order No. 1 for the "9725 Overbrook" storm sewer rehabilitation project, a final pay request on the High Dr. (83rd to Lee Blvd.) rehabilitation project, contract Change Order No. 1 for the Sagamore (12800 block) rehabilitation project, a final pay request on the Sagamore rehabilitation, and the 2 additional assignments to the Public Works Committee added to the Consent Agenda at the beginning of the meeting, were removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Giblin:

1. Minutes of the December 6, 1993, public hearing on a 1994 Community Development Block Grant application;
2. Minutes of the December 6, 1993 Council meeting;
3. Minutes of the December 13, 1993 Special Council meeting;
4. Leawood Historic Commission report (minutes) of their November 16, 1993 meeting;
5. Sister City Committee report (minutes) of their November 17, 1993 meeting;
6. Departmental reports;
7. Assignment to the Public Works Committee - to review the current policy on driveway fillets and to establish a time period for their removal;
8. Pay Request No. 1 (FINAL) by Bazin Excavating in the amount of $29,889.20 for the "9725 Overbrook" storm sewer rehabilitation project;
9. Application for a cereal malt beverage license (new) - Osco Drug, 11729 Roe Ave., Camelot Court Shopping Center;
10. Acceptance of donations to the D.A.R.E. Trust Fund - $100 from the Citizen Police Academy members as a group; $50 from Academy graduate Ellie Slater (and her husband Bob), 12705 Wenonga; and $1,000 from Academy graduate Elsie Boyce (and her husband Jim), 12802 Sagamore.

Contract Change Order No. 1 to the "9725 Overbrook" storm sewer rehabilitation project - for additional sodding in the amount of $1,840.00; Staff confirmed for Councilmember Dunn that the City pays 100% of the project costs. It was not a County stormwater management project. On motion of Dunn, seconded by Moore, Council unanimously approved the change order.

Pay Request No. 4 (FINAL) for the High Dr. (83rd to Lee Blvd.) rehabilitation project: Council briefly discussed why the project's
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overruns were not approved by a contract change order. On motion of Campbell, seconded by Dunn, Council unanimously authorized payment of $12,752.53 to Seal-O-Matic Paving Co.

Contract Change Order No. 1 to the Sagamore (12800 block) rehabilitation project - for installation of a 6" underdrain along 210 linear feet of Sagamore and placement of 47 linear feet of 18" corrugated metal pipe in the total amount of $4,392.21: Council briefly discussed the placement of underdrains. On motion of Campbell, seconded by Dunn, Council unanimously approved the change order.

Pay Request No. 2 (FINAL) for the Sagamore rehabilitation project: Council briefly discussed why the project’s overruns were not approved by a contract change order. On motion of Dunn, seconded by Moore, Council unanimously authorized payment of $32,643.74 to Seal-O-Matic Paving Co.

Two additional assignments to the Public Works Committee - to review drainage problems in the vicinity of 9711 Lee Blvd., and the non-performance of the contractor on the Manor Rd. (95th to 98th) improvement project, specifically at 9617 Manor Rd.: Councilmember Moore wanted additional information before voting to assign the matters to the Public Works Committee. Councilmember Rasmussen said that parts of the design of the Lee Blvd. improvement project (95th/103rd) were inadequate. There have been problems the past several years with the water flow in the ditch, and now the sod in the ditch is impossible to maintain, mow. At one point, tests revealed chlorine in the water, so the City asked the water district to check for leaks, to no avail. Mr. Rasmussen felt the Committee should hear the facts and try to resolve the problem.

Staff has been trying for several months to get the contractor on the Manor Rd. project to repair damaged property at 9617 Manor - ruts remain, and sod has washed away. Mr. Rasmussen felt the Committee might be able to resolve this problem. He said he would like the Council to establish a procedure for improvement of contractor performance. On motion of Rasmussen, seconded by Dunn, Council voted unanimously to assign these 2 matters to the Public Works Committee. It was noted that if staff resolved the Manor Rd. problem before the next Public Works Committee meeting, the Committee would not discuss it.

RESOLUTION NO. 1140 APPROVING A REQUEST FOR REZONING FROM AG TO RP-1, AND APPROVING THE PRELIMINARY PLAN AND PRELIMINARY PLAT OF QUAIL CREST, LOCATED AT APPROXIMATELY 139TH & ROE AVE.: Tom Smith of Shafer, Kline & Warren presented the plan. The resolution, attached as part of the record, was adopted on motion of LaHue, seconded by Moore; LaHue, Campbell, Moore, Dunn in favor; Giblin, Rasmussen opposed (both felt the plan was too dense); Patterson abstained to avoid a conflict of interest.

ORDINANCE NO. 1388 REZONING PROPERTY (QUAIL CREST) LOCATED AT APPROXIMATELY 139TH & ROE AVENUE FROM AG TO RP-1: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll
call, the vote was: Yeas---LaHue, Campbell, Moore, Dunn, Mayor Rinehart. Nays---Giblin, Rasmussen. Abstention---Patterson.

Councilmember LaHue mentioned that 2 Councilmembers felt the plan was too dense, yet the developer met the density requirements of the Master Plan. If Councilmembers want to change the requirements, then perhaps the Council should review the Master Plan.

** 8:35 P.M. Councilmember Clawson arrived.

1893 MAYOR’S REPORT: Leawood Elementary School students have nominated Police Officer Randy Wiler for the National DARE (Drug Abuse Resistance Education) Officer of the Year.

The employee "Have a Heart, Help a Child" Christmas project was a success. Christmas presents were distributed on December 20th to over 175 needy children.

The Leawood South Homes Association donated 5 trees which were planted near the south fire station at 127th and Mission Rd.

The Sister City Committee is planning a dinner on February 8th to celebrate the Chinese New Year.

2008 DISCUSSION OF TEMPORARY SIDEWALKS ON MISSION ROAD (138TH ST. TO 143RD ST.) AND ON 143RD STREET (WINDSOR TO KENNETH ROAD): The City had received a petition requesting sidewalks in the neighborhood of the new Prairie Star Elementary School at 143rd and Mission. The cost estimate for an independent contractor to construct the sidewalks was considerably higher than the estimate for the Public Works Department to do the work. Public Works could construct both asphaltic walkways for approximately $16,000. This cost, however, exceeds 1994 budgeted funds. Public Works Director Brandt said the funds could come from either the 1994 Community Development Block Grant (CDBG) application for funds to assist the City with ADA compliance on curb cuts, if the grant is approved, or cut back the ADA sidewalk curb cut projects from $50,000 to $34,000.

On motion of Rasmussen, seconded by Giblin, Council unanimously approved the construction to begin as soon as weather permits in spring 1994.

2542 AUTHORIZE SUPPLEMENTAL AGREEMENT NO. 1 FOR DESIGN ENGINEERING SERVICES FOR THE IMPROVEMENT OF 89TH ST. AT MISSION RD. IN LEAWOOD: The City of Prairie Village withdrew their support of the 89th and Mission Rd. intersection improvement because there were insufficient warrants for the construction of a traffic signal. Improvements can still be done on the Leawood side to provide a safer intersection. Improvements would include constructing a right turn lane on 89th St. onto Mission Rd., and reconstructing 89th St. to Mohawk Lane with necessary storm water facilities. The estimated cost of the improvements would be $210,000 which includes funds from ISTEA and CARS. Leawood’s share would be $48,700 including the design fee.

Councilmember Rasmussen moved to deny the agreement, seconded by Dunn. Councilmember LaHue said that most traffic problems/accidents to date have occurred on the Leawood side. Improvements would benefit Leawood. Mr. Rasmussen’s motion failed; Rasmussen, Giblin, Patterson in favor; all others (5) opposed.
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2861 Councilmember Moore moved to approve the agreement with Larkin Associates in the amount of $29,500, seconded by Campbell. Mr. Ramsussen moved to amend the motion to instruct staff to look into including the improvements to the drainage area at 89th and Mohawk Lane in the County’s stormwater management project list. Motion to amend seconded by Clawson and carried unanimously. Mr. Moore’s motion as amended to approve the supplemental agreement carried; Giblin, Ramsussen, Patterson opposed; all others (5) in favor. Mr. Giblin and Mr. Patterson felt that Prairie Village would get some benefit from the improvements and should participate in the project. Mr. Ramsussen felt Prairie Village should participate – most accidents in the past occurred southbound on Mission and trying to make a left hand turn onto 89th St.

3056 AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A 1994 STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON JAMES BRANCH - SAGAMORE ROAD: 97TH STREET TO 98TH STREET: Robert Canfield (9722 Sagamore), W.E. Davis (9726 Sagamore), Deborah Deck (9714 Sagamore) did not feel the project was warranted. They have not had flooding problems, no water in basements. They were also concerned that any construction would cause the removal of many large trees. Mr. Canfield said residents should have been notified of the project ahead of time in order to give input. He had not been notified. Brian Bradley, 9705 High Dr., wanted the large trees and the natural creek setting maintained.

Public Works Director Brandt said that no improvements would be made in areas that did not need them. Portions of the project, however, like at 98th and Sagamore, need to be improved. He will review the scope of work submitted by the County, will meet with residents, and will submit a preliminary engineering plan to the County.

Councilmember Clawson said that the major problems were at the north end on High Dr., and those problems would not be solved by this project. Problems on the James Branch are south of the 9700 block of Sagamore. Therefore, she moved to drop the project in favor of doing work further downstream where people are suffering serious erosion problems, seconded by Ramsussen.

Councilmember LaHue said that the scope of work for this project was prepared by a major engineering firm Black & Veatch. They determined that this project had a priority and a cost benefit ratio which exceeded other areas. The City can not take the County’s 75% funding and devote it strictly to downstream. One can not look at each property individually or the whole scope of the project will be destroyed. Mrs. Clawson said this project was a waste of staff’s time, and improvements would exacerbate erosion problems downstream.

Mrs. Clawson’s motion to drop the project failed; Clawson, Giblin, Ramsussen in favor; all others (5) opposed.

4353 Councilmember LaHue moved to approve the interlocal agreement, seconded by Moore.

4575 Motion to approve carried; LaHue, Campbell, Moore, Dunn, Patterson in favor; Clawson, Giblin, Ramsussen opposed.

4632 AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A 1994 STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON DYKES BRANCH -
HIGH DRIVE TO LEE BOULEVARD, IN THE VICINITY OF 93RD STREET: On motion of Rasmussen, seconded by Clawson, Council unanimously approved the agreement.

4683 AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A 1994 STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON JAMES BRANCH - MEADOW LANE TO MANOR ROAD, IN THE VICINITY OF 95TH STREET: On motion of LaHue, seconded by Dunn, Council unanimously authorized execution of the agreement.

4715 APPROVAL OF APPROPRIATION ORDINANCE NO. 723: The ordinance was considered and passed on motion of Moore, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4831 9:55 P.M. Recess.

* Councilmember Campbell left the meeting.

10:05 P.M. Council returned to regular session, same members present except Mr. Campbell.

4858 EXECUTIVE SESSION: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session until 11:00 P.M. to discuss land acquisition, the new city hall, and a personnel matter.

11:00 P.M. Council returned to regular session, same members present. On motion of Dunn, seconded by Clawson, Council voted unanimously to return to executive session until 11:30 P.M. to discuss the personnel matter.

4882 11:20 P.M. Council returned to regular session, same members present. On motion of Patterson, seconded by Dunn, Council approved an employment agreement with the City Administrator Richard Garofano; LaHue abstained, all others (6) in favor.

4917 11:25 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 288

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Monday, January 3, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Marnie S. Clawson was absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Campbell, seconded by Moore, after the addition of an executive session to discuss a personnel matter.

PRESENTATION OF NEW PROMOTIONAL INFORMATION PREPARED BY THE PLANNING DEPARTMENT: Planning Director McKay presented a new economic development tool which shows the Master Development Plan, history and photographs and other information about the City.

CITIZEN COMMENTS: None.

CONSENT AGENDA: An engagement letter for the audit of the City's 1993 financial statements, and allocation of a dividend from the Kansas Eastern Region Insurance Trust (KERIT), were removed for further discussion. The following were approved unanimously on motion of Campbell, seconded by Moore:

1. Minutes of the December 20, 1993 Council meeting;
2. Engagement letter from auditors KPMG Peat Marwick to revise the City's accounting methods and prepare an accounting manual which will include procedures for changing records to more of an accrual method; fees, including expenses, will range from $20,000 to $30,000;
3. "Letter of Understanding" (agreement) for 1994 Johnson County Utility Assistance Program, $500.00 Leawood contribution;
4. "Letter of Agreement" for 1994 Johnson County Home Repair Assistance Program, $1,200.00 Leawood contribution;
5. Allocation of expenditures from the 1994 Human Service Fund as recommended by United Community Services of Johnson County; Leawood's contribution to the Fund is $3,200;
6. Allocation of expenditures from 1994 local alcohol tax funds as recommended by the Drug and Alcoholism Council of Johnson County; Leawood's tax funds total $22,000.

Engagement letter to conduct the audit of the City's 1993 financial statements: The auditors KPMG Peat Marwick indicated in their letter that they would be happy to meet with the Governing Body at the completion of the audit to discuss the financial statements and management letter. Councilmember Giblin said he expected that meeting to take place. Councilmember Rasmussen said he wanted to receive the
management letter with the audit. Last year the management letter arrived after the audit. On motion of Giblin, seconded by Rasmussen, Council unanimously approved Peat Marwick's engagement letter. Their fee will be $13,900. In the event a single audit of D.A.R.E. funds is required, the maximum fee for that audit would be $2,000.

Allocation of KERIT dividend: The Kansas Insurance Commission approved a dividend from the City's Workers Comp trust for the 1986-1987 claim year. The City will receive $43,689. An additional $14,563 credit to the City will be retained by the trust for the present time. Since the dividend was a result of the safety record established by employees and their response to the City's various safety programs, City Administrator Garofano felt they should participate in the reward resulting from their efforts. He proposed that the dividend be applied to the 1994 pay-for-performance pay plan, enabling the reinstatement of the eligibility of a 0 - 6% salary increase (based upon the results of a performance appraisal) which has been in effect for the past several years. The maximum was reduced to 5% for 1994 based upon the amount budgeted for payroll.

Councilmember Giblin moved to deposit the dividend in the general fund to be used for the benefit of taxpayers, seconded by Patterson. Motion carried; LaHue opposed, all others in favor. Dr. LaHue said that workers comp is directly related to the attitude and participation of employees. The dividend was a result of the employees' good safety record and would be an incentive for them to continue their good work ethic.

325 **Mayor's Report:** The Cloisters Homes Association contributed $1,320.00 to the Police and Fire Departments.

The Mayor received a check in the amount of $79.49 from King Louie Ranchmart Lanes. She directed that the money, proceeds from the annual Mayor's Christmas Tree Bowling Tournament, be allocated to the D.A.R.E. program.

354 **Resolution No. 1141 Amending the K-150 Corridor Transportation Impact Fee and Resolution No. 1142 Directing and Ordering a Public Hearing on the Advisability of Improving K-150:** Staff prefers to establish a benefit district of the property owners abutting K-150 as a means of financing their participation in the K-150 improvement costs. Also, staff recommends that Council revise the impact fee to ensure that the property owners share proportionately in the increased costs to improve the roadway in the event that a benefit district is not formed or a successful protest petition is filed. Benefit district financing would enable the City to collect the property owners' share over a ten-year period, as opposed to fronting the entire local share and collecting the impact fee over the time it takes for the K-150 Corridor to develop. A resolution ordering a public hearing on the advisability of establishing a benefit district for the improvement of K-150 was distributed to the Council for consideration. Staff requested that Council amend the K-150 impact fee and initiate the process to establish a benefit district.

Attorney John Eisele represented Lynn McCarthy, and Vic Regnier and Ranchmart, Inc., property owners along K-150. Mr. Eisele referred
to the November 1 Council meeting at which the Council voted to commit $1,000,000 in City-at-large funds for the improvement of K-150, and fund the balance through a benefit district. Impact fees were not mentioned. Mr. Eisele said that the impact fee contradicts state statute and the impact fee ordinance contradicts the state constitution. The City is not on a proper course in this matter. Having a "backup" impact fee is illegal. And the City hasn’t even defined a benefit district - the City says it’s between the reverse frontage roads, north and south, but the frontage roads have not been defined, they don’t exist. The Council should review all of this again and do it right.

Attorney Bart Cohen represented Ron Nelson, owner of property on the southeast corner of K-150 and Mission Rd. Mr. Cohen said he protested the increase in the impact fee without notice to the property owners or a hearing.

Sara Corless of the Home Builders Association of Greater Kansas City said that part of the reason impact fees are in place and have worked the past several years in Leawood is because developers have been willing to pay their fair share in addition to paying 100% of the cost of constructing streets in subdivisions they develop. But things have changed. Fees have continued to escalate. Developers have reached the point where they’re not willing to continue to accept something (impact fees) put upon them that has been illegal for years now anyway. The HBA is trying to prepare state legislation relating to street construction and financing of major thoroughfares that both the development community and cities can support, something that is fair to all. Ms. Corless encouraged the Council to send a representative to a meeting tomorrow with the HBA, Overland Park, Olathe, and Lenexa. She asked the Council not to vote on the resolutions this evening. She felt they probably would not stand up in the courts.

Stuart Sharp represented the Sharp trust, owner of property on the south side of K-150 between Mission and Roe since the turn of the century. The Sharps are not wealthy developers. The proposed construction/financing of K-150 would have a great economic impact on his family. They might have to market their property before it’s really time to do so. He said that under the guise of a temporary easement, the City wants to take an approximate 40-foot strip of land on each side of K-150, and pay only 10% of the appraised value (because it’s only a temporary easement). This farmland will be a drainage ditch for the highway on private property. Concerning the impact fee, the land owners aren’t the ones using K-150; they probably make up less than one-tenth of one percent of all traffic everyday, but the City is asking them to bear a cost of 40%, and that’s not equitable.

Councilmember Moore moved to adopt the resolution amending the K-150 impact fee, seconded by Campbell. Councilmember LaHue said that at the November 1 Council meeting, Councilmember Patterson abstained from voting on the financing of K-150 to avoid the appearance of a conflict of interest. Mr. Patterson said that Attorney John Eisele had purged him of a conflict over the time period of the statute of substantial interests, so he would be voting on the impact fee resolution. Dr. LaHue asked Councilmember Giblin about his name appearing on the list of property owners along K-150. Mr. Giblin said the property was sold in 1980 on a contract for deed, and the contract for deed was paid off in full last year. He was still listed as a property owner because
the buyer's attorney had not yet prepared a warranty deed to be filed. Motion to adopt the resolution carried; Giblin, Patterson opposed, all others in favor. Mr. Giblin felt the fee was already too high. Mr. Patterson saw no evidence of a comprehensive study described in the resolution nor did he see evidence of the share of cost recently attributed to new development, the amount of development permissible in the K-150 Corridor, or the anticipated type of development and traffic generation characteristics of the same.

Councilmember Dunn moved to adopt the resolution ordering a public hearing on the advisability of improving K-150, seconded by Moore. Mr. Patterson moved to amend the motion to state that in addition to the publication of the notice of hearing, staff send the notice by first class mail to the property owners within the proposed benefit district boundaries without representation as to whether they're the owners or not, seconded by Campbell. The property owners are those owners of 21 tracts of land on a list dated December 3, 1993, and titled "K-150 System Enhancement Project - Summary of Private Property Between Frontage Roads". Motion to amend carried unanimously. Councilmember Dunn's motion as amended to adopt the resolution carried unanimously.

APPROVE APPRAISAL VALUATIONS AND AUTHORIZE RIGHT-OF-WAY NEGOTIATIONS FOR STATE LINE ROAD IMPROVEMENTS, PHASE 3: On motion of LaHue, seconded by Rasmussen, Council unanimously approved appraisal values totaling $105,844.00 for 13 tracts and authorized Right of Way Associates to negotiate right-of-way.

REQUEST FOR A SIGN FOR TOMAHAWK CREEK ESTATES, 119TH AND PAWNEE: for a sign in the right-of-way of 119th St. at Pawnee to advise the public that the area is under construction. Typically, the only signs allowed in right-of-way are signs placed by the City. The developer wants to place the sign at 119th so people do not attempt to drive back into the site and mix with construction traffic. The sign must be in the right-of-way of 119th St. because Tomahawk Creek Estates does not have frontage on 119th St. A sign permit would be limited to 6 months and could be renewed as long as construction continues. On motion of LaHue, seconded by Campbell, Council approved the request; Giblin opposed, all others in favor. Mr. Giblin felt the City was allowing the developer to advertise his subdivision in the right-of-way.

RESOLUTION ESTABLISHING THE 1994 FEE SCHEDULE FOR FEES NOT SPECIFICALLY PROVIDED FOR IN THE CODE OF THE CITY OF LEAWOOD: Councilmember Rasmussen moved to adopt the resolution, seconded by Dunn. Planning Director McKay explained the (small) increases; they are directly related to the increases in the cost of manpower (for inspections and plan reviews). Some decreases did occur. Councilmember Giblin felt all City fees are too high.

Sara Corless of the Home Builders Association noted at least 19 increases and only 1 reduction. She said it would have been common courtesy to the HBA or the building community for the City to have shared the fee information with them in advance of the Council meeting.

Councilmember LaHue moved to amend the motion to delete the third item under "Costs to Develop Arterial and Collector Streets in Conjunc-
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Motion with Section 9-4.2 of Article 9 of the Leawood Development Ordinance. No. 3 read "when an arterial street abuts a subdivision, the developer or owner shall pay $190.00 per foot". Motion seconded by Dunn.

3445 Councilmember Campbell moved to amend the motion to defer voting on the main motion until the January 17th Council meeting to give the HBA an opportunity to give input, seconded by Giblin.

3592 All motions and seconds were withdrawn.

3693 Councilmember Rasmussen moved that the resolution be returned to staff for review and completeness, seconded by Campbell. Motion carried unanimously.

3729 APPROVAL OF APPROPRIATION ORDINANCE NO. 724: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3795 EXECUTIVE SESSION: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a personnel matter and a matter under attorney-client privilege.

3864 9:30 P.M. Recess.

9:35 P.M. Council returned to regular session, same members present, and convened in executive session.

10:05 P.M. Council returned to regular session, same members present. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 289

# 40 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, January 17, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

50 The agenda was approved unanimously on motion of Clawson, seconded by Dunn.

60 CITIZEN COMMENTS: Jeff Siren, 13805 Fontana Lane, was concerned about a replatting of part of his subdivision, Leawood Meadows. He felt it had not been done in accordance with the Leawood Development Ordinance, and has added to the drainage problems on his property. He said there is a discrepancy as to who is responsible. The applicant to subdivide the lots agreed to formulate a drainage plan as part of the replat approval, but he sold the property and now doesn't feel responsible for the problems. Mr. Siren said the City is working on the problem, but he hasn't received any satisfaction regarding a solution.

Planning Director McKay said he had received an engineer's report, but felt it was insufficient and sent it back for additional information. Mr. McKay said that whoever owns the property must comply with the conditions set forth in the resolution which approved the replat. Before issuing any building permits, staff must be completely satisfied that the drainage will be handled appropriately.

202 CONSENT AGENDA: Change Orders 1 & 2 to the construction contract for the Iron Horse Golf Club were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Campbell:

1. Minutes of the January 3, 1994 Council meeting;
2. Public Works Committee report (minutes) of their January 5, 1994 meeting;
3. Sister City Committee report (minutes) of their January 4, 1994 meeting;
4. Departmental reports;
5. Purchase of a dump body, hydraulic system and tailgate release option for Public Works from the high bidder Scherer Truck Equipment in the amount of $10,731.00;
6. Purchase of 2 Western model UP-75 snowplows from the low bidder Knapheide, $2,157.50 each;
7. Purchase of a dump body for a Parks & Recreation truck from the low bidder Knapheide in the amount of $3,897.00;
8. Police Department purchase of the lease for the DARE van from
Enterprise Leasing in the amount of $6,823.64 (to be paid for from the DARE Trust Fund);

Change Order No. 1 to the construction contract with Landscapes Unlimited for the Iron Horse Golf Club in the amount of $7,287.50: Councilmember Giblin asked for an explanation of the change order. Golf course Project Manager Phil Gibbs explained that the order was for lining the creek bank with rock at the channel change near Green #6 on Negro Creek to mitigate creek bank erosion as required by the Corp of Engineers. Mr. Gibbs said there would be more change orders of this nature, possibly totaling approximately $100,000, depending on soil conditions.

Change Order No. 2 to the construction contract with Landscapes Unlimited for the Iron Horse Golf Club in the amount of $316,000: The order was for the construction of 24 cart and pedestrian bridges. Mr. Giblin asked for further information. Public Works Director Brandt explained that this construction was not part of the original contract with Landscapes Unlimited. Funds, however, had been set aside for the bridges. Staff decided it would be easier if the golf course contractor did the work rather than letting the bid to another contractor to avoid the possible conflict of 2 contractors working together on the same site.

Councilmember LeHue felt staff should submit any golf course creek bank improvement plans to the County stormwater management committee for possible funding. Mr. Brandt was not sure these creek bank improvements would qualify as "true" stormwater improvements since they were a result of the golf course construction, but he would go ahead and submit plans.

On motion of Giblin, seconded by Clawson, Council unanimously approved both change orders.

438 RESOLUTION NO. 1143 ESTABLISHING THE 1994 FEE SCHEDULE FOR FEES NOT SPECIFICALLY PROVIDED FOR IN THE CODE OF THE CITY OF LEAWOOD: City Administrator Garofano explained that a previous resolution #892 adopted in 1988 established fees for the development of collector streets at that time at $100 or $110 per foot in conjunction with the subdivision regulations dated January 16, 1978. The current subdivision regulations were adopted in May 1991, at which time resolution #892 became null and void. The City did not at that time spell out by resolution or other document the cost per foot per street. This year, staff decided to put the cost per foot into the master fee resolution because the cost could not be accounted for in any document, even though the subdivision regulations do not require that the cost per foot be established by any resolution/document. Mr. Garofano said that the intent of the subdivision regulations is that fees be determined by the Plan Commission at the time developments are submitted. Different streets are going to cost different amounts. When staff incorporated the fees into the 1994 fee resolution, they picked up the fees from the 1988 resolution and increased them to $110 and $130 per foot, respectively. Since May 1991 developers have paid more than $100 or $110 per foot in conjunction with the current subdivision regulations. Since 1991, for
the most part, developers have paid $130. The City should really be dealing with actual street costs. In accordance with subdivision regulations, there is no established fee other than half the cost of the street, whatever that cost might be. Sections 9-4.2, 9-4.4, and 9-4.5 of the Leawood Development Ordinance (subdivision regulation sections) tie down requirements and methods of payment, but not specific or standard costs, because street costs will differ from one street to another. It's not uncommon for cities to go out and look at streets recently constructed to try to arrive at a uniform per-foot cost so developers have some idea what it's going to cost them to build streets.

To make the fee schedule more reflective of the subdivision regulations, Mr. Garofano proposed a new page 13 of the resolution providing estimates of the costs to develop arterial and collector streets in accordance with the subdivision regulations. In some cases, costs will be under or over the estimates, but they do give developers some idea of what it's going to cost them to build streets and develop their properties in Leawood. Another problem the City has at times is having the dollar amount locked in at preliminary platting and the developer not developing a subdivision for several years. Street costs are not triggered until final platting and they can escalate during the years between preliminary and final platting. There is a need for a sunset provision on the amount that is committed at the time of preliminary platting.

Pete Heaven, attorney for the Home Builders Association, said he has seen over the last 6 months or so a great resurgence of development in Leawood, and he feels it's time Leawood, like other cities, look at development as a partnership. To do that, the City must stimulate developers to build in Leawood, to promote a tax base. There must be some certainty in costs to develop streets. He would like Leawood to make a commitment to developers on the cost per foot to build streets. Other cities have done this. HBA's recommendation is even better for both sides - let the developer pay a per-foot price, and at preliminary platting, the Plan Commission, with the consensus of the Council, can change that figure, but only if it finds unique circumstances to justify the deviation. And there would be a sunset provision - say if within 6 months of preliminary platting, a developer hasn't filed a final plat, he must start the process over again.

Developer Phil Acuff said he would like a flat street cost per foot established (not estimated).

City Administrator Garofano said that if the Council wants to establish a per-foot cost for a collector street, then they must understand that in some cases the actual cost to build a street will be over; in some, it will be below. Probably in more cases it will be over.

Councilmember Campbell felt that HBA's request that a flat fee be established would require an amendment to the subdivision regulations. City Attorney Wetzler agreed. Mr. Campbell also felt developers would still have a significant degree of uncertainty if there was discussion concerning the uniqueness of their property that would cause negotiation of the cost per foot. Mr. Heaven said he was so confident that the $130 flat fee is probably $30 more than the actual road construction cost that the flat fee would not be exceeded with any regularity. Mr. Campbell wanted to know if the City established a flat fee (say
ORDINANCE NO. 1389 ACCEPTING A DEED FOR LAND IN THE VICINITY OF 127TH AND NALL AVE. FROM WALLACE P. MCKEE AND CYNTHIA A. LARSON: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays—None. This land conveyance will provide for extension of the greenway between Roe and Nall. City Attorney Wetzler reminded Council, however, that there is no limitation on the use of the property.

ORDINANCE NO. 1390 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 135-94-1; GOLF COURSE LAND: $700,000: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays—None.

ORDINANCE NO. 1391 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 130-94-2; TOWN CENTER DRIVE: $600,000: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn,
Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1392 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 132-94-3; STATE LINE ROAD, PHASE I; $300,000: The ordinance was considered and passed on motion of Dunn, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1393 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 138-94-4; MISSION ROAD, SOUTH OF 151ST STREET; $1,000,000: The ordinance was considered and passed on motion of Patterson, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1394 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 115-94-5; MISSION ROAD, 103RD-COLLEGE BOULEVARD; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1395 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 124-94-6; 135TH STREET (K-150), STATE LINE-NALL AVENUE; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1396 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 128-94-7; OLD KENNETH ROAD; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1397 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 134-94-8; STATE LINE ROAD, PHASE II; $900,000: The ordinance was considered and passed on motion of Rasmussen, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

RESOLUTION NO. 1145 RELATING TO CITY'S TRANSITION TO A CITY OF THE FIRST CLASS - determining that the City shall continue to operate as a city of the second class and directing staff to review the steps necessary for transition and to prepare a report to be submitted to the Governing Body: Adopted unanimously on motion of Clawson, seconded by Dunn. Attached as part of the record.

APPROVAL OF APPROPRIATION ORDINANCE NOS. 724A & 725: The ordinances were considered and passed on motion of Dunn, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

EXECUTIVE SESSION: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 35 minutes to discuss land acquisition and a matter under
attorney-client privilege.

3602  9:30 P.M.  Council convened in executive session.

10:00 P.M.  Council returned to regular session.  There being no further business before the Council, the meeting was adjourned.

Martha Neizer  City Clerk
Tape No.

The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 9615 Lee Boulevard, at 9:50 P.M., Monday, January 24, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson, for the purpose of convening an executive session to discuss a personnel matter. Councilmembers John R. Campbell, Jr., and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator.

On motion of Moore, seconded by Clawson, Council voted unanimously to convene in executive session until 10:20 P.M. to discuss a personnel matter.

10:20 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
The purpose of the hearing was to hear public comment on the advisability of improving 135th St. (K-150), State Line Rd. to Nall Ave.


Staff present: Richard J. Garofano, City Administrator; Ronald Brandt, Public Works Director; Harry Malnicof, Finance Director; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

City Attorney Wetzler informed the Council that Attorney John Eisele had just given him a series of notices signed primarily by attorneys representing various property owners along K-150, indicating they are opposed to and would protest a benefit district if one was created.

John Eisele, attorney for Helen and Vic Regnier and Ranchmart, Inc., and Lynn McCarthy, all of whom are opposed to the creation of a benefit district, said he would ultimately have 100% opposition to the creation of a district and would certainly have 100% of the "resident" property owners.

Steve Coffin, attorney for the Lord of Life Lutheran Church on 135th St., said the Church is opposed to a benefit district. They feel the K-150 improvement would benefit the entire City, not just the district, so perhaps the improvement should be financed by general obligation bonds. He also said the assessment would be grossly disproportionate to any benefit the Church would receive. The Church has already paid impact fees and a $14,000 letter of credit for the construction of a right turn lane. Mr. Coffin asked that a district not be created or exclude the Church from the district.

Bart Cohen, attorney for Ron Nelson, property owner at 135th and Mission, signed a notice of protest. He said the proposed district is not proper - more area is benefitted and should be assessed. He said there appeared to have been no attempt by the City to meet with landowners to work out the improvement's financing (through a combination of different sources).

Stuart Sharp, 13101 Mission, said that the K-150 impact fee was recently increased to cover the increased costs of improvements to K-150. He understood that the impact fee was now being litigated. Now the City is considering the creation of a benefit district as an alternative method for funding the improvements, but areas from which to draw funds are different. The impact fee was based on the area between the reverse frontage roads. Now the Council is suggesting assessments be made on a front-foot basis with no regard to the depth of individual
properties; this is inequitable. It doesn’t make sense that he would have to pay the same as someone who would be getting 3 times the area zoned commercial.

407 Irv Blond, attorney for Fleming Cos., property owner at K-150 and State Line Rd., hoped the controversy would not deter the improvements. He said the City and property owners need to meet and develop a process whereby K-150 can be improved to the satisfaction of all. He said the Council should defer the proposal for a benefit district; the legality of the proposal is questionable.

487 Bernie Madden, 1903 W. 135th St., said he is opposed to a benefit district in theory. He had a bad experience with the benefit district for Kenneth Rd. a few years ago; his assessments were quite high. He said that Kenneth Parkway was being torn out after only 5 years to reduce the severity of a curve. For the record, he wanted the Council to know that it didn’t make any sense to him - there has not been an injury in 5 years because of any severity of the curve.

537 Lawrence Gates, attorney for Leawood Plaza and South Roe Development companies, owners of the old airport property at 135th and State Line, and property at the southwest corner of 135th and Roe, is opposed to a benefit district - too many issues to be resolved. His clients know the district has to be created, they want it to be created, but they want to participate in someway that is fair to all.

720 John Eisele said that the impact fee ordinance is illegal. If the Council doesn’t have an impact fee and can’t form a benefit district, then they will have to improve K-150 with City-at-large funds, or not improve the road at all, which is not a bad alternative because properties along K-150 are bare.

764 Councilmember Rasmussen asked if there was any opposition to the road being built. Mr. Eisele confirmed that his 4 clients do not want the road built with benefit district financing nor now. It doesn’t benefit anyone in the City now - the benefit is for the state and county. Of course, if the City wants to build the road now with City-at-large funds, there’s nothing his clients can do about it.

977 Bart Cohen said it is proper to build K-150 now. The question is whether or not the benefit district is properly sized, whether the front footage allocation is a proper way of allocating the costs to people within a benefit district, and whether it’s fair and equitable to impose 80% of the costs on the landowners and only 20% to the City-at-large.

1166 City Attorney Wetzler said that whether by impact fee or benefit district, the City has never asked that property owners pay 80% of the total cost of construction. The City has obtained funding from the county and state which will pay a substantial portion of the costs; the 80% figure would be applied to the portion to be paid by the City of Leawood and not obtained from other funding sources.
City Administrator Garofano said a significant amount of money is at stake. The City has 6.5 million county and state dollars that could be in jeopardy at some point in time, then the City would be faced with a real dilemma of a 10 million dollar improvement with no state or county funding to help, then who knows when K-150 would be built.

Stuart Sharp felt the road needed to be built now, not to serve the properties along the road, but to serve the through traffic and all the residents of Leawood who use it as a major thoroughfare.

1654 Councilmember LaHue moved to adjourn the hearing to April 4 at 6:30 P.M., seconded by Dunn. Motion carried unanimously (7). Councilmember Patterson arrived and abstained. Because he had a perceived conflict of interest, he did not attend the hearing.

1775 7:30 P.M. The hearing was closed.

Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 290

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Monday, February 7, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Mainicoff, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

PLEDGE OF ALLEGIANCE: Led by Cub Scout Den 9, Pack 3385.

1845 The agenda was approved unanimously on motion of Clawson, seconded by Dunn, after the addition of 1) an agreement with Shafer, Kline & Warren for the acquisition of permits required to build a culvert as part of the rehabilitation of Mission Rd., 143rd St. to 151st St., and 2) a discussion of litigation as part of the executive session to be scheduled at the end of the meeting.

1876 CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, noted that the 4 Councilmembers running for reelection in the April 5th (nonpartisan) City election were unopposed. He suggested the City elections become partisan and that members of the Governing body be paid to get people involved in the community and City government.

1951 PROCLAMATION: The Mayor proclaimed the week of February 20, 1994, as "Engineers Week".

1957 CONSENT AGENDA: Change Order No. 1 to the construction contract for improvements at 143rd & Mission Rd.; a pay request from Vision Construction for driveway reconstruction over Leawood sanitary sewers in Prairie Village; a resolution to approve the final plat of Leawood Pavilions First Plat; and 3 resolutions accepting an equal employment opportunity policy, an affirmative action policy, and an ADA grievance procedure policy, were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Dunn:

1. Minutes of the January 17, 1994 Council meeting;
2. Minutes of the January 24, 1994 Special Council meeting;
3. Leawood Historic Commission report (minutes) of their December 14, 1993 meeting;
4. Change Order No. 3 to the construction contract with Landscapes Unlimited for the Iron Horse Golf Club in the amount of $17,718.25;
5. Resolution No. 1146 (attached as part of the record) approving the final plat of Leawood Falls, 6th Plat, at 137th St., west of Manor;
6. Resolution No. 1147 (attached as part of the record) approving the final plat of Quail Crest at 138th and Roe;
7. Purchase of 6 1994 Chevrolet Caprice police cars (5 patrol and
replacement for watch commander's car) from Sonny Hill Motors in the amount of $97,200 (through a cooperative purchasing contract administered by the City of Olathe);

8. Resolution No. 1148 (attached as part of the record) encouraging and fostering the development of amenities, projects, and facilities by the Leawood Foundation;

9. Assignments to the Public Works Committee:
   a. discussion of driveway fillet policy
   b. discussion of street closure request at 86th & State Line Rd.
   c. discussion of dangerous intersection at 124th & Fairway
   d. selection of a design engineer for Roe Ave. Improvements, 124th to 135th
   e. discussion of a drainage problem at 12504 Granada Lane (Ron Havens)

Change Order No. 1 to the construction contract with Holland Corp. for improvements at 143rd and Mission Rd. in the amount of $11,847.00 - to provide erosion control within City right-of-way and to prevent silt from flowing into the pond southwest of the project on the Spears property, and to provide a stable subgrade for the new road surface on 143rd St.; Councilmember Dunn asked why erosion control was not included in the original bid. Public Works Director Brandt explained that it had been omitted from the design by mistake. Mrs. Dunn moved to approve the change order, seconded by Campbell. In response to questions from Councilmember Rasmussen, Mr. Brandt explained that the erosion control was not included in the design, but was necessary. The error was discovered in the field. If the error had been noticed at the beginning, erosion control would have been part of the contract (as it normally is) and this change order would not have been necessary. Mr. Rasmussen thought perhaps this was a case of "error and omissions" on the part of the design engineer. Mr. Brandt said that this was not the kind of mistake that would cause the City additional expense; the City would pay for the erosion control in any case. Motion to approve the change order carried; Rasmussen opposed, all others in favor.

Resolution No. 1149 (attached as part of the record) approving the final plat of The Pavilions of Leawood First Plat, approximately 148th and Mission Rd.; Planning Director McKay advised that the name of the plat had been changed from Leawood Pavilions First Plat. The resolution was adopted unanimously on motion of Moore, seconded by Clawson.

Pay Request No. 1 (FINAL) from Vision Construction Co. in the amount of $13,260.19 for reconstruction of several driveways over Leawood sanitary sewers in Prairie Village; After discussion of additional work performed, the pay request was approved unanimously on motion of Campbell, seconded by Moore.

Resolution No. 1150 (attached as part of the record) accepting the City's Equal Employment Opportunity Policy; Resolution No. 1151 (attached as part of the record) accepting the City's Affirmative Action Policy; and Resolution No. 1152 (attached as part of the record) accepting the City's ADA Grievance Procedure Policy; Councilmember Patterson thought the changes appeared to be substantial. Human Re-
sources Director Hakan said that basically, language in former resolutions had been updated and scopes broadened to reference several state and federal laws. The resolutions were adopted unanimously on motion of Clawson, seconded by Moore.

2503 DISCUSSION OF ILLEGAL STORM WATER CONNECTIONS TO THE LEAWOOD SEWER SYSTEM IN CORINTH MEADOWS SUBDIVISION, PRAIRIE VILLAGE: In August 1993, the Public Works Department, at the direction of the Council, notified residents with illegal connections that they would have to take necessary action to disconnect those connections from the sanitary sewer system. Only 2 property owners responded, and both requested financial assistance. Public Works recently sent certified letters, giving residents until March 15th to contact the department and until May 15th to disconnect. Mike Crissey, 8400 Reinhardt, who does not have an illegal connection, was concerned that since no disconnections had been done, spring rains might cause additional sewer backups in his home. He requested that additional action be taken to disconnect the illegal connections.

Judy Crissey told the Council they have had 6 floods in their basement since 1985, costing them approximately $8,000 cleanup. They are victims of those residents who have illegal connections. Their property value has not held; they could not sell their house today.

Hal Miller, 8407 Reinhardt, said he has an illegal driveway drain, and requested financial assistance from the City to disconnect the drain.

Councilmember Clawson said she is not in favor of giving financial assistance to remove illegal connections. Councilmember LaHue said that many homeowners did not realize there were illegal connections when they purchased their homes. Whatever the solution, he favors granting residents some latitude in time to pay for disconnections since some costs would be significant.

Councilmember Rasmussen wanted to know why this matter was on the agenda. He reminded Council that part of a recent sanitary sewer study concerned the cost of removing infiltration of the sewer system, and Council decided, at the time they decided to charge sewer customers $750,000 a year more than they had previously paid, that they were not going to burden residents on the sanitary sewer system with additional costs due to illegal connections. Mr. Rasmussen felt that the only issue before the Council was Mr. Miller's request that he be granted until March 31st to disconnect. Mr. Miller said he was also requesting financial assistance. Mr. Rasmussen moved that Mr. Miller's request for financial assistance be denied, seconded by Campbell.

Councilmember LaHue said he would need to know the exact number of illegal connections. He felt it would be feasible to establish a fund based on a benefit district comprised of all residents on the Leawood Sewer System to which a person with an illegal connection could apply for at least partial funding to disconnect.

Councilmember Moore felt the Council did not have enough information at this meeting.

Councilmember Clawson moved to amend Mr. Rasmussen's motion to add that Mr. Miller be granted until March 31st to disconnect, seconded by Rasmussen. Dr. LaHue said that if Council denies Mr. Miller financial assistance, they should deny everyone; Council should at least consider
the volume of the problems before they make this decision. Mr. Rasmussen felt the Council's previous decision should stand; those who have complied with proper connections should not have to pay the costs to remove illegal connections. The motion to amend failed; Clawson, Rasmussen in favor; all others opposed. Mr. Moore wanted more information on all other illegal connections and information on funding mechanisms for removal of illegal connections.

Mr. Rasmussen's motion to deny financial assistance carried; LaHue opposed, all others in favor.

Councilmember Patterson moved that there be a 60-day moratorium on all enforcement action during which time staff will investigate other methods of financial assistance (other than payment from rate payers) for compliance, seconded by Dunn (to find a way in which those people causing the problems may have an alternate way of financing correction of the problems rather than making the cost of the correction a burden on all of the rate payers of the sewer system). Motion carried; LaHue opposed, all others in favor.

RESOLUTION NO. 1153 OF FINDING AS TO THE ADVISABILITY AND AUTHORIZING THE IMPROVEMENT AND CONSTRUCTION OF 155TH STREET (BELL DRIVE) AND IRON HORSE DRIVE FROM MISSION ROAD TO THE IRON HORSE CLUBHOUSE AND IN IRON HORSE ESTATES PHASE I: Adopted unanimously on motion of Campbell, seconded by Moore. Attached as part of the record.

RESOLUTION NO. 1154 OF FINDING AS TO THE ADVISABILITY AND AUTHORIZING THE ACQUISITION OF PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE LEAWOOD PUBLIC GOLF COURSE (IRON HORSE GOLF CLUB): Adopted unanimously on motion of Campbell, seconded by Moore. Attached as part of the record.

APPROVE PROPOSAL FOR SUBSURFACE INVESTIGATIONS OF COLLEGE BOULEVARD BETWEEN EL MONTE AND STATE LINE ROAD: On motion of LaHue, seconded by Dunn, Council unanimously approved the proposal from GeoSystems Engineering, Inc., for an amount not to exceed $14,700.

DISCUSSION OF A PROPOSAL FROM JOHNSON BRICKELL MULCAHY ENGINEERS FOR A REALIGNMENT STUDY OF TOMAHAWK CREEK AS IT RELATES TO THE COLLEGE BOULEVARD BRIDGE OVER THE CREEK, COLLEGE BOULEVARD IMPROVEMENT PROJECT, EL MONTE TO STATE LINE ROAD: With an interest in reducing the size of the proposed College Blvd. bridge over Tomahawk Creek and Indian Creek, a request was made to investigate the feasibility of shifting the bridge to the west and modifying the alignment of Tomahawk Creek immediately south of Indian Creek. This work was not included in the original contract scope. JBM's estimated cost for the study was $8,753.11. Staff recommended the study not be done. While shifting the bridge to the west might reduce the size/cost of the proposed bridge, other considerations negate the net savings. An extensive length of an existing 66" diameter sanitary sewer line would need to be relocated. Also, the cost to realign Tomahawk Creek would be significant. Noneconomic considerations include the impact of disturbing park land.

On motion of Rasmussen, seconded by Dunn, Council voted unanimously to support staff's recommendation not to do the study.
4714 AUTHORIZE CONTRACT FOR SPACE NEEDS STUDY: Councilmember LaHue moved to authorize the Mayor to execute a contract with architects Calcarra Duffand-Poss Manlove, Inc., in the amount of $31,850, seconded by Campbell. Councilmember Rasmussen asked why the City needed this study when one had been done only 6 or 7 years ago regarding the police/court building and the new city hall, and the new city hall isn't even occupied yet. City Administrator Garofano said the study would address the future needs of departments not moving to the new city hall - expanded facilities for court, a third fire station, public works maintenance facility at 103rd Terr. and State Line, parks and recreation maintenance facilities, police satellite station (current police building is full).

Motion to approve the contract carried; Giblin, Rasmussen, Patterson opposed; all others in favor. Mr. Giblin did not feel the study was needed now; staff could do some of the study. Mr. Rasmussen felt staff should know what is needed for police and fire. Mr. Patterson wanted to look at available space at the new city hall, and undertake a study later.

5091 AUTHORIZE CONTRACT FOR SURVEY OF HIGH DRIVE NORTH OF 95TH STREET - to develop survey base maps for storm drainage improvements: On motion of LaHue, seconded by Dunn, Council unanimously authorized the Mayor to execute a contract with Ponzer-Youngquist, Consulting Engineers and Land Surveyors, in the amount of $9,750.

5138 ORDINANCE NO. 1398C RELATING TO CUTTING OF WEEDS AND VEGETATION: The ordinance was considered and passed on motion of Rasmussen, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

5155 WORK SESSION: Scheduled for Tuesday, February 15th, 5:00 P.M., to discuss 1) design and cost estimates of the College Blvd. extension, El Monte to State Line Rd. (presentation by Johnson Brickell & Mulcahy engineers), 2) a contractor's performance policy, and 3) a proposed strategic plan for economic development.

5319 APPROVAL OF APPROPRIATION ORDINANCE NOS. 724B & 726: The ordinances were considered and passed on motion of Giblin, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

5344 PROPOSAL FOR A DRAINAGE STUDY AND ACQUISITION OF PERMITS REQUIRED TO BUILD A CULVERT AS PART OF THE REHABILITATION OF MISSION ROAD, 143RD ST. TO 151ST ST.: On motion of LaHue, seconded by Campbell, Council unanimously approved the proposal from Shafer, Kline & Warren in the amount of $7,100.

5426 EXECUTIVE SESSION: On motion of Moore, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 45 minutes to discuss litigation and a matter under attorney-client privilege.

5466 9:15 P.M. Recess.
9:20 P.M. Council convened in executive session.

10:05 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 291

# 35 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Tuesday, February 22, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * John R. Campbell, Jr., and Graham G. Giblin, Sr. arrived 7:35 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Maleicof, Finance Director; Battalion Chief Doug Wolford, Fire Department; Scott Whitaker, Director of Parks and Recreation; Martha Helzer, City Clerk; and Richard S. Wetzler, City Attorney.

Guest present: Johnson County Commissioner Annabeth Surbaugh.

The agenda was approved unanimously on motion of Rasmussen, seconded by Clawson, after the addition of a discussion of whether or not to continue the College Boulevard improvement project (El Monte to State Line Road) as presently contemplated.

* 7:35 P.M. Councilmembers Campbell and Giblin arrived.

73 PRESENTATION ON SHAWNEE MISSION SCHOOL DISTRICT BOND ISSUE ELECTION ON APRIL 5, 1994: A video was shown. Donna Bysfield, a member of the Shawnee Mission School Board; Bob DiPierro, Deputy Superintendent for Operations; and Jack Robinson, a member of the Committee for Excellence for the bond issue, attended the meeting. The $139.7 million bond issue would provide funds to modernize, restore and rebuild the district's 67 facilities. Needs exist in most of the schools for major renovations or reconstruction, classroom additions and other costly improvements. The bond issue would fund more than 200 projects, including retrofitting electrical and plumbing systems; upgrading lighting; replacing ceiling systems, roofs and flooring; repairing casework; reconstructing four elementary schools (including Corinth Elementary at 83rd & Mission); standardizing playgrounds; and installing air conditioning in 35 schools.

698 CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, is opposed to the bond issue and the additional indebtedness it would create if approved by the voters. There have already been too many tax increases. He didn't feel the district's preventive maintenance program for its facilities was administered well, or schools wouldn't need to be torn down and rebuilt. He felt the school district was seeking Council support for the bond issue.

The Mayor said that the school district representatives came to present the facts of the bond issue to the Council, and did not ask for Council support. If the Council wanted to support the bond issue, they could do so.

961 CONSENT AGENDA: Change Order No. 2 to the contract for site grading at the new city hall was removed for further discussion. The following
were approved unanimously on motion of Rasmussen, seconded by Campbell:

1. Minutes of the February 7, 1994 public hearing on the advisability of improving K-150, State Line Rd. to Nall Ave.;
2. Minutes of the February 7, 1994 Council meeting;
3. Departmental reports;
4. Application for Cereal Malt Beverage License (renewal) - Price Chopper, 11721 Roe, Camelot Court Shopping Center;
5. Change Order No. 1 to the construction contract for the irrigation water line to the Iron Horse Golf Club - increase in contract time to allow construction and seeding during more favorable weather conditions;
6. Staff request that Council appoint an ad hoc committee to develop a strategic plan for economic development - life of committee not to exceed 6 months without additional Council action.

Change Order No. 2 to the contract with Reno Construction Co. for additional site grading at the new city hall (4800 Town Center Drive) in the amount of $3,200.00 - to extend the patio area (grassy area) on the north side of the city hall approximately 50 feet in order to have a sufficient level area for outdoor activities; After a more detailed explanation of the work, and on motion of LaHue, seconded by Rasmussen, Council unanimously approved the change order.

1041 MAYOR’S REPORT: The February 8th dinner event to celebrate the Chinese New Year in honor of Leawood’s Sister City I-Lan, Taiwan, was very successful. Approximately 20 people have shown interest in the new Sister City Association.

Each year for the past few years, the City has had a dinner to honor residents who volunteer their time to serve the City in various capacities. This year, instead of a dinner, the City will consider having a preview of the new city hall for the volunteers before the dedication of the facility.

1264 DISCUSSION OF COLLEGE BOULEVARD IMPROVEMENTS, EL MONTE TO STATE LINE ROAD: Councilmember Rasmussen didn’t think the City should proceed with the project for several reasons. There has been a tremendous increase in costs - from approximately $4.5 million to $13+ million (for the project from Roe to State Line). A 1985 traffic study indicated development at State Line Rd. in Kansas City, Missouri. Mr. Rasmussen said that area is not going to develop to the extent contemplated in 1985. The study did not contemplate the change in the total infrastructure on I-435, including additional lanes and the additional interchange at Nall. Leawood would have the maintenance responsibility for perhaps the longest bridge in Johnson County, and it would not be easy to find resources for that. Mr. Rasmussen also felt the bridge design is environmentally damaging - for instance, a lot of debris will accumulate at the bridge columns. He asked the Council to reconsider building the College Blvd. extension. Several Councilmembers wanted more information from JBM.

1548 Tom Munson of Johnson Brickell Mulcahy & Associates, design engineers, gave a presentation on the project:

1. The intersection of College and State Line - there was a possibility of redoing work that had been done as part of the State Line
Rd. improvement project, to lower the grade of College Blvd. at State Line, to see if that might provide a cost savings. JBM recommended leaving the design as proposed; no cost savings were found.

2. JBM is looking for alternative materials for retaining walls that would provide a natural look and a cost savings. The Council would still have the option of tree plantings at a later date.

3. A proposed pedestrian overlook for an additional $14,000 at the intersection of College and Brookwood. Councilmember Rasmussen was in favor of the overlook for safety. If the City built College Blvd. just to give access to Hallbrook (the bridge isn't needed for that purpose), the City would need to do something at the intersection for safety. Councilmember Moore felt medians at the intersection were warranted, the overlook was not necessary.

4. Aesthetic treatment of the bridge - enhancements - bridge would be more harmonious with existing surrounding natural materials/landscape. Dwight Taylor of Ochsner Hare & Hare presented 5 enhancements totaling $372,000:
   a. go from 53 round smooth concrete columns to 35 oval-shaped columns; $201,000 more for 35 columns.
   b. use of form liner that creates texture on concrete, and color stain (perhaps a limestone color) on 35 columns; $67,000 additional. Tom Munson said KDOT would participate (80%) in the cost of aesthetics, 20% local share.
   c. use of the same form liner and color stain on bridge abutments; $30,000 additional.
   d. use of a simple decorative fence other than the chain link in the basic bridge design for the full length of the bridge, separating pedestrians/bikers from the edge of the bridge; $59,000 additional.
   e. extension of the end of the pier cap beams to provide a place for light poles and a place for future decorative signage for the parkway system; $16,000 additional.

Councilmember Rasmussen asked what the driving force of the project was. City Administrator Garofano said that JBM had done a traffic study in 1985 to look at the ramifications of the extension of College Blvd. to State Line Rd. Traffic generation has increased considerably since 1985; Camelot Court and Leawood Town Center projects had not been approved nor was Sprint in Overland Park. Tom Munson said that without the College Blvd. extension, traffic on 103rd St. would increase by 3000 cars per day, and traffic on 119th St. would increase by 7000 cars per day. I-435 would have an additional 10,000 cars per day. Without the College Blvd. extension, certain areas would have trouble developing since there would be no accessibility, like the area between Tomahawk Creek Parkway and Roe Ave. (Spears property) and the office development near Hallbrook at State Line. Mr. Garofano said that a 1986 study by Howard Needles indicated that if College had been built at that time, it would have had 10,000 cars per day. Planning Director McKay said that Camelot Court will not build its second phase without the College Blvd. extension, an economic development consideration.

Councilmember Rasmussen felt the County should maintain the bridge. Councilmembers LaHue and Moore were in favor of the project; Mr. Moore said the roadway could prompt further development and add to the tax base.
Council member LaHue moved to approve the proposed design of College Blvd., El Monte to State Line Rd., with the bridge, seconded by Moore.

Council member Patterson moved to amend the motion to add that the local share of the costs, which appeared to him to be approximately $5 million, be divided $700,000 to Spears, $700,000 to the City, and $3.6 million to Hallbrook, or divided in those general proportions. Motion seconded by Rasmussen.

Mr. Rasmussen preferred that investigation of the project continue and be subject to project cost negotiations with the parties involved to determine specific costs to be paid by each party. City Administrator Garofano stated, for clarification, that the only item up for negotiation per se is Hallbrook's participation in the cost of the bridge. As far as the County is concerned, they are applying their rules of C.A.R.S. established by County resolution to this project. If the Council could convince the County to amend C.A.R.S. funding for this project, then the City might be able to negotiate with the County. Mr. Rasmussen said that if this project is so critical to the total County network, then the City ought to do some hard negotiating. What started out as a $600,000 local share is now 3 to 4 times greater. Mr. Patterson withdrew his motion to amend.

Mr. Patterson moved to amend Dr. LaHue's motion to add that there be negotiations with property owners and discussions with the County to determine the costs to be paid by the parties involved, seconded by Giblin. Motion carried unanimously.

Dr. LaHue's motion as amended to approve the proposed design with the bridge carried; Rasmussen opposed, all others in favor.

Council member Clawson moved to concur with the enhancements to the bridge, seconded by LaHue. Motion carried; Giblin, Rasmussen opposed; all others in favor.

10:05 P.M. Recess. Council returned to regular session at 10:10 P.M., same members present.

**Authorize Proposal for Construction Testing and Inspection Services for 119th Street, Roe Ave. to Mission Rd., (Ultra Thin) Concrete Overlay Project:** On motion of LaHue, seconded by Rasmussen, Council unanimously approved the proposal from Terracon Consultants, Inc., in the amount of $12,000.

**Authorize Interlocal Agreement with Overland Park for the Public Improvement of Mission Road Between 151st Street and Approximately 155th Street (Southern Limit of the Iron Horse Golf Club) - for design and construction; estimated project costs for engineering and construction, $1,319,267.65; Leawood's share, approximately $1,146,089.20:** On motion of Dunn, seconded by Rasmussen, Council unanimously authorized the Mayor to sign the agreement.

**Authorize Agreement with Water District No. 1 for the Relocation of a Water Main on the East Side of Mission Rd. From 151st Street South to the City Limits:** On motion of LaHue, seconded by Clawson, Council unanimously authorized the Mayor to sign the agreement. Relocation costs are estimated at $47,000.
5412 APPROVAL OF APPROPRIATION ORDINANCE NO. 727: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

5461 EXECUTIVE SESSION: On motion of Moore, seconded by Campbell, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

5494 10:15 P.M. Council convened in executive session.

10:40 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
SPECIAL COUNCIL MEETING

Tape No. 292

# 40 The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 9615 Lee Boulevard, at 5:40 P.M., Monday, February 28, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Marnie S. Clawson, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Doug Patterson, and Louis Rasmussen, for the purpose of convening an executive session to discuss a matter under attorney-client privilege. Councilmember Ronald LaHue arrived at 6:00 P.M. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Terry Uhl, Asst. Public Works Director/City Engineer; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney. Public Building Commission members Robert Adams and Jerry Underwood, and attorney Bruce Waugh were also present.

73 On motion of Moore, seconded by Clawson, Council voted unanimously to convene in executive session for one hour to discuss a matter under attorney-client privilege.

82 6:40 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

[Signature]
Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 292

# 100 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, March 7, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * Ronald LaHue arrived. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Information Systems Manager; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

111 The agenda was approved unanimously on motion of Campbell, seconded by Moore.

* Councilmember LaHue arrived.

120 CITIZEN COMMENTS: Jill Galbreath Smith, 12113 Overbrook Court in Pembroke Court subdivision, told the Council that the plat and replat of Pembroke Court indicated that the streets had been dedicated for public use.

180 PROCLAMATION: The Mayor proclaimed March 6-12, 1994, as "APS Host Family Recognition Week". Dolores McCreash of the City's Planning Department, and AFS District Representative for Blue Valley High Schools, introduced host family Steve and Kathy Eginoire (12512 Sherwood Dr. in Leawood), their children Jessica and Hannah, and their foreign exchange student from Portugal, Vera Maria Alvelos, who attends Blue Valley North High School. Proclamations will also be presented to 3 other Blue Valley School District host families.

244 CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Dunn:

1. Minutes of the February 22, 1994 Council meeting;
2. Minutes of the February 28, 1994 Special Council meeting;
3. Leawood Historic Commission report (minutes) of their January 25, 1994 meeting;
4. Pay Request No. 5 from KLC, Inc., in the amount of $9,576.00, for construction of the irrigation water supply line to the Iron Horse Golf Club.

253 RESOLUTION NO. 1155 APPROVING THE REVISED PRELIMINARY PLAT OF HAZELWOOD LOCATED AT APPROXIMATELY 119TH AND PAWNEE: There was some concern about parking on the 22-foot streets which could restrict traffic flow. The developer agreed that parking would be allowed only on one side of the street and would be so posted.

Planning Director McKay said that the words "landscape easement and a" should be added to stipulation of approval #9 so it would read,
"An area approximately 42’ in width will be established as a landscape easement and a "no cut zone" that will also disallow any man-made structures on the rear side of any lots that have double street frontage".

Councilmember LaHue moved to adopt the resolution with the wording change, and direct that the section of the Code of the City of Leawood relating to parking prohibitions be amended to include the parking restrictions on the 22-foot streets. Motion seconded by Patterson and carried; Dunn opposed, all others in favor. Mrs. Dunn felt the streets should be wider. Resolution attached as part of the record.

RESOLUTION NO. 1156 APPROVING THE REVISED PRELIMINARY PLAT OF NICHOLS ESTATES LOCATED AT APPROXIMATELY 151ST AND NALL: Joseph Barko of the J.C. Nichols Co. presented the revised preliminary plat. In response to a concern expressed by Councilmember LaHue, Mr. Barko said he would talk to contractors about keeping construction traffic away from the elementary school at 143rd and Mission as much as possible.

Plan Commission stipulations of approval #’s 3 and 4 stated that the developer would be responsible for park impact fees in the amount of $300 per dwelling unit and a South Leawood Transportation Impact Fee in the amount of $468.75 per acre. Mr. Barko told the Mayor he understood the stipulations. The Mayor asked the City Attorney how the City could be certain that the developer would not turn around and try to get out of paying the impact fees after Council approval of the revised preliminary plat. She said that a principal in the J.C. Nichols Co. had recently sued the City on another impact fee issue (legality of the K-150 impact fee), and the City could end up losing money to do the project. It wouldn’t be fair to approve this revised preliminary plat and then end up not having the money to do the road network later or to buy a park. City Attorney Wetzler said that in his opinion, per the resolution of approval, the J.C. Nichols Co. was agreeing to pay the impact fees. The Mayor said that if a lawsuit was filed to set aside those fees, and if the City lost the suit, then it would not have the money it thinks it has upon Council approval of the plat. She would suppose that if the individual who filed the lawsuit concerning K-150 feels the way he does about impact fees, that feeling might carry over to the Nichols Co. She was not comfortable giving approval and wondering if indeed the City would be sued. Planning Director McKay said that the impact fees are payable prior to recording the final plat. Mr. Barko guaranteed that the Nichols Co. would pay the fees to get the plat recorded, since the company wants to start on the subdivision immediately.

Plan Commission stipulation of approval #5 stated that the developer is responsible for street improvements for Nall and 151st Street with an assessment of $130 per front foot. City Administrator Garofano said that issue should be considered in the same light. The street assessment issue is the subject of litigation in another city, and the J.C. Nichols Co. is a party to that litigation. The Mayor said that in that particular litigation, there is consideration that the city involved return the funds in escrow to the developer. This could happen to Leawood.

Councilmember Rasmussen said the Mayor’s comments were quite proper in terms of reminding the Council about Leawood’s impact fees,
but to deny a landowner the right to develop his property based on litigation is almost a penalty. The fact that a developer chooses to exercise his right to litigate should not be used against him in terms of the ability to develop his land.

Councilmember LaHue moved to adopt the resolution, seconded by Rasmussen. Motion carried; Patterson abstained, all others in favor. Resolution attached as part of the record.

REQUEST BY CHRIST COMMUNITY EVANGELICAL FREE CHURCH FOR A SPECIAL USE PERMIT FOR A CHURCH OFFICE AT APPROXIMATELY 142ND AND KENNETH ROAD:
Planning Director McKay said that the 14-day statutory protest period between Plan Commission approval and Council consideration had not lapsed. The request will be considered at the March 21st Council meeting.

DISCUSSION OF PROPOSED CRITERIA FOR ACCEPTANCE OF PRIVATE STREETS AS PUBLIC STREETS: Planning Director McKay presented a procedure that could be followed in the event the Council voted to accept private streets as public:

1. the subdivision or homes association would submit a petition signed by 100% of the property owners abutting a private street, requesting that the private street be accepted as public.
2. City staff, after determining the validity of the petition, would do an analysis to determine whether or not the private street meets the criteria for acceptance. If it did meet the criteria, the City would direct the petitioner to prepare the legal documentation for City acceptance. If it did not meet the criteria, staff would prepare a list of deficiencies to be corrected prior to City acceptance.
3. all materials testing plus any costs associated with engineering or legal documentation deemed necessary by the City in the analysis would be the responsibility of the petitioner.
4. those areas that either do not or can not meet the minimum criteria would not be eligible for City acceptance.

Mr. McKay presented the proposed minimum requirements (criteria) for acceptance, attached as part of the record. In response to a question from Councilmember Rasmussen, Mr. McKay said that insufficient retaining walls would be removed in accordance with 7B, removal of structures deemed inappropriate by the City.

Councilmember LaHue was concerned about requiring the signatures of 100% of abutting property owners. One homeowner could refuse to sign the petition for whatever reason, thereby holding up the process. Dr. LaHue preferred requiring only a majority of property owners to sign. Mr. McKay said that if one homeowner refused to sign because a structure in his yard would be destroyed, and 51% of abutting property owners signed, and then the structure was destroyed, the City could have some liability. He felt there should be 100% participation, and homeowners should have the responsibility of dealing with the homeowner(s) who refuse to sign, rather than placing the City in a legal situation.

Councilmember Clawson asked what would happen to intersections where one street becomes public and one stays private. Mr. McKay said the intersection would have to play a key part; the City couldn't have a nonstandard intersection going into a public street.
CRITERIA FOR ACCEPTANCE OF PRIVATE STREETS

The following minimum requirements must be met prior to the City considering for acceptance any existing or future private street for ownership and maintenance.

1. MINIMUM CITY STREET CONSTRUCTION STANDARDS—Street shall have been constructed to city standards in effect at the time of construction including the following requirements:

   A. ASPHALT/BASE THICKNESS (Core samples shall be taken per Public Works specifications with costs borne by the homes association requesting city acceptance of their street.)

   B. MINIMUM STREET WIDTHS

   C. ACCEPTABLE CURVE RADIUS (as determined by the Director of Public Works using accepted engineering standards.)

   D. CURBS AND GUTTERS

   E. ALL MATERIALS IN GOOD REPAIR (street surface, curb and gutter.)

2. SIDEWALKS IN PLACE AND IN GOOD REPAIR (Minimum 4 feet wide and located similar to public street requirement or as directed by Public Works.)

3. ACCESS GATES shall be removed or permanently made non-operable in an open position.

4. STORM SEWERS shall be in place and be located and designed according to public works standards.

5. SIGHT DISTANCES AT INTERSECTIONS shall meet city standards.

6. STREET SIGNAGE shall be in place in accordance with city standards. Alternatively, the subdivision may provide private maintenance if agreeable with the city.

7. MINIMUM BUILDING SETBACKS—Building setbacks shall be provided in accordance with the following:

   A. Minimum 10 feet clear space measured from back of curb

   B. Removal of structures deemed inappropriate by the City.
8. CITY STANDARD STREET LIGHTS including standard luminaires and poles shall be in place. Alternatively, the subdivision may provide private maintenance if agreeable with the city. However, in any case, acceptable city luminaire requirements must be met.

9. SINGLE OWNERSHIP OF PRIVATE STREET/TRACT- The property to be transferred shall be platted or replatted into a single parcel by the owner(s). No such parcel shall be transferred to the city without 100% participation of those owners adjoining same.

10. GARAGE SETBACKS shall be a minimum of 25 feet from the back of curb.

11. DEAD END STREETS shall meet city emergency access requirements.

12. HEAD-IN PARKING (that on-street parking requiring backing into traffic flow) shall be eliminated.

13. THE CITY SHALL NOT BEAR ANY COSTS incurred in the dedication of or in the preparation for dedication of any private street to the city, including, but not limited to the following:

A. Ownership records search
B. Legal fees
C. Engineering fees
D. Traffic studies
E. Coring samples
F. Construction/Demolition
The Mayor thought it made sense to accept private streets as public subdivision by subdivision. Mr. McKay said that a subdivision might have one private street which doesn't meet acceptance criteria, it may be too expensive to qualify. Is that a reason for not accepting the other private streets in the subdivision? He also said that logic will have to prevail - the City can't have a public street between two private streets.

Councilmember Dunn asked about the criteria (#2) of sidewalks being in place and in good repair. It seemed to her that very few subdivisions have sidewalks. It would be more fair to suggest that only those streets serving as direct school routes be required to have sidewalks, since presently there are public streets that do not have sidewalks (having been built before sidewalks were required). Mr. McKay said that new subdivisions are required to have sidewalks whether or not the streets are school routes. If the City accepts private streets, the City might as well accept them under that standard and have sidewalks. If the City doesn't, it will probably have to build them (pay for them) in the future.

Councilmember Patterson supposed property owners could petition to create a benefit district to help them finance street improvements needed to qualify for acceptance. Finance Director Malnicof said it could be done, but a street must be public to have a benefit district. The City's debt limitation would increase; a benefit district would create City debt payable by special assessments.

The Mayor said that under procedure #2, if staff determined that a petition was invalid, there is no provision for an appeal to the Governing Body. There should be an appeal process.

City Attorney Wetzler confirmed for Councilmember Rasmussen that if the Council adopted a private street acceptance policy, there should be an appeal provision. The Council can add that to the proposed policy.

Dr. LaHue objected to the requirement that 100% of the abutting property owners would have to sign a petition. He preferred that only a majority of the homeowners be required to sign. He said that in many cases, the City might not be able to find 100% in favor of a private street becoming public, and ownership might be difficult to determine. Requiring 100% would encumber the process and would eliminate in many cases the Council's consideration of accepting private streets.

Councilmember Campbell was in favor of requiring 100% signatures. Property owners or homes associations will have to deal with problems in obtaining all signatures on a petition.

Councilmember Dunn agreed with Dr. LaHue and Mr. Campbell. It would be ideal to have 100% signatures, but she didn't think in many cases it would be feasible because of ownership and the likelihood that the City would not be able to locate every property owner to sign a petition. She preferred a figure less than 100%.

The Mayor said the procedure needed a time period for Council's acceptance of private streets after property owners' compliance with requirements for acceptance. There needs to be a commitment from the Council at the time property owners begin taking steps towards compliance that Council would accept the streets once compliance was attained.

Dr. LaHue said he wouldn't want to hold people to curbs and gut-
COUNCIL MINUTES

MARCH 7, 1994

TAP No. 292

COUNCILMEMBER PATTERSON WANTED THE CRITERIA TO BE CONSIDERED BY THE COMMITTEE OF SUBDIVISIONS AND OTHERS INVOLVED; HE MIGHT HAVE THOUGHTS ON THE PROPOSED PROCESS AFTER HEARING INPUT FROM THE COMMITTEE.

JEAN SCHRAM, 5044 W. 127TH TERR., EXPRESSED CONCERN THAT PRIVATE STREETS ACCEPTED BY THE CITY IN THE PAST HAD NOT MET CITY STANDARDS, BUT NOW THE CITY WANTS TO REQUIRE THAT THE STREETS IN QUESTION COMPLY WITH CODES. SHE ASKED THAT THE COUNCIL CAREFULLY REVIEW THE NECESSITY OF EACH CRITERIA, AND IF IN FACT, THEY ARE FOUND TO BE VALID, PROVIDE ANY VARIANCES OR LENIENCY OR FLEXIBILITY THAT CAN BE APPLIED TO EACH NEIGHBORHOOD. IF THERE IS NO LENIENCY, PROPERTY OWNERS WILL HAVE TO GO TO A GREAT DEAL OF EXPENSE TO MAKE SURE PRIVATE STREETS MEET THE REQUIREMENTS FOR ACCEPTANCE BEFORE THEY EVER KNOW HOW LENIENT THE COUNCIL MIGHT BE.

The Mayor asked that the subdivisions and others involved respond to the proposed criteria within 1 month after which another discussion period (work session or formal Council meeting) will be scheduled.

At the beginning of the meeting, JILL GILBREATH SMITH claimed that streets in Pembroke Court had already been dedicated to the City, but the City has considered them to be private. At a previous meeting, resident BART COHEN claimed the same about Patrician Woods streets. Dr. LAHUE asked City Attorney WETZLER if he had had a chance to determine if the streets in those subdivisions are public or private. Mr. Wetzler said he had not on Pembroke Court. For Patrician Woods, he believed the streets are private, but said that the Council must make that final determination. This matter would have to be discussed in executive session. The Mayor said both subdivisions should receive the proposed criteria so they can also comment. Dr. LaHue said if a street is public but treated as private, then he was sure the Council would want to treat it as a public street.

RESOLUTION NO. 1157 REQUESTING JOHNSON COUNTY PARTICIPATION IN LEAWOOD'S 5-YEAR (1995-1999) CAPITAL IMPROVEMENTS PROGRAM THROUGH THE COUNTY ASSISTANCE ROAD SYSTEM (C.A.R.S.): The first "Whereas" stated that the Governing Body had reviewed and approved the 5-year program. Councilmember RASMUSSEN objected to the word "approved". If he voted in favor of the resolution, he would be approving x amount of unknown dollars of City responsibility. He wanted more assurance as to how much money the City as a whole would be responsible for. Councilmember CLAWSON moved to adopt the resolution with the first "Whereas" to read, "...the Governing Body of the City of Leawood has reviewed and approved the submittal of the attached five-year road and bridge improvement program...". Motion seconded by Rasmussen and carried unanimously. Resolution attached as part of the record.

APPROVE LOW BID FOR CONSTRUCTION OF BRIDGE AT 85TH TERRACE AND HIGH DRIVE: The (revised) engineer's estimate was $244,000. On motion of LAHUE, seconded by MOORE, Council unanimously approved the low bid of MEGA INDUSTRIES CORP. OF KANSAS CITY, MISSOURI, IN THE AMOUNT OF $243,123.20.
Tape No. 292

Council Minutes
March 7, 1994

3794 AUTHORIZE PROPOSAL FOR PAVEMENT ENGINEERING SERVICES FOR THE 1994 ASPHALT REHABILITATION PROJECT: On motion of LaHue, seconded by Campbell, Council unanimously approved the proposal of Terracon Consultants, Inc., for an estimated amount of $7,822.50.

3840 AUTHORIZE AGREEMENT WITH SOUTHWESTERN BELL FOR RELOCATION OF FIBER OPTIC AND COPPER TELEPHONE CABLES ON THE WEST SIDE OF MISSION ROAD FROM 151ST STREET TO BELL DRIVE REQUIRED FOR MISSION ROAD IMPROVEMENTS: Councilmember Rasmussen moved to approve the agreement, seconded by Clawson. The City will have to pay approximately $65,067.19 for the relocation. City Administrator Garofano was concerned about the probable installation of fiber optic facilities on private easement throughout the City without coordination with the City on construction projects to avoid taxpayer expense for relocations. He said there is wording in the franchise agreement with KCPL that provides that the company will meet annually with the City to review proposed construction and coordinate construction in an attempt to eliminate the problem of having to relocate utility lines when the City widens roadways. There is no such wording in the franchise agreement with Southwestern Bell. Up to now, SWBell cable relocations haven't been a big issue - not very expensive operations - but now the City is dealing with fiber optic cables which are very expensive to relocate. The City very possibly needs a new franchise to address the new fiber optic technology. SWBell has taken a strong position against any further regulation of their activities. Mr. Rasmussen's motion carried unanimously.

3996 RESOLUTION NO. 1158 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT - for the Church of the Resurrection at approximately 139th and Roe Ave., and Quail Crest subdivision at approximately 145th and Roe. The resolution, attached as part of the record, was adopted on motion of Moore, seconded by Dunn; Patterson abstained to avoid the appearance of a conflict of interest, all others in favor.

4028 PROPOSAL BY LEAGUE OF KANSAS MUNICIPALITIES TO ACQUIRE NEW HEADQUARTERS BUILDING IN TOPEKA: On motion of Rasmussen, seconded by Giblin, Council voted unanimously to authorize the League to purchase the "Victory Building" at 300 S.W. 8th St. in Topeka, and to amend League Bylaws to authorize a surcharge on the annual dues of League member cities that do not elect to prepay their total proportionate share of the cost of acquisition, for a term of no more than 15 years, in an amount sufficient to pay the annual cost thereof.

4083 APPROVAL OF APPROPRIATION ORDINANCE NO. 728: The ordinance was considered and passed on motion of Rasmussen, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4125 EXECUTIVE SESSION: On motion of Rasmussen, seconded by Moore, Council voted unanimously to convene in executive session after regular business for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.
DISCUSSION OF PARTISAN ELECTIONS AND STIPENDS FOR MAYOR AND COUNCILMEMBERS: Councilmember Rasmussen was concerned that so few residents file for City public office. He said that conditions under which City elections have been held historically have changed significantly. Historically, candidates have gone to friends and neighbors in a relatively small community and campaigned for public office. Leawood has had volunteers for public office. The City now has 4 wards that handle approximately 20,000 people. In the future, the City will have approximately 40,000 and there could be 5 wards. Trying to find people to run for office has become more difficult. The cost of campaigning has increased tremendously. At one time, a candidate didn't have to think about running a campaign through the newspapers, and editors didn't come out in support of candidates. And the amount of time spent on City business has changed.

He felt that in order to encourage people to run for office, the City should remove as many impediments as possible. There could be a stipend associated with being a Councilmember or Mayor - a candidate's individual wealth should not be a function of his/her ability to run a campaign. When the City becomes a city of the first class (which will occur in the next few years), it will need to determine whether or not it should have partisan elections. He felt it is important that Leawood participate fully in the electoral process, and at the present time, he has a real problem with the way the process is handled.

Councilmember LaHue felt Leawood's nonpartisan elections are tasteful. This issue could be discussed at a work session.

Councilmember Moore said he personally likes the lack of a stipend; there is no feeling of obligation. He likes nonpartisan elections - other "party" considerations do not enter into City elections as they do in other cities.

The Mayor said Leawood can't have partisan elections as long as it's a city of the second class.

Councilmember Clawson didn't see a partisan cause in actions taken at the City Council level, and there would be the additional cost of participating in primary elections, which, in her opinion, were not necessary in a city of Leawood's size. A stipend is not necessary either in a city Leawood's size. She personally has not found the time expenditure to be greater than what she expected as a nonpaid Councilmember.

Dr. LaHue said if a stipend in some form would encourage someone to become involved in the political arena, it's probably legitimate.

The amount of time spent on City business has increased a great deal.

Council decided to discuss stipends in May or June. The partisan election issue will be deferred until the time the City reaches the threshold of becoming a city of the first class.

10:00 P.M. Council convened in executive session, same members present.

10:30 P.M. Council returned to regular session, same members present. Councilmember Campbell moved to approve an agreement between United States Fidelity and Guaranty Co., Ruf Construction Co., and the City of Leawood, in substantially the form as presented to Council in executive session and subject to approval by the City Administrator and the
City's counsel. Motion seconded by Moore and carried unanimously.

City Attorney Wetzel said that because of information received today from the architect, staff anticipates being in a position to terminate the contractor on the new city hall project regardless of whether an agreement is actually reached. In the event an agreement is not reached, he requested that staff be given authority to terminate the contractor.

Mr. Campbell moved that in the event USF&G and Ruf do not sign the agreement, staff take the necessary steps to terminate the contractor, which would include sending him a 7-day notice. Motion seconded by Dunn and carried unanimously.

5096 10:35 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, March 21, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Graham G. Giblin, Sr., Douglas Moore, Louis Rasmussen, and Doug Patterson. Marnie S. Clawson and Peggy J. Dunn were absent. Staff present: Julie Baer Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Battalion Chief Douglas Wolford, Fire Department; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Attorney Paulette Manville in the absence of the City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Rasmussen, after the addition of 1) a resolution relating to the evaluation of contractors on City construction projects, and 2) a discussion of eligible Leawood projects in the 1995 Johnson County Stormwater Management Program.

Citizen Comments: Steve Martens, 2109 W. 97th St., presented a petition from residents in the area of the 9700 block of Overbrook concerning a dog problem. Mr. Martens said that Ashley Levitt, 9702 Overbrook, intends to contain 2 Rottweilers on her property with existing 40" chain link fencing in the backyard and recently installed invisible fencing around the perimeter of her property. The residents understand that Ms. Levitt no longer intends to use a 6-foot pen in her backyard which was the primary containment for the dogs. The dogs will have free run of the whole yard. Residents strongly oppose the containment of the dogs in this manner. They are concerned about the safety of children and smaller dogs in the immediate area. Neighbors have observed that the dogs behave in an aggressive manner merely upon seeing children and other dogs. At a Board of Zoning Appeals hearing last year regarding a fence variance for her property, Ms. Levitt stated that invisible fencing would not adequately contain her dogs because of their size and weight. At the same hearing, a 6-foot wrought iron fence was approved as a viable compromise for the containment of the dogs, but Ms. Levitt decided that was too expensive. A 6-foot wood fence was denied. Mr. Martens asked the Council to consider this matter. The Mayor said it would be referred to staff members, who would report back to the Council.

Jeff Siren, 13805 Fontana Lane in Leawood Meadows, was still concerned about a replat of part of his subdivision and drainage problems. He first expressed his concerns at the January 17, 1994, Council meeting. He said he had been assured by staff that he would receive more information and plans before building permits were issued. That didn't happen, and a building permit was recently issued. He still disagrees with staff on issues, and has hired his own engineer. He feels there has been a lack of communication on the part of City staff. Planning Director McKay said the City has an engineer who determined that a home would fit on a lot adjacent to Mr. Siren, and that
the drainage plan was appropriate. Mr. McKay said Mr. Siren had been told that if staff received documentation that satisfied them that a home would fit on the lot, then a building permit would be issued. Mr. McKay asked at what point would the City stop someone from building when an adjacent neighbor disagreed with plans or didn't want the house(s) built at all. The Mayor suggested that Mr. Siren meet with staff after the Council meeting.

638 **CONSENT AGENDA:** A resolution to approve the final plat of WhiteHorse, and Change Order No. 4 to the construction contract for the Iron Horse Golf Club, were removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Campbell:
1. Minutes of the March 7, 1994 Council meeting;
2. Leawood Historic Commission report (minutes) of their February 22, 1994 meeting;
3. Departmental reports;
4. Purchase of 2 1994 Oldsmobile Cutlass Cieras for Police detectives from Sonny Hill Motors through a cooperative purchasing agreement for a total of $23,818;
5. Pay Request No. 5 (FINAL) from Reno Construction Co. for $116,626.98 for the construction of Town Center Drive;
6. Revised request for funding from C.A.R.S. for College Blvd. improvements, State Line Rd. to Roe Ave.; from $3,744,769 to $5,430,221 (requesting that the County make up the difference in the shortfall of federal funds so the City's share of the costs is held to the $2.5 million level).

**Resolution No. 1159** approving the final plat of WhiteHorse located at approximately 151st & Nall Ave. (preliminary plat was known as Nichols Estates): Councilmember Patterson removed this item from the consent agenda for vote purposes only. The resolution, attached as part of the record, was adopted on motion of Giblin, seconded by Campbell; Patterson abstained due to a conflict of interest, all others in favor.

**Change Order No. 4 to the contract with Landscapes Unlimited, Inc., for the construction of the Iron Horse Golf Club, in the amount of $15,863.50** - for placement of rock-lined stream bottom and bank improvement as a result of a channel change near fairway #8 on Negro Creek; to mitigate stream bank erosion and improve aquatic habitat for channel changes as required by the Corp of Engineers: Staff told the Council that more change orders relating to channel changes could be expected. On motion of Campbell, seconded by Moore, Council unanimously approved the change order.

**REQUEST BY CHRIST COMMUNITY EVANGELICAL FREE CHURCH FOR A SPECIAL USE PERMIT FOR A CHURCH OFFICE IN AN EXISTING HOUSE AT APPROXIMATELY 142ND AND KENNETH RD.:** The permit would be for 2 years. No services would be held in the house. The Church is buying 10 acres from Councilmember Graham Giblin for the future development of their Church, and desires only to establish an office on the site at this time.

On motion of Rasmussen, seconded by Campbell, Council approved the permit with stipulations; Councilmember Giblin did not vote due to a
conflict of interest; all others in favor.

819 RESOLUTION NO. 1160 AUTHORIZING EXECUTION OF AGREEMENT NO. 28-94 WITH KDOT FOR INTERSECTION IMPROVEMENTS AT 89TH & MISSION RD.: KDOT will obtain funding from the Transportation Enhancement Intermodal Surface Transportation Efficiency Act (ISTEA). The resolution, attached as part of the record, was adopted unanimously on motion of LaHue, seconded by Moore.

840 APPROVAL OF APPRAISALS FOR EASEMENTS AND RIGHTS-OF-WAY REQUIRED FOR NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET: On motion of LaHue, seconded by Rasmussen, Council unanimously approved appraisals by Right of Way Associates in the total amount of $59,475 for 27 tracts of land.

946 APPROVAL OF LOW BID FOR 1994 STREET SLURRY SEAL PROGRAM: On motion of LaHue, seconded by Campbell, Council unanimously approved the low bid of Musselman & Hall Contractors in the amount of $49,504.00 (unit cost of $.884 per sq. yd. for approx. 56,000 sq. yds.).

968 AUTHORIZE "TOWER CONSTRUCTION AND LEASE AGREEMENT" WITH CELLULAR ONE FOR NEW POLICE COMMUNICATIONS TOWER AND EQUIPMENT BUILDING: Councilmember Rasmussen moved to authorize the Mayor to execute the agreement contingent on Plan Commission approval of the site plan, seconded by Giblin. Councilmember LaHue questioned the City signing a lease with one company for a 25-year period. Police Chief Cox explained that Cellular One would construct the tower and equipment building at no charge to the City, and upon completion, would deed the tower and building to the City. Chief Cox said that if technology changes, and Cellular phones no longer need a tower to support them, then Cellular One, under the terms of the agreement, would be free to remove their equipment from the tower and building. And, if 2-way radio technology which the City uses changes, the City would be free to dismantle the tower and building. He saw no downside to the long-term period. This agreement would benefit Cellular One and the City.

Mr. Rasmussen's motion carried unanimously.

1217 APPROVAL OF APPROPRIATION ORDINANCE NO. 722: The ordinance was considered and passed on motion of Rasmussen, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Giblin, Moore, Rasmussen, Patterson. Nays---None.

1279 RESOLUTION NO. 1161 AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC WORKS TO ESTABLISH CRITERIA FOR EVALUATION OF CONTRACTORS AND SUBCONTRACTORS FOR THE PURPOSE OF DETERMINING RESPONSIBLE BIDDERS FOR CONSTRUCTION PROJECTS OF THE CITY: Councilmember Rasmussen felt that the resolution distributed in the Council packets reflected past discussions and comments. He felt it was time to take action on the resolution; Council and staff have discussed this matter the last several months. Councilmember Campbell moved to adopt the resolution, seconded by Rasmussen. Mr. Rasmussen moved to amend the motion to include a 30-day appeal, the second to the last sentence in Section 4 to read, "...Any contractor or subcontractor disputing the final evaluation may
appeal the evaluation to the Governing Body within 30 days of notification of the final evaluation.". Motion to amend seconded by Moore and carried unanimously. Mr. Campbell's motion as amended carried unanimously. Resolution attached as part of the record.

1646 The Mayor received a letter dated March 15th from James Pilley, Director of Public Works for Johnson County, about 1995 Johnson County Stormwater Management Program projects in Leawood. Mr. Pilley indicated that the County was developing its 1995 program, and asked the City to execute an "Intent to Proceed" form for each eligible project it wanted to undertake, and return the forms by March 23rd. This was short notice. Public Works Director Brandt talked to Mr. Pilley who said that an extension of 1 month to allow for a Council decision was no problem. A work session will probably be held April 11th.

1796 A meeting was held last week concerning cooperation between recreation agencies within the County. Councilmembers Moore and Rasmussen, City staff, County Commissioner Annabeth Surbaugh, and representatives of recreation agencies attended. There was concern about overlapping debt/taxation. Mrs. Surbaugh wanted more information from the various agencies. The Mayor said that the agencies will distribute minutes of their meetings so governing body members and advisory boards will know the kinds of interrelationships that exist in programming and facilities.

1853 8:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
PUBLIC HEARING

Tape No. 294

#23 Minutes of a public hearing held Monday, April 4, 1994, at 6:35 P.M., in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

The purpose of the hearing, continued from February 7, 1994, was to hear public comment on the advisability of improving 135th St. (K-150), State Line Rd. to Nall Ave.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Louis Rasmussen and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Ronald Brandt, Public Works Director; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

City Attorney Wetzler reiterated that the proposed improvement district for K-150 was initiated by the City under K.S.A. 12-6a01; steps were taken relating to the initial formation of the district, one of which was the scheduling and publication of notice of a public hearing. At about the time of the first part of the hearing, a lawsuit was filed against the City relating to the financing of K-150 improvements. Mr. Wetzler had asked that the hearing be kept open, be continued, in the event the Council decided to form the improvement district. He also thought at that time that the court case would proceed a little more rapidly. At this time, in his opinion, the property owners have little or no interest in forming an improvement district. Some are willing to keep options open. He felt it was not worthwhile or productive at this time for the City to pursue the formation of an improvement district on K-150. He recommended the Council terminate these proceedings for the time being; it might simplify the litigation by eliminating the possibility of the formation of an improvement district. If, at a later date, the Council and the property owners decide to reconsider the issue of an improvement district, a new hearing would be scheduled.

Councilmember Rasmussen said that essentially the City is left with an impact fee (for the time being) to finance K-150 improvements. The timing of the improvement of K-150 is still subject to the availability of front-end funds from the City. He asked Mr. Wetzler if his recommendation essentially postponed construction of K-150. Mr. Wetzler said that as a practical matter, it had already been postponed significantly. The project was originally scheduled for a November 1993 bid letting. The City requested the State defer the bidding until April 1994. Now an April bid letting is not possible; the City hasn't acquired the necessary right-of-way. The next "window" is September 1994. As a practical matter, there is no other financing mechanism available to the City now other than the impact fee and City-at-large funding, and that is all wrapped up in the litigation. These proceedings should not continue until questions in litigation are clarified. Councilmember Dunn asked Mr. Wetzler if property owners had any plans for development along the K-150 Corridor in the near future. Mr.
Wetzler said some want to develop their property, but he didn't know specifics.

John Eisele, attorney for some of the property owners along K-150, said there had been no discussion with the principal land owners about development. They have no plans. He said that development under a benefit district is the result of plans that have nothing to do with development of the existing land. It has to do with traffic. He said that Mr. Wetzler has talked about the interrelationship of financing. The impact fee and benefit district are two distinct things - they are not related. The impact fee is a subject of litigation and has nothing to do with a benefit district's structure.

The Mayor asked Mr. Wetzler about the phrasing of a motion to conclude the hearing. Mr. Wetzler said the hearing should be closed. When the Council is in regular session, it can take action on his recommendation to terminate the proceedings.

360 6:40 P.M. Councilmember Rasmussen moved to close the public hearing, seconded by Moore. Motion carried; Patterson abstained due to a perceived conflict of interest, all others in favor.
Tape No. 294

MINUTES
REGULAR COUNCIL MEETING

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 6:45 P.M., Monday, April 4, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

EXECUTIVE SESSION: On motion of Clawson, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 40 minutes to discuss potential litigation and 2 matters under attorney-client privilege. Council left the Council Chamber at 6:46 P.M. to convene in executive session in the conference room of the Police/Court Building.

7:35 P.M. Council returned to regular session in the Council Chamber, same members present.

The agenda was approved unanimously on motion of Rasmussen, seconded by Campbell, after the addition of 1) a discussion of County Stormwater Management projects for 1995, and 2) a discussion of a golf course matter which might precipitate a special Council meeting.

RECOGNITION OF RUTH BLAUW, EXECUTIVE SECRETARY FOR POLICE INVESTIGATIONS, FOR SERVICE TO THE CITY: The Mayor presented a Certificate of Appreciation to Mrs. Blauw on her retirement. Mrs. Blauw served the City from September 3, 1974, to April 1, 1994.

PRESENTATION BY JOHNSON COUNTY DEBT MANAGEMENT AWARENESS COUNCIL: Councilmember Rasmussen, Leawood's representative on the Debt Management Awareness Council, introduced Ron Cousino, Director of the Johnson County Office of Financial Management. Mr. Rasmussen said that the results of the DMAC's CIP computerized mapping project to identify and isolate projects throughout the County were available. The collection and compilation of capital project data from across Johnson County was coordinated primarily through Mr. Cousino's office, and the County planning department which was responsible for creating maps presented this evening. As the City Council was aware, the DMAC was formed to assimilate the current data available on public debt in Johnson County. It also provides a forum for representatives of all taxing jurisdictions and other interested parties to discuss the extent and ramifications of overlapping public debt and to formulate recommendations to governing bodies in Johnson County for future public debt management. Mr. Rasmussen said that the mission of the DMAC is to enhance the credit quality and reduce the issuance cost of debt of governmental entities in Johnson County. The outgrowth of DMAC's work to date has
resulted in member jurisdictions recognizing the capital planning value of this project, and the role that DMA can play in the future to act as a clearing house for both Countywide capital projects and debt load information. In some cases it is hoped that by presenting information to the various debt issuing agencies, some projects might be eliminated.

Mr. Cousino presented further information on the mapping project, and information on debt analysis.

CITIZEN COMMENTS: None.

1773 PROCLAMATIONS: The Mayor proclaimed:
1. April 1994 as "Fair Housing Month";
2. May 5, 1994, as "National Day of Prayer";
3. April 3-9, 1994, as "VITA (Volunteer Income Tax Assistance) Volunteer Week";
4. April 11-16, 1994, as "Student Achievement Week".

1774 CONSENT AGENDA: A request by Kansas City Rotary Club for a special solicitation permit was removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Moore:
1. Minutes of the March 21, 1994 Council meeting;
2. Public Works Committee report (minutes) of their March 1, 1994 meeting;
3. Police Department monthly report for February 1994;
4. Change Order No. 2 to the contract with KLC, Inc., for the construction of the irrigation water supply line to the Iron Horse Golf Club in the amount of $7,007.00;
5. Low bid of Atcheson Lawn & Landscape, Inc., in the amount of $21,900.00, for traffic median and right-of-way maintenance (mowing) in 1994.

The Kansas City Rotary Club requested permission to sell special editions of the Kansas City Star on street corners on Greater Kansas City Day, Friday, April 8th, in conjunction with the Kansas City Royals Baseball Team home opener. Proceeds would go to the Rotary Foundation to support youth camps. They have done this for several years, and agreed to abide by the same conditions set in prior years - sign waivers and wear reflective safety vests. On motion of Rasmussen, seconded by Moore, Council approved the special solicitation permit; LaHue opposed, all others in favor. Dr. LaHue felt it was too hazardous for people to be selling papers on street corners in traffic.

1918 RESOLUTION NO. 1162 APPROVING THE REVISED PRELIMINARY SITE PLAN AND PRELIMINARY Plat OF TOWN CENTER PLAZA, 119TH STREET BETWEEN ROE AVENUE AND NALL AVENUE: Councilmember Dunn left her Council seat, did not participate in the discussion or the vote, due to the appearance of a conflict of interest. Dunn Construction Co. is submitting bids for work on the development.

Dan Poag and Terry McEwen of the development firm Poag and McEwen of Memphis, Tennessee, and Whitney Kerr, representative of the property owner Marned Corp. (Douhat family), gave presentations on the retail development, a fairly new concept, which combines characteristics of
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Tape No. 294

April 4, 1994

retail strip centers with their convenience and safety, with those of regional malls with their specialty retail stores with appeal and drawing power. Mr. Poag presented the preliminary site plan.

Councilmember Rasmussen confirmed there will be sidewalks for the disabled for their convenience and safe travel through the parking lot from Nall Ave. and from 119th St. to the main buildings.

Councilmember LaHue was concerned about the outparcels detracting from the aesthetics of the main retail center. Mr. Poag said there will be no service stations or fast food restaurants with drive-throughs. There will be variations in the outparcel buildings, but they will be coordinated with the main center. The outparcel buildings will not block the view of the main center buildings. The outparcel buildings will be small in comparison with the outparcels themselves.

Councilmember LaHue moved to adopt the resolution, seconded by Patterson. Chug Tuttle, 5109 W. 111th Terr. in Leawood Country Manor north of the development, was concerned about the great increase in traffic, even without the new development. He asked the Council about deacceleration/stacking/turning lanes, and was told they had been added to the plan. Mr. Tuttle suggested having rounded, 1-lane right turns with yields at 119th St. and Roe Ave., and 119th St. and Nall Ave., to help move the traffic. Dr. LaHue's motion carried unanimously (7 - Mrs. Dunn had excused herself from voting). Resolution attached as part of the record.

RESOLUTION NO. 1163 APPROVING THE PRELIMINARY SITE PLAN AND PRELIMINARY PLAT OF HALLBROOK, 7TH PLAT, LOCATED AT APPROXIMATELY 112TH AND BROOKWOOD: Councilmember LaHue said he was in favor of the plan, however, Plan Commission stipulation #4 in the resolution stated that there would have to be a connection to College Blvd. before any homes were granted certificate of occupancy. Dr. LaHue asked if that stipulation had to be in the resolution since the construction of the College Blvd. extension was still up in the air. Planning Director McKay said that staff would be dealing with stipulation #10 before #4. No. 10 stated that construction of homes would be allowed to begin, however, a signed agreement concerning College Blvd. improvements should be completed prior to home construction or some other contingency plan approved. If College Blvd. was not built, then some street would have to be built - the contingency plan. Engineer for the project, Phil Gibbs, described the sequence of construction, including infrastructure. He said the first home would not be occupied until approximately late fall 1995. The construction of College Blvd. starting at State Line Rd. should be completed at approximately the same time. If the construction was not completed by that time, some driveable roadway could be completed, perhaps a 2-lane fire protection road built by Hallbrook. In response to questions from Mr. Rasmussen, Mr. Gibbs said that the intersection of Brookwood and College Blvd. would be cut back so that the site distance would be improved. He did not yet know what the intersection of Overbrook and College Blvd. would be like, nor did he know if any access roads to the north commercial area near State Line Rd. would line up with 108th St.

Councilmember Moore moved to adopt the resolution, seconded by Dunn. Councilmember Patterson moved to amend the motion to change
wording in stipulation #10 so that the stipulation would read, ... "Construction will be allowed to begin, however, a signed agreement with the City addressing the design and funding for an approval of College Blvd. improvements should be completed prior to home construction or some other contingency plan approved.". Motion to amend seconded by Rasmussen and carried unanimously. Mr. Moore's motion as amended to adopt the resolution carried unanimously. Resolution attached as part of the record.

4200 **MAYOR'S REPORT:** The Mayor congratulated Deidre Markley, Administrative Intern, on the approval of the City's 1994 Community Development Block Grant application for funding assistance to help with ADA compliance efforts (accessibility improvements citywide, including reconstruction of 87 curb ramps not built to ADA specifications). The City will receive $55,000.

4288 9:30 P.M. Recess.

4306 9:40 P.M. Council returned to regular session, same members present.

**NEIGHBORHOOD PETITION ON ANIMAL COMPLAINT** - regarding 2 rottweilers at 9702 Overbrook. At the March 21st Council meeting, this matter was referred to staff. The dogs' owner, Ashley Levitt, indicated to Animal Control that she would take reasonable steps to insure the dogs stayed in the backyard. She had already installed an invisible fence just inside the chain link fence in the backyard, as well as around the front yard. She would have preferred to install a 6-foot wood privacy fence around the rear yard, but a variance by the Board of Zoning Appeals was not granted for that type of fence, to which the neighbors objected. She was granted a variance for a 6-foot wrought iron fence, but it was too expensive. Animal Control suggested a 6-foot chain link fence with a black finish if that would be acceptable to the City. The neighbors have no objection to that type of fence; their concerns are based on their perception of the dogs as aggressive. The dogs have not yet been found to be either vicious or dangerous under City ordinance. Neither Ms. Levitt nor her dogs have done anything illegal which would cause the City to intervene. Police Chief Cox recommended that either the Police or Planning Department serve as intermediary, securing written assurance from Ms. Levitt that she will install a 6-foot black chain link fence within a specified number of days after receipt of approval from either Planning or the Board of Zoning Appeals, and further securing concurrence from the petitioners that this course of action is acceptable.

Councilmember Rasmussen recommended that a copy of Police Chief Cox's memo to Council be sent to the petitioners so they would have some knowledge of what was going to occur. He also recommended that Council direct this be sent to the Board of Zoning Appeals for their action concerning the 6-foot fence. Councilmember Moore suggested sending a copy of the memo to the neighbors, not just to the petitioners, because they might change their minds about objecting to a 6-foot wood privacy fence; they might prefer that type of fence over a 6-foot black chain link fence. Councilmember LaHue was not in favor of going higher than a 4-foot chain link fence, no matter what the color. The
4-foot height was the norm.

The Council decided that Councilmembers from Ward 2 would meet with Ms. Levitt and the neighbors and report back to the rest of the Council.

4715 AUTHORIZE PROPOSAL AND PAYMENT FOR DESIGN OF 143RD STREET, MISSION ROAD TO APPROXIMATELY 1,200 FEET EAST: On motion of LaHue, seconded by Rasmussen, Council unanimously approved the proposal of Shafer, Kline & Warren civil engineers in the amount of $22,458.40.

4741 AUTHORIZE UTILITY RELOCATION AGREEMENT FOR MISSION ROAD IMPROVEMENTS. 151ST STREET TO 155TH STREET: On motion of Dunn, seconded by Clawson, Council unanimously approved the agreement with Kansas City Power & Light Co. The City will pay $8,713.00 for the relocation.

4770 CONTRACT FOR PRELIMINARY ENGINEERING REPORT FOR ROE AVENUE IMPROVEMENTS. 124TH STREET TO 135TH STREET: On motion of Rasmussen, seconded by Dunn, Council unanimously authorized the Mayor to execute a contract with Boyd, Brown, Stude and Camber in the amount of $43,125.00.

4790 RESOLUTION NO. 1164 AUTHORIZING EXECUTION OF AGREEMENT NO. 40-94 WITH KDOT FOR RESTORATION (RESURFACING) OF 119TH STREET BETWEEN MISSION ROAD AND ROE AVENUE: Adopted unanimously on motion of Rasmussen, seconded by Clawson. Attached as part of the record.

4903 REQUEST BY SEASONAL CONCEPTS IN THE RANCHMART SHOPPING CENTER FOR A TEMPORARY SPECIAL USE PERMIT: to allow a tent in the south parking lot of the shopping center for promotional sales of patio furniture May 26-May 31 (Memorial Day) and June 30-July 5 (Independence Day). On motion of Moore, seconded by Rasmussen, Council unanimously approved the permit with stipulations.

4915 APPROVAL OF APPROPRIATION ORDINANCE NO. 730: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4920 EXECUTIVE SESSION: On motion of Giblin, seconded by Moore, Council voted unanimously to convene in executive session at the end of regular business for a period of 10 minutes to discuss potential litigation and a matter under attorney-client privilege.

4964 1995 STORMWATER MANAGEMENT PROJECTS: Public Works Director Brandt had prepared a proposal to submit to the County Stormwater Management Committee for funding in 1995 of 6 projects requiring $191,000 of "new" funding which would fit within the $200,000 budgeted annually for stormwater management projects. The projects are:
1. Project No. DB-04-018 Phase I; down stream from Lee Blvd.-86th and Belinder; preliminary and final design engineering;
2. Project No. DB-04-011 Phase I; Cherokee Lane and Ensley-Somerset and Booth; replace existing culvert under 83rd St. with 300 l.f channel improvements;
3. Project No. DB-04-014 Phase II; 86th Terr. and Lee Blvd.-83rd
St. and Sagamore Rd.; replace existing culvert under 83rd St. 200 l.f. channel improvement;

4. Project No. DB-04-019 Phase I (reimbursement of previously completed project); 91st St. east of Chadwick-Wenonga and 93rd St.; major storm sewer construction as part of the 93rd St. rehabilitation project between Mission Rd. and Ensley Lane;

5. Project No. DB-04-019 Phase II; 91st St. east of Chadwick-Wenonga Rd. and 93rd St.; construct storm sewer in 91st St. between Wenonga and 92nd St.; as part of 91st St. rehabilitation;

6. Project No. DB-04-019 Phase III; construct storm sewer along Wenonga Rd. connecting 91st St. with previously constructed 93rd St. system.

Mr. Brandt said that the City would probably be able to add or change a project(s) for 1995 after submittal; not many cities were submitting projects. Dr. LaHue said it appeared to him that the SMAC projects the City has done have been related to road projects, using SMAC money to help fund the road system. Mr. Brandt said that 3 projects in 1994 are not related to roads, are strictly storm sewer projects, as are two projects for 1995. Mr. Brandt said he was following the guidelines of staying within the $200,000 budgeted annually for stormwater projects, but has requested parts of other stormwater projects as they relate to roadway improvements. If he didn't do this, the City would pay 100% of the stormwater improvement.

Dr. LaHue moved to allow Public Works to submit the 6 projects to the County for funding in 1995, seconded by Dunn. Motion carried unanimously.

5446 DISCUSSION OF GOLF COURSE MANAGEMENT SERVICES FOR THE IRON HORSE GOLF CLUB: The Golf Course Development Committee selected a golf course management firm from Dallas. The Committee will review the final version of the contract later this week, and will probably request a special Council meeting Monday, April 11th, to vote on the management contract. Mr. Moore asked if the Governing Body wanted the president of the management firm to come from Dallas. The Council decided they did not need to meet with him.

6023 10:20 P.M. Council convened in executive session, same members present.

10:30 P.M. Council returned to regular session, same members present, except for Councilmember Patterson who left the meeting. On motion of Dunn, seconded by Moore, Council voted unanimously to extend the executive session for 10 minutes.

10:40 P.M. Council returned to regular session, same members present (7). Councilmember Moore moved to terminate any further action by the City to form an improvement district on K-150 under the current notice of public hearing, seconded by Rasmussen. Motion carried unanimously.

(The City would not request an improvement district within the 6-month period of time allowed by state statute. If the Council decided to reconsider this matter, a new public hearing and publication of notice of same would be required.)
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6106 10:43 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk

4269
MINUTES
SPECIAL COUNCIL MEETING

Tape No. 295

# 20 The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 9615 Lee Boulevard, at 5:35 P.M., Monday, April 11, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Doug Patterson, and Louis Rasmussen, for the purpose of considering the following:

1. Appointment of Board of Directors of the Leawood Foundation
2. Contract for golf course management services
3. Agreement for golf course consulting services
4. Design elements of Nall Ave. improvements, 119th St. to 135th St.
5. Other business that might come before the Council

and to schedule an executive session to discuss a personnel matter.

Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; Terry Uhl, Asst. Public Works Director/City Engineer; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetsler, City Attorney. Dick Fuller, Chairman of the Golf Course Development Committee, was also present.

44 APPOINTMENT OF BOARD OF DIRECTORS OF THE LEAWOOD FOUNDATION: Nelson and Pam Mann, who worked with staff to formulate the Foundation and solicited the board membership, were present to answer questions. Each director will serve on one of three "beginning" committees - strategic planning committee, membership committee, and early start committee. The original articles of incorporation stipulated 19 board members - to have a broad base representation from the community. The strategic planning committee will, over the next 6 months, look at long-range goals and objectives and review the mission statement. The membership committee will establish the criteria for membership. The early start committee will look at a project in the immediate future that the Foundation may undertake that would not be inconsistent with a long-range strategic plan. It is anticipated that the Board will add some members. The City Council will make the initial appointments to the Board of Directors; thereafter, the Board will appoint replacements. Mayor Rinehart, City Administrator Dick Garofano, Councilmember Peggy Dunn, and Parks and Recreation Director Scott Whitaker will be ex officio members of the Board and will work with the committees.

On motion of LaHue, seconded by Clawson, Council unanimously approved the following appointments with specified terms of office (in years) to the Board of Directors: Nelson Mann, Chairman (3); Ron Benjamin (3); Don Claar (3); Kent Crippin (2); Shirley Davidson (1); Dr. Ann Kenny (3); Fred Logan (2); Pam Mann (3); Bob McDonald (2); Ursula Pfahl (2); Elaine Polsky (2); Ken Selzer (1); Tom Stevens (1); Terry Van Der Tuuk (1); Polly Wiseman (1); David Wolfram (2); Roxanne
Wu-Rebein (1); and Michael W. Gullion (2).

347 DISCUSSION OF DESIGN ELEMENTS OF NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET: Leawood and Overland Park residents have expressed concerns about the improvements. The preliminary design has been established by the City of Overland Park. Leawood could probably give some input or have influence on some areas of the design, particularly on the Leawood portion. Leawood residents want more berming and landscaping, a speed limit lower than 45 mph, and a school crossing light at 130th Terr. A redesign would cost more money, which Leawood would probably have to pay. City Engineer Terry Uhl said that with respect to landscaping, the City could look at each Leawood lot individually and make adjustments as to how the private property transitions to the roadway or to the curb. Residents are concerned that they will be much closer to the edge of a pavement the way the roadway is designed.

Mr. Uhl said that the proposed 45 mph speed limit is typical for a divided 4-lane arterial street. If the road is designed for 45 mph and it's posted for 35 mph, people will still drive at the safe design speed of 45, and it could create a negative image for the City. The speed limit could be lowered through a school zone, but short of redesigning the roadway, Mr. Uhl didn't know how the City could feasibly drop the speed limit 10 miles an hour.

Mr. Uhl thought, that subject to warrants being met, Overland Park might be agreeable to the installation of a school crossing light at 130th Terr.

Councilmember Dunn asked why there needed to be a 24-foot median, and why did residents have to make pleas to the Overland Park City Council for almost 2 years for berms/additional landscaping for noise abatement which were not included in the design as they had requested. There appears to have been a total lack of cooperation on the part of Overland Park. Mr. Uhl said that Overland Park is the lead agency on the project, and they have had a policy on medians (constructed for one reason or another) for several years.

Councilmember Patterson asked if Leawood was to suggest any adjustments, would they be project expenses, and to what extent did Leawood have a right of approval of the plans. Mr. Uhl said that as far as narrowing the median was concerned, Overland Park has reaffirmed the 24-foot median, and Leawood would probably have to pay for any change, if Overland Park agreed. ISTEA funds might be jeopardized by changes at this time.

Councilmember Dunn asked if there would be space for pine trees if berming wasn't possible. Mr. Uhl said there would be room, but probably at Leawood's expense. He said that at the present time, the project generally has no proposed landscaping improvements. Berming/landscaping could be done after the project was completed to avoid federal red tape/requirements.

Staff will 1) investigate the installation of a school crossing light at 130th Terr. (in Leawood); 2) explore the possibility of a lower speed limit, perhaps 40 mph, on both sides of Nall; if Overland Park is not willing to lower the speed limit, then perhaps a lower speed limit could be posted on the Leawood side; and 3) consider a landscaping plan on the Leawood side. Since a conduit for the school crossing light would affect the design plans, staff will report back to
the Council at the May 2nd Council meeting. Councilmember Moore felt the City should not do anything, however, that would jeopardize outside (ISTEA) funding.

**Authorize Personal Services Agreement for the Management of Leawood's Iron Horse Golf Club** - for the management of the entire golf course facility which will begin when the course opens in May 1995: On motion of Rasmussen, seconded by Dunn, Council unanimously approved the agreement with Evergreen Alliance Golf Limited, a Texas Limited Partnership ("EAGL"), Mike Lohner, President.

**Authorize Agreement for Golf Course Consulting Services for the Iron Horse Golf Club** - to start immediately so the City can hire a golf course superintendent, plan the clubhouse design, begin planning public relations for the course, and decide on policies and procedures: On motion of Campbell, seconded by Rasmussen, Council unanimously approved the agreement with Evergreen Alliance Golf Limited.

**Executive Session:** On motion of Moore, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a personnel matter.

7:00 P.M. Council convened in executive session, same members present. 7:20 P.M. Council returned to special session, same members present.

Councilmember Rasmussen was concerned about budgeting and planning for K-150 improvements. Given the recent lawsuit questioning the legality of the K-150 impact fee, would the City give up on the capital improvements plan for K-150? He knew the City didn't have the money for the improvements, but he didn't want the City to give up development of the K-150 Corridor. Councilmember Giblin said there was a real urgency to do something; traffic has increased tremendously. City Administrator Garofano said that staff's intention was to keep K-150 in the capital improvements program. The issue being litigated is whether or not the City has impact fees, basically whether or not the fee is legal. Until a judge rules against the impact fee, staff intends to carry K-150 forward under impact fee financing as it was originally, especially to keep the state funding commitment alive for as long as possible.

Councilmember LaHue felt it was inappropriate to discuss this issue since it was not on the Council agenda. The Mayor suggested having an executive session at the April 18th Council meeting to discuss the matter.

7:30 P.M. There being no further business before the Council, the meeting was adjourned.

[Signature]
Martha Heizer City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:05 P.M., Monday, April 18, 1994. Councilmember Graham G. Giblin, Sr., presided in the absence of Mayor Marcia Rinehart.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Information Systems Manager; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

EXECUTIVE SESSION - in the conference room of the municipal office building, 9617 Lee Boulevard: On motion of Moore, seconded by Clawson, Council voted unanimously to convene in executive session for a period not to exceed 25 minutes to discuss a matter under attorney-client privilege. Council returned to regular session at 7:30 P.M., same members present, and went to the Council Chamber for the rest of the meeting.

7:35 P.M. The agenda was approved unanimously on motion of Campbell, seconded by Clawson, after the removal of 1) an addendum to an agreement to convey ground for the Iron Horse Golf Club from the Consent Agenda; 2) acceptance of a donation for the Iron Horse Golf Club Learning Center by the Leawood Foundation; and 3) authorization of the construction of the Learning Center.

CITIZEN COMMENTS: Larry Staniforth, 12720 Cambridge Lane, President of the Cambridge Lane Townhouse Association, described a 6-8 foot berm with trees on top along State Line Rd. from 128th St. north approximately 380 feet which acts as a sound barrier for 5 homes which back up to State Line. The State Line Rd. widening project will eliminate the trees and reduce the height of the berm considerably. Traffic noise will increase, property values will drop, and residents’ security will be affected. Mr. Staniforth asked the Council to consider erecting a barrier, masonry wall.

Vic Lindeman, 12711 Cambridge Lane, and Joseph Hodges, 12715 Cambridge Lane, expressed the same concerns. Horace Mais, 12709 Cambridge Lane, said his home will be too close to a proposed sidewalk.

Councilmember Rasmussen said that since the City was in the process of negotiating for right-of-way in the area, the negotiations might or might not include the alleged damages residents would have by the taking of land for right-of-way; there was a possibility of ameliorating the taking.

Public Works Director Brandt will report on cost estimates for a barrier at the May 2nd Council meeting. He told Mr. Mais that he would probably not recommend elimination of a sidewalk since that would disrupt the traveling public.
488 PROCLAMATIONS: May 1, 1994, was declared "Law Day U.S.A."

543 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Dunn:
1. Minutes of the April 4, 1994 Public Hearing (continued) relating to K-150 improvements;
2. Minutes of the April 4, 1994 Council meeting;
3. Minutes of the April 11, 1994 Special Council meeting;
4. Departmental reports;
5. Pay Request No. 5 (FINAL) by Reno Construction Co. for $51,329.68 for site improvements at the new city hall, 4800 Town Center Dr.;
6. Change Order No. 5 to the contract with Landscapes Unlimited, Inc., for the construction of the Iron Horse Golf Club, in the amount of $15,301.00 (to provide power to the irrigation pump station as directed by KCPL).

560 AGREEMENT WITH JOHNSON COUNTY FOR THE ESTABLISHMENT AND DEVELOPMENT OF COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT NO.: 1994-6: Leawood's ADA compliance efforts were ruled eligible for federal funding assistance through a 1994 Community Development Block Grant. The agreement stipulates that the County will provide $55,000 of CDBG funding to assist the City in undertaking accessibility improvements, including the reconstruction of 87 curb ramps not built to ADA specifications. On motion of LaHue, seconded by Rasmussen, Council unanimously authorized the Mayor to execute the agreement.

577 APPROVAL OF APPROPRIATION ORDINANCE NO. 731: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

634 OATHS OF OFFICE ADMINISTERED TO COUNCILMEMBERS-ELECT: Ronald LaHue, Ward 1; Louis Rasmussen, Ward 2; John R. Campbell, Jr., Ward 3; and Graham G. Giblin, Sr., Ward 4.

ROLL CALL OF NEW COUNCIL: LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson.

738 CONTRACT FOR SURVEYING SERVICES FOR STORM DRAINAGE IMPROVEMENTS ON SAGAMORE, 97TH STREET TO 98TH STREET: This project was included in the 1994 Johnson County Stormwater Management Program. Councilmember LaHue moved to approve the contract with Schlager & Associates, seconded by Moore. Councilmember Clawson said she had not heard from residents south of 98th St., but the residents between 97th St. and 98th St. were overwhelmingly opposed to any improvements to the James Branch. Councilmember Campbell questioned the amount of the cost. Staff's fact sheet distributed to Council indicated $18,554 as the amount to be paid to Schlager. Mr. Campbell thought it should be $17,834. He moved to amend the motion to add that the contract amount reflect the actual cost, seconded by LaHue. Motion to amend carried; Clawson, Rasmussen, Patterson opposed; all others (5) in favor.

Councilmember LaHue's motion as amended to approve the contract carried; Clawson, Rasmussen, Patterson opposed; all others in favor.
Mrs. Clawson said residents were not in favor of the project, and the money would be better spent on a project downstream working back. Mr. Patterson said that when the scope of a project is changed, the professionals need to review the project again. Mr. Rasmussen said that the evidence of flooding at the 98th St. bridge was well documented. He didn't feel a total flood control project all the way upstream was necessary; no money should be expended north of the bridge.

**AGREEMENT WITH THE eTC INSTITUTE FOR THE PURPOSE OF CONDUCTING A STATISTICALLY VALID CITIZEN SURVEY:** On motion of LaHue, seconded by Dunn, Council unanimously approved the agreement with The eTC Institute of Olathe (the lowest and most qualified proposal) in the amount of $8,666.00. Councilmember Rasmussen wanted to review the survey questions before the survey was mailed to residents.

**RESOLUTION NO. 1165 ENDORSING STAFF INVOLVEMENT IN THE "ENVIRONMENTAL EXCELLENCE CAMPAIGN" AND DIRECTING STAFF TO WORK WITH BRIDGE THE GAP, INC., IN A METROPOLITAN EFFORT TO ENCOURAGE ENVIRONMENTALLY RESPONSIBLE EDUCATION AND COMMUNITY ACTION:** Employees in each City facility will choose the environmental improvements that best fit their situation. Activities will depend on the level of commitment and interest in recycling and conservation at each City office. The resolution, attached as part of the record, was adopted unanimously on motion of Clawson, seconded by Moore.

**EXECUTIVE SESSION:** On motion of Dunn, seconded by Moore, Council voted unanimously to convene in executive session for a period of 20 minutes to discuss litigation and matters under attorney-client privilege.

8:20 P.M. Recess. Council convened in executive session, same members present, at 8:25 P.M.

8:45 P.M. Council returned to regular session, same members present, On motion of LaHue, seconded by Dunn, Council voted to extend the executive session for 30 minutes; Rasmussen opposed; all others in favor. Council reconvened in executive session, same members present.

(9:07 P.M. - Councilmembers Giblin and Patterson left the meeting; they did not want to participate in the discussion of a matter in litigation due to conflicts of interest. Councilmember Moore presided for the rest of the meeting.)

9:15 P.M. Council returned to regular session, 6 members present. Councilmember Dunn moved to extend the executive session for 5 minutes, seconded by Moore. Motion carried unanimously.

9:20 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

--

Martha Heizer
City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, May 2, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. * John R. Campbell, Jr. arrived 7:40 P.M. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malmicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Moore, after the addition of 1) a discussion of the continuation of engineering studies for specific street improvements, and 2) a discussion of a proposed cul-de-sac (street closure) at 66th and State Line Rd.

CITIZEN COMMENTS: Dan Barnard, 4525 W. 131st St., was concerned about water draining onto his property in the Woodlands from an adjacent lot in Wilshire subdivision. He said there has been no resolution as to who is responsible for the situation - the City, the builder, or the developer. Mr. Barnard met with the builder and the new owner of the home in Wilshire, and they decided to hire Shafer, Kline & Warren engineers to review the situation and to find a solution to the drainage problem. The builder subsequently notified the new home owner that an additional $1500 would be added to the cost of his home to remedy the situation. The new home owner didn't want to pay the additional cost, so the problem hasn't been remedied. Mr. Barnard was concerned that the City would issue a permanent occupancy permit for the Wilshire home without resolution of his drainage problem, and then the problem would be between Mr. Barnard and his neighbor, and he didn't want that to happen. The builder was aware of the problem in approximately March 1993, but did nothing about it.

* 7:40 P.M. Councilmember Campbell arrived.

Councilmember Rasmussen moved that the matter be referred to the Public Works Committee (since public easement might be involved in the solution), seconded by Clawson. Planning Director McKay said if there was a problem, it would be corrected. There has been a lot of rain, and just because someone has a wet yard doesn't necessarily mean a code violation exists. The home owner in Wilshire was notified at the beginning that if the drainage was not corrected by berming, then more extensive action would be required.

Councilmember LaHue moved to amend the motion to add that prior to referral to the Public Works Committee, the matter be reviewed by Mr. McKay for a recommendation at the May 16th Council meeting as to whether or not it be referred to the Committee, seconded by Moore. Motion to amend carried unanimously.
Council Minutes
Tape No. 297
May 2, 1994

Councilmember Rasmussen's motion as amended carried unanimously.

643 **PROCLAMATIONS:** The Mayor proclaimed May 15-21, 1994, as "National Public Works Week"; and May 15-21, 1994, as "Police Week" with May 15th as "Peace Officers Memorial Day".

693 **CONSENT AGENDA:** The following were approved unanimously on motion of Moore, seconded by Dunn:
1. Minutes of the April 18, 1994 Council meeting;
2. Leawood Historic Commission report (minutes) of their March 15, 1994 meeting;
3. Parks and Recreation Advisory Board report (minutes) of their April 27, 1994 meeting;
4. Amendments to the National League of Cities Bylaws;
5. Assignments to the Public Works Committee - to review drainage problems at 12600 Overbrook and 12602 Cherokee Lane near the Leawood South Country Club, and to discuss the possibility of enclosing an open drainage channel where the Leawood Meadows drainage system meets the north property line of the Worthington subdivision;
6. Change Order No. 1 to the contract with Atcheson Lawn & Landscape for 1994 right-of-way/traffic median maintenance in the amount of $1,260. - to add maintenance/mowing of Brook Beatty Park which will allow City staff more time to concentrate on the new city hall site and ADA compliance efforts;
8. Appointments to committees and commissions (attached for the record).

773 **DISCUSSION OF NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET:**
City Engineer Terry Uhl reported on various items requested by the Governing Body at their April 11th Council meeting. He said that Overland Park had reaffirmed that a (school crossing) traffic signal at 130th Terr. (Leawood)/131st St. (Overland Park) was not warranted. When Nall Ave. is improved and traffic in the future warrants a signal, then Overland Park will revisit the issue with Leawood. The conduits for a signal can be installed as part of the project, however, they will not be eligible for KDOT/federal funding. Police Chief Cox said that a pedestrian actuated signal (rather than a traffic signal) wouldn't be permissible at the proposed location; it is not permissible to have a pedestrian crossing signal that has the effect of controlling traffic on the streets, at an intersection. It would have to be a fully signalized intersection. Public Works Director Brandt did not believe there were pedestrian warrants in a traffic signal installation. There is probably no set of warrants for a pedestrian school crossing; the City could probably install a school crossing following certain guidelines.

1240 Staff will work with Overland Park on the installation of the conduits during the project for a traffic signal at 130th Terr./131st St. Council will consider the question of a (pedestrian) school crossing at mid-block (north or south of 130th St.) later in the meeting.

1258 Mr. Uhl reported on the feasibility of a reduced speed limit. The
April 29, 1994

TO: City Council
FROM: Mayor Rinehart
RE: Appointments to committees and commissions

I hereby submit the following names for appointments or re-appointments to Leawood's 1994-'95 committees or commissions. This summer I will submit recommendations for the members of the Economic Development Task Force. Please call me (649-2188) if you have any questions.

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<th>Reappointment</th>
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<td>Arts Committee</td>
<td>Jeri Hickman (1997)</td>
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<td>Dick Horn (1997)</td>
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<td>Marnie Clawson - Council liaison (1995)</td>
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<td>D.A.N. Chase (1997)</td>
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<td>Board of Zoning Appeals</td>
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<td>Patricia Raysik</td>
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NOTE: This committee will consist of the entire Governing Body as a committee of the whole plus the names listed above. The Mayor will chair the committee.

| Building Code Board of Appeals | Wes Welch, Chr. (1997) |
|                              | Don Roberson (1997)    |

<p>| City Hall Dedication Committee | Marnie Clawson, Chr. |
|                               | Doug Patterson        |
|                               | Marcia Rinehart - ex officio |</p>
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<th>Committee/Appointment</th>
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<th>New</th>
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<td>Debt Management Advisory Council (Jo. Co.) - Leawood rep.</td>
<td>Lou Rasmussen</td>
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<td>Emergency Preparedness Coordinator</td>
<td>Bettie Bridges</td>
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<td>Golf Course Development Committee</td>
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<td>Golf Course Review Committee</td>
<td>Bobby Davidson (1997)</td>
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<td>Leawood Historic Commission - Jody Craig, Chr.</td>
<td>Alice Hawk (1997)</td>
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<td>Beverly Hurley (1997)</td>
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<td>Graham Giblin -</td>
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<td>Parks &amp; Recreation Advisory Board</td>
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<td>Charles Munson (1997)</td>
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Committee appointments
April 29, 1994

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<td>Robert Adams (1998)</td>
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<td>John Campbell (1998)</td>
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<td>Property Maintenance Code</td>
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<td>Public Works (1995)</td>
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<td>Phillip Collingwood</td>
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<td>Sister City Committee</td>
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<td>Peggy Dunn, Council liaison</td>
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PLAN COMMISSION

Name: James A. Lichty
Address: 1816 W. 82 Leawood, KS. 66206
Phone: (home) 913 448 2280 (office) 913 642 5295

How long have you lived in Leawood? 10 years
How long have you lived in Johnson County and/or the metro KC area? 28 years

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues:
- Graduated KU School of Architecture & Urban Design - 1975
- Post graduate studies at KU and University of Colorado at Denver - Urban Planning

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do:
As an architect and V.P. of design and construction I work in the corrections/justice development arena. Historically I’ve always worked nationally in real estate, design, and construction.

Do you have experience or training in public policy issues?
In addition to my formal education, I participate in NACO (National Assn. of Counties), ACA (American Correctional Assoc.) and other national forums for public policy.

Describe examples of previous public service, including any committees in Leawood: KU - Greater University Fund, St. Paul's Episcopal Church & Day School, Vestry & School Board (Property Committee Chair)

State your personal goal and purpose for wanting to serve on the plan commission:
- Help Leawood maintain its course in quality planning/development
- Share my national experience at home and
- Learn more of the public sector

Describe your attitude toward development activity in Leawood. Please consider the following:

Residential: Encourage continued application of superior development standards
Commercial: Promote mutual and equal benefits for public and private interests in planned development and land use based on medium and long term
What should be Leawood's position in the community? Consider the following:

- Type(s) of residential and business development: primarily residential with neighborhood support businesses and low-impact executive office business development.
- Transportation: Leawood should maintain neighborhood streets and roads for cars and bicycles, provide for reasonable arterial access, and be a follower in mass transit system development.
- Employment opportunities: The city should consider long-term employment created by developments, but not as primary in evaluating development quality.
- Community facilities: Leawood should encourage increasing quality in education, parks, and recreation and support strongly the planned development of churches (and their facilities).

What are the pressing issues for Leawood in terms of planning?

1) Overall quality of life in light of socio-political developments in KCMO and OP.
2) Geographic division of the community by 1-435.

Do you have any other pertinent comments?

I believe that my experience in public and private development design, construction, and financing as an architect, for Yellow Freight, Kroh Brothers, USS Print, and now developing primarily for County governments from Maine to California, could be a valuable resource for Leawood's Plan Commission.
Name: Charles T. Munson
Address: 2121 West 120th Street - Leawood, KS 66209
Phone: (home) 491-0726 (office) 344-3869

How long have you lived in Leawood? since March, 1977 - 16 years

How long have you lived in Johnson County and/or the metro KC area? Johnson County - 16 years, Metro area - 27 years

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues:
BS - Architecture and City Planning, The University of Kansas

A career spanning 20 years, public and private consulting, city & regional planning, Transportation Planning; career change to sales, marketing, and public relations

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do:

Presently a Communications Analyst for Yellow Technology Services, Inc., a Yellow Corp., company: Must plan and implement high profile technology across U.S.

Do you have experience or training in public policy issues?
Experience: Member of various planning and transportation committees for MARC; Member, KC Chamber of Commerce Transportation Committee; Chairman of the Johnson County Transportation Council, 1987 through 1989.

Describe examples of previous public service, including any committees in Leawood: President, Linden Hill Homes Association, KC, MO three years; Den master - Cub Scouts; participant in United Way activities, including chairman of annual drive for previous employer; LCDR - US Navy Reserve President of Congregation - Leawood Lutheran Church

State your personal goal and purpose for wanting to serve on the plan commission: Very much interested in assuring Leawood continues its role as a community that is both high quality and affordable to a large segment of families and individuals. Protect our image as an innovative community, while protecting those values that "got us here".

Describe your attitude toward development activity in Leawood. Please consider the following:

Residential Beef up inspections to assure high quality homes, even if it means adding extra cost to the structure and its setting

Commercial Develop and implement highest design standards for commercial development, especially along the 135th Street Corridor
Thank you.

Do you have any other pertinent comments?

For development and ensuring that residential building is of higher quality, commercial development, which is needed for tax base, setting high standards for the age of Reedwood - north of 95th Street, location and quality of services. What are the pressing issues for Reedwood in terms of planning?

Cost to taxpayers - park boards to acquire more shared facilities, thereby decreasing community facilities' costs. Conservation of land included in commercial categories. The amount of land needed in commercial categories be aware of the trend towards working at home and how that affects to be made to the researchers in the services and small business sectors.

Employment opportunities look for employment that will appeal.

TRANSPORTATION
Emphasis on parkways and paseos.
BUSINESS - Professional services, highly technologized, planned commercial, commercial recreation facilities. The type of resident and business development.

Considering:

What should be Reedwood's position in the community?

Second awareness that may be affected by community housing for elderly. Higher quality, and may be affected by community housing for elderly.

The living use of the project (different at peak) the use of the project's living use of the project.

Cluster subdivision design, environmental integrity.

Close supervision and strict enforcement of codes.

Redevelopment plans that preserve the character of existing neighborhoods. Close supervision and strict enforcement of codes.

PLAN COMMISSION
design speed for Nall is 45 mph. Although the posted speed limit is at the discretion of the city, establishing an artificially low speed limit should be done cautiously. Chief Cox said the City does not traditionally install school zones with lower speed limits during certain hours in remote locations. Normally, school zones occur immediately adjacent to schools. The Council could consider one, however. Councilmember Dunn asked that Council review the speed limit after the improvements are done and the roadway is ready for posting. Councilmember Rasmussen said nothing could be done about the 45 mph design speed. The question is at what speed should the roadway be posted. The City has the right to determine the speed limit, which can be done upon completion of the project. A school crossing zone should be considered for the safety of children on completion of the project. The Mayor felt staff should talk to Overland Park. Mr. Rasmussen thought they should also talk to the school board. City Administrator Garofano said that in the past, school boards have been reluctant to get involved, and their attorneys have maintained that they have no jurisdiction in traffic control, either in asking or dictating or in cost participation of signalization.

Mr. Uhl reported on cost estimates for landscaping (berming for the frontage along Carriage Crossing) and aesthetic treatments (stone facing on proposed walls at Carriage Crossing and The Highlands of Leawood) on Leawood properties - total cost, $110,655.53. He reported on the irrigation system within a landscape easement, outside the roadway project. He said the project includes very little funding for landscaping/irrigation along the corridor, and does not include landscaping and irrigation in the street medians. Bering would have an impact on the project schedule - cross sections and engineering would have to be done again, and that would necessitate new legal descriptions, appraisals, reappraisals, and renegotiations with property owners, totally at Leawood's cost, and would slow the project down and delay the bid letting.

George Ordemann, 5263 W. 129th Terr. in Carriage Crossing, said that funds were not available in the project for things that Leawood residents questioned. He said the traffic signal is needed at 130th Terr. Carriage Crossing alone has more than 300 students, many who walk to the Overland Trail Elementary and Middle Schools. He said residents want their irrigation systems retained and replaced, landscaping replaced (in right-of-way area and on private property), would like a heavy landscaping buffer for noise abatement and screening for property owners abutting Nall.

There was a consensus of the Council that designing berms into the project was not acceptable. Council preferred textured walls, not an add-on that could fall off. Textured walls may already be planned for in the project; Public Works Director Brandt will check this. Council felt replacement of the irrigation system outside the roadway should be included. Mr. Brandt said that Overland Park will probably have a plan for landscaping the street medians through their parks department. Land acquisition will not be necessary since no berming will be done. There will be no impact on the project schedule. Staff will work closely with residents/homes associations on landscaping. The amount of landscaping on each property will be negotiated as staff tries to acquire easements. Reforestation on the project (on the right-of-way)
could be done in lieu of monies paid to property owners for easements. Councilmembers Patterson and Giblin will meet with Overland Park's 2 councilmembers for this area to discuss speed limit and signalization.

**ADDENDUM TO INTERLOCAL AGREEMENT WITH OVERLAND PARK FOR MISSION ROAD IMPROVEMENTS, 103RD STREET TO I-435:** The original agreement authorized an estimated design cost of $102,000. Staff's negotiated fee with Bucher, Willis & Ratliff for design was an estimated $180,000, necessitating an addendum. Councilmember LaHue moved to approve the addendum, seconded by Giblin. Council discussed the large difference between the $102,000 of 2 years ago and the new estimated cost. Councilmember LaHue was concerned about the increase, and felt there needed to be a change, perhaps in the consultant selection policy, in order to get a handle on costs. Engineers, professional firms, do not bid their services. They are interviewed, one selected, and then a fee is negotiated. In the case of contractors, the contract amount is part of the decision-making process; bids are taken. Public Works Director Brandt felt the new design cost estimate was within the estimated cost of the project; inflation and involvement with federal funding caused the increase. Dr. LaHue's motion to approve the addendum carried; Moore opposed, all others in favor. Mr. Moore was not satisfied with the justification for the increase.

**CONTRACT FOR ENGINEERING SERVICES FOR MISSION ROAD IMPROVEMENTS, 103RD STREET TO I-435:** Councilmember LaHue moved to authorize the contract with Bucher, Willis & Ratliff, in the amount of $180,676.54, seconded by Giblin. Motion carried; Moore opposed (for the same reason as the last item), all others in favor.

Councilmember LaHue moved to ask Public Works staff to prepare a report for the Public Works Committee, within the next 6 months, to be forwarded to the Council, regarding a bid process for engineering services and review of the current consultant selection policy. Motion seconded by Giblin and carried unanimously.

**RESOLUTION NO. 1166 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT -** in order to include part of the First Plat of WhiteHorse subdivision: Adopted on motion of Rasmussen, seconded by LaHue; Patterson abstained to avoid the appearance of a conflict of interest, all others in favor. Attached as part of the record.

**APPROVAL OF APPROPRIATION ORDINANCE NO. 732:** The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunh, Rasmussen, Patterson. Nays---None.

**DISCUSSION OF A PROPOSED CUL-DE-SAC (STREET CLOSURE) AT 86TH STREET AND STATE LINE ROAD:** Councilmember Moore asked for an update. Public Works Director Brandt said the Public Works Committee was still reviewing the matter, and will have one more meeting. Since the original petition requesting the street closure to reduce traffic, many area residents have changed their minds and now oppose the closure.
EXECUTIVE SESSION: On motion of Moore, seconded by Giblin, Council voted unanimously to convene in executive session for a period not to exceed 1 hour to discuss 2 matters of litigation and 2 matters under attorney-client privilege.

9:35 P.M. Recess.

9:40 P.M. Council returned to regular session, same members present, and convened in executive session.

10:40 P.M. Council returned to regular session, same members present. On motion of Clawson, seconded by Moore, Council voted unanimously to extend the executive session for 10 minutes to continue discussion of the same matters.

10:50 P.M. Council returned to regular session, same members present. On motion of Moore, seconded by Dunn, Council voted unanimously to extend the executive session for 10 minutes to continue discussion of the same matters.

11:00 P.M. Council returned to regular session, same members present. On motion of Moore, seconded by Giblin, Council voted unanimously to extend the Council meeting 30 minutes.

ORDINANCE NO. 1399 AUTHORIZING THE IMPROVEMENT OF STATE LINE ROAD, PHASE III: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

RESOLUTION NO. 1167 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY FOR STATE LINE ROAD IMPROVEMENTS, PHASE 3: Adopted unanimously on motion of Clawson, seconded by Moore. Attached as part of the record.

ORDINANCE NO. 1400 AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF PRIVATE PROPERTY FOR STATE LINE ROAD IMPROVEMENTS, PHASE 3: The ordinance was considered and passed on motion of Moore, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1401 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 130-94-9; TOWN CENTER DRIVE; $400,000: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1402 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 115-94-10; MISSION ROAD, 103RD-COLLEGE BOULEVARD; $400,000: The ordinance was considered and passed on motion of Campbell, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.
ORDINANCE NO. 1403 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
124-94-11; 135TH STREET (K-150), STATE LINE-NALL AVE.; $1,000,000: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1404 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
132-94-12; STATE LINE ROAD, PHASE I; $1,000,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1405 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
133-94-13; MUNICIPAL GOLF COURSE; $3,400,000: The ordinance was considered and passed on motion of Campbell, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1406 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
129-94-14; 143RD STREET, MISSION-1,320 FEET EAST; $400,000: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1407 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
137-94-15; STATE LINE ROAD, PHASE IV; $100,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1408 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
126-94-16; MISSION ROAD, 95TH STREET-103RD STREET; $100,000: The ordinance was considered and passed on motion of LaHue, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1409 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
134-94-17; STATE LINE ROAD, PHASE II; $300,000: The ordinance was considered and passed on motion of Patterson, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1410 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
142-94-18; BELL DRIVE AND IRON HORSE DRIVE; $300,000: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1411 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES
136-94-19; STATE LINE ROAD, PHASE III; $700,000: The ordinance was considered and passed on motion of Dunn, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

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DISCUSSION OF THE CONTINUATION OF ENGINEERING STUDIES FOR SPECIFIC STREET IMPROVEMENTS: Councilmember Rasmussen moved to defer discussion to the next Council meeting, seconded by Giblin. Motion carried unanimously.

Councilmember Rasmussen moved to direct the City Attorney to proceed with an appeal of Judge Davis' decision in Davis and Stultz vs. the City of Leawood regarding the financing of State Line Rd., Phase 2 (a main trafficway) by improvement district, seconded by Dunn. Motion carried unanimously.

11:15 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer    City Clerk
MINUTES
SPECIAL COUNCIL MEETING

Tape No. 298

The City Council of the City of Leawood, Kansas, met in special session in the conference room of the municipal office building, 9617 Lee Boulevard, at 5:48 P.M., Thursday, May 12, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers John R. Campbell, Jr., Marnie S. Clawson, Peggy J. Dunn, Doug Patterson, and Louis Rasmussen, for the purpose of convening an executive session to discuss a matter under attorney-client privilege. Councilmember Douglas J. Moore arrived at 5:55 P.M. Councilmembers Ronald LaHue and Graham G. Giblin, Sr., were absent.

Staff present: Richard J. Garofano, City Administrator; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

EXECUTIVE SESSION: On motion of Clawson, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege. 6:18 P.M. Council returned to special session, same members present. On motion of Dunn, seconded by Campbell, Council voted unanimously to return to executive session for 30 minutes to continue discussion of the same matter.

6:40 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 299

#20 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, May 16, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. John R. Campbell, Jr. was absent. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Mainicof, Finance Director; Battalion Chief Douglas Wolford, Fire Department; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Clawson, after the addition of 1) a discussion of the final site cleanup, grading, sodding and landscaping at the new city hall, 4800 Town Center Drive, and 2) a request by St. Thomas Aquinas High School for a donation to their "Project Graduation 1994"; and the removal from the Consent Agenda of a resolution approving the final plat of Patio Homes of Hallbrook, 2nd Plat.

RECOGNITION OF POLICE ACADEMY GRADUATE GEORGIA STEENBERGEN: Shortly after the first academy group graduated, an alumni association was formed. One of their goals was to organize a pool of volunteer talent which could benefit the Police Department and the City. Police Chief Cox thanked Mrs. Steenbergen, a graduate of the first academy, for acting as secretary for the Investigations Unit for three weeks while the Department was seeking a permanent secretary.

CITIZEN COMMENTS: Leawood resident Gordon Thomas read a statement with his reasons why Leawood could be split into 2 separate cities - North Leawood and South Leawood with I-435 being the dividing line - which might alleviate some economic problems.

CONSENT AGENDA: A resolution to approve the final plat of Hazelwood, 1st Plat, was removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Dunn:
1. Minutes of the May 2, 1994 Council meeting;
2. Minutes of the May 12, 1994 Special Council meeting;
3. Public Works Committee report (minutes) of their April 5, 1994 meeting;
4. Departmental reports;
5. Declaration of surplus property - a 1987 Ford Thunderbird (VIN 2897) and a 1988 Chevrolet Celebrity (VIN 9996) no longer used as Police Department staff cars;
6. Acceptance of $100 donation from the Leawood Garden Club to be used to beautify the greenway entrance at the City Park;
Resolution No. 1168, attached as part of the record, approving the final plat of Hazelwood, 1st Plat, approximately 119th & Pawnee: Adopted on motion of Patterson, seconded by Giblin; Dunn opposed (she felt streets should meet public street standards), all others in favor.

400 APPEAL OF A DENIAL OF A PERMIT TO KEEP 3 DOGS - David and Michele Brogan, 3214 W. 93rd St.: In April 1994, Animal Control denied the Brogans a permit to keep 3 dogs after 3 neighbors objected to approval of the permit. Animal Control reviewed the situation the first of May and decided there probably wouldn't be any problems if the permit was approved. On motion of Rasmussen, seconded by Dunn, Council unanimously approved a permit to keep 3 dogs for 1 year. The Brogan's will not replace the oldest dog when it dies.

510 RESOLUTION RELATING TO A SPECIAL USE PERMIT, PRELIMINARY PLAN AND PRELIMINARY PLAT, FOR COVENANT CHAPEL, LOCATED AT APPROXIMATELY 133RD (EATON) AND PEMBROKE: Planning Director McKay said that staff recommended approval of the special use permit with the condition that no building permits be issued until there was adequate access to the property, perhaps an access east to State Line Rd., an access south to K-150, or 133rd St. (K-150's north reverse frontage road) west to Mission Rd. Mr. McKay said the applicant might request a continuance.

The applicant presented the plans. Construction would not begin for another 2 to 3 years.

Councilmember Dunn moved to adopt the resolution with the stipulation or condition stated by Mr. McKay relating to adequate access to the property, and with the requirement that construction vehicles and church traffic use the alternate routes. Motion seconded by LaHue. Mr. McKay said the Plan Commission had requested that construction traffic come in from State Line Rd. if at all possible. Police Chief Cox said that the Police Department could work with the church and contractors on traffic control, but could not legally ban any traffic from public streets.

Councilmember Rasmussen felt it would be more appropriate for the Council to deny the special use permit, and have the church resolve the traffic access problems and then go through the City's approval process. Mrs. Dunn moved to amend her motion to state that the stipulation be that no building permits be issued until an alternative means of direct access from a major route to the church is realized (rather than the 3 specific points of access mentioned by Mr. McKay), seconded by LaHue. (Mrs. Dunn's concern about construction and church traffic remained part of her motion.)

Several residents expressed concerns about the increased traffic, some requesting that the City keep church traffic out of the residential areas. Joe Colantuono, President of the Leawood South Homes Association, presented petitions requesting that the matter be returned to the Plan Commission for a traffic impact study and that there be a stipulation requiring preconstruction of access onto State Line Rd. or K-150 prior to site plan approval, and stating that residents believed the proposed project would be a positive addition to the area once the traffic problem was resolved. John Murphy, President of the Waterford Homes Association, also presented a petition. If the matter is remanded to the Plan Commission, Mr. McKay recommended that it go back.
2322 Councilmember Clawson moved to amend Mrs. Dunn's main motion to add that adoption of the resolution be contingent on a traffic study being done prior to final plan approval of each phase, seconded by Dunn. Motion carried; Giblin opposed (City was moving too fast on this matter; access needed to be resolved), all others in favor.

Mrs. Dunn's motion to amend her main motion carried; Giblin opposed, all others in favor.

Mrs. Dunn's motion as amended twice to adopt the resolution failed; Giblin, Rasmussen, Patterson opposed; all others (4) in favor (6 favorable votes were required).

Councilmember Rasmussen moved to deny the resolution, seconded by Giblin. Mr. Rasmussen said that the applicant could go back to the Plan Commission with a plan that reflected the (aforementioned) discussion/concerns. Motion failed; Giblin, Rasmussen, Patterson in favor; all others (4) opposed.

Councilmember Moore moved to remand the matter to the Plan Commission with the directive that a traffic study be done prior to final plan approval of each phase, and that there be an alternative means of direct access from a major route to the church property as discussed. Motion seconded by Dunn and carried; Giblin, Rasmussen, Patterson opposed; all others (4) in favor.

2812 RESOLUTION NO. 1169 APPROVING A REQUEST FOR REZONING FROM AG TO RP-3, AND APPROVING THE PRELIMINARY SITE PLAN AND PRELIMINARY PLAT AND MASTER DEVELOPMENT PLAN MAP AMENDMENT FOR TOMAHAWK CREEK APARTMENTS, LOCATED AT APPROXIMATELY 117TH AND TOMAHAWK CREEK PARKWAY; Plans were presented. The applicant will try to construct a sidewalk along Tomahawk Creek Parkway between 115th and 117th Streets if construction is possible.

Councilmember Patterson moved to adopt the resolution, seconded by Dunn. A portion of the property is in the 100-year floodplain. Councilmember Rasmussen said that if anything was constructed or changed in the floodplain, the water flow in the area would be affected, and he was concerned that the City would allow construction when it would adversely affect the water flow down the floodplain. Tom Smith of Shafer, Kline & Warren engineers explained the drainage plans which would not raise the flood elevation. Mr. Rasmussen was also concerned about the land use and residential density along Tomahawk Creek Parkway between 117th St. and College Blvd. – possibly 2 apartment complexes and office area. He asked why the Parkway was built. City Administrator Garofano said it was part of the total street plan, another major north-south thoroughfare for the City, and for economic development purposes only in the sense of what was approved on the master development plan – office buildings in a certain area.

Councilmember Giblin moved to amend the main motion to include a provision for a sidewalk along the west side of Tomahawk Creek Parkway from 115th St. to 117th St., seconded by Clawson. Mr. McKay said it may not be possible to build a sidewalk due to the way the Parkway was constructed and to the plans to mitigate flood elevation. Motion to amend carried; Rasmussen opposed, all others in favor.

Mr. Patterson's motion as amended to adopt the resolution carried; Rasmussen opposed, all others in favor. Resolution attached as part of
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the record.

ORDINANCE NO. 1412 ADOPTING AN AMENDMENT TO THE 1993 MASTER DEVELOPMENT
PLAN MAP - for Tomahawk Creek Apartments, redesignating a tract approximately 34.1
acres in size at the northwest corner of 117th & Tomahawk Creek Parkway (the Morgan
property), from Office to Medium Density Residential-Apartments: The ordinance was
considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote
was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen.

RESOLUTION NO. 1170 - Be it resolved that the Plan Commission consider
reviewing the area between Roe and Tomahawk Creek Parkway and 115th St.
to College Boulevard, including any necessity for rezoning. Adopted
unanimously on motion of Rasmussen, seconded by Clawson.

ORDINANCE NO. 1413 REZONING PROPERTY (TOMAHAWK CREEK APARTMENTS) LO-
CATED AT APPROXIMATELY 117TH AND TOMAHAWK CREEK PARKWAY FROM AG (AGRI-
CULTURAL) TO RP-3 (PLANNED APARTMENT RESIDENTIAL): The ordinance was
considered and passed on motion of Moore, seconded by LaHue. On roll
call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Patterson.
Nays---None.

REQUEST FOR A SPECIAL USE PERMIT FOR A PRESCHOOL - LORD OF LIFE
LUTHERAN CHURCH, 135TH AND CHADWICK: On motion of LaHue, seconded by
Dunn, Council unanimously approved a permit with stipulations.

ORDINANCE NO. 1414 REZONING PROPERTY (PATRICIAN WOODS, TENTH PLAT) LO-
CATED AT APPROXIMATELY 126TH AND NALL AVENUE FROM RP-4 (PLANNED CLUSTER
RESIDENTIAL) TO REC (PLANNED RECREATION) - City property intended for
recreational purposes (formerly owned by Wallace McKee): The ordinance
was considered and passed on motion of LaHue, seconded by Clawson. On
roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn,
Rasmussen, Patterson. Nays---None.

MAYOR'S REPORT: The Council received a petition signed by residents
who object to the James Branch stormwater improvement project - High
Dr. and Sagamore Rd., 97th St. to 98th St.

DISCUSSION OF PRIVATE STREETS: Two issues discussed at work sessions
received informal consensus - 1) consideration of the concept of a pri-
vate street's becoming a public street on a case-by-case basis, and 2)
a directive to the City Attorney to reaffirm the City's position re-
garding Patrician Woods and Pembroke Court plats. The Mayor suggested
the Council take official action on these items to give some direction
about the private street issue.

Councilmember Dunn moved that consideration of the concept of pri-
vate streets becoming public streets be made on a case-by-case basis,
seconded by Patterson. The criteria for acceptance as a public street
prepared by staff will be considered by Council, but Council can elect
to remove criteria, to allow a variance. Councilmember LaHue felt this
discussion was premature. He thought there was going to be a meeting
with residents. He was not in favor of a case-by-case, individual, ba-
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6118 Public Works Director Brandt said that the ultimate solution was the one Mrs. Clawson moved to approve, but it's expensive. He recommended a sub-surface ground water drainage system (French Drain) because it's fairly inexpensive. This option would keep the bottom of the channel dry, thereby reducing erosion and allowing grass to grow. The steep side slopes would remain, but the country effect would be

sis where neighbors would be pitted against each other. He said none of the private streets met the criteria for acceptance as a public street. The Mayor said that case-by-case would probably be subdivision-by-subdivision. Mrs. Dunn said that Pembroke Court subdivision was ready to request that their private streets be accepted as public. Councilmember Rasmussen said he has been reminded many times that the City is not consistent, so he would prefer to use the criteria as a standard for everyone involved. Mrs. Dunn's motion failed; Dunn, Patterson, Giblin in favor; LaHue, Clawson, Moore, Rasmussen opposed.

Mrs. Clawson said she was not opposed to the City ultimately accepting some private streets as public, but objected to the inconsistency in the application of standards. She felt the Council needed to do more work (at the next work session) on the standards so they could be applied in a consistent manner. Dr. LaHue felt that the acceptance of private streets as public was not feasible for 1995; staff was well into the process of preparing the 1995 budget. Mrs. Dunn reminded the Council that it was a Council goal a year ago to reverse the country effect in the application of standards. She felt the Council needed to eliminate the country effect where neighbors would be pitted against each other. He said none of the private streets met the criteria for acceptance as a public street. The Mayor said that case-by-case would probably be subdivision-by-subdivision. Mrs. Dunn said that Pembroke Court subdivision was ready to request that their private streets be accepted as public. Councilmember Rasmussen said he has been reminded many times that the City is not consistent, so he would prefer to use the criteria as a standard for everyone involved. Mrs. Dunn’s motion failed; Dunn, Patterson, Giblin in favor; LaHue, Clawson, Moore, Rasmussen opposed.

Mrs. Dunn moved to have the City Attorney investigate and review the City’s position regarding Patrician Woods and Pembroke Court plats, seconded by Rasmussen. Motion carried unanimously.

DISCUSSION OF DRAINAGE PROBLEMS, 9700 BLOCK OF LEE BOULEVARD: Residents at 9705/9711 Lee Blvd. were concerned about the erosion of the drainage channel along the east side of Lee and the steep side slopes of the channel which were very difficult and hazardous to maintain. Councilmember LaHue reviewed 5 possible solutions.

Councilmember Clawson moved to approve the enclosed system "A" from the 1995 annual budget (see tape meter #7366) (a storm sewer system would be designed and constructed; a shallow swale and inlet would be built above the storm sewer to collect runoff from adjacent properties and the street surface; this would eliminate the open channel, the steep side slopes and the eroded bottom of the channel; it would eliminate the country effect of Lee Blvd.; estimated cost, $129,600.00). Motion seconded by Rasmussen. Mrs. Clawson suggested this be placed in the capital improvements program for future budgeting. Councilmember Dunn said that residents would like to see the project phased over a period of years in order to have a permanent solution. Public Works has thought for some time that a water main was leaking. Mrs. Dunn felt the City should encourage Water District No. 1 to replace the water line along Lee Blvd. regardless of the solution selected.

Public Works Director Brandt said that the ultimate solution was the one Mrs. Clawson moved to approve, but it’s expensive. He recommended a sub-surface ground water drainage system (French Drain) because it’s fairly inexpensive. This option would keep the bottom of the channel dry, thereby reducing erosion and allowing grass to grow. The steep side slopes would remain, but the country effect would be

5560 Mrs. Dunn moved to have the City Attorney investigate and review
the City’s position regarding Patrician Woods and Pembroke Court plats,
seconded by Rasmussen. Motion carried unanimously.

5604 10:12 P.M. Recess. Council returned to regular session at 10:18 P.M.,
same members present.

5800 DISCUSSION OF DRAINAGE PROBLEMS, 9700 BLOCK OF LEE BOULEVARD:
Residents at 9705/9711 Lee Blvd. were concerned about the erosion of
the drainage channel along the east side of Lee and the steep side
slopes of the channel which were very difficult and hazardous to main-
tain. Councilmember LaHue reviewed 5 possible solutions.

Councilmember Clawson moved to approve the enclosed system "A"
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steep side slopes and the eroded bottom of the channel; it would
eliminate the country effect of Lee Blvd.; estimated cost, $129,600.00). Motion seconded by Rasmussen. Mrs. Clawson suggested this
be placed in the capital improvements program for future budgeting.
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project phased over a period of years in order to have a permanent so-
lution. Public Works has thought for some time that a water main was
leaking. Mrs. Dunn felt the City should encourage Water District No. 1
to replace the water line along Lee Blvd. regardless of the solution
selected.

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the one Mrs. Clawson moved to approve, but it’s expensive. He recom-
mended a sub-surface ground water drainage system (French Drain) be-
cause it’s fairly inexpensive. This option would keep the bottom of
the channel dry, thereby reducing erosion and allowing grass to grow.
The steep side slopes would remain, but the country effect would be

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maintained and stormwater from adjacent properties and the street collected. Estimated cost, $12,250.00. He was looking for an immediate solution and one which would save the City money.

Councilmember LaHue moved to amend Mrs. Clawson's motion to state that budgeting for the project would be through the capital improvements program, that Public Works would have up to 5 years to complete the project, and that budgeting would begin in the 1996 budget year. Motion seconded by Dunn. Motion to amend failed; LaHue, Moore, Dunn in favor; all others (4) opposed.

Dr. LaHue moved to amend the main motion to state that budgeting would be through the C.I.P., that budgeting would begin in the 1996 budget year, and that Public Works would have up to 5 years to complete the project with approximately one-fifth of the work to be done on a yearly basis. Motion seconded by Dunn and failed; LaHue, Dunn in favor; all others (5) opposed.

It was confirmed that funding from the 1995 budget was included in Mrs. Clawson's main motion. The main motion carried; Clawson, Giblin, Rasmussen, Patterson in favor; LaHue, Moore, Dunn opposed. Mrs. Dunn was in favor of enclosed system "A", but preferred the project be done in a phased fashion, not funded solely from the 1995 budget.

City Administrator Garofano said that staff never recommended including $129,000 in the 1995 budget, only $12,250. He reminded Council that they budget only $200,000 annually for stormwater projects for the entire City. Dr. LaHue said Council expected the project to be funded through the C.I.P. Mr. Garofano said that C.I.P. projects are bonded long-term debt; the annual budget includes (one) annual pay-as-you-go expenditures. In response to Mrs. Clawson, Public Works Director Brandt said this and other storm sewer projects could be bonded if the Council chose to do so, but it might not be feasible.

Dr. LaHue said it was not practical to include the $129,000 in the 1995 budget, and the dollars would not be matchable for a stormwater project. He suggested the City bond the project in 1995. Mr. Garofano was concerned about funding this one project for $129,000; there are probably about a dozen of these types of drainage problems throughout the City which are not matchable either and have not been addressed in any form other than to indicate projects would be funded through the County's stormwater management program. Mr. Rasmussen felt that the project was not a stormwater project, but a project to rectify a condition created by the construction of Lee Blvd.

Dr. LaHue moved to allow the City to go out to bond on this project of $129,000 for 1995, seconded by Clawson. Motion carried unanimously.

11:00 P.M. Councilmember LaHue moved to extend the meeting for 30 minutes, seconded by Dunn and carried unanimously.
moved to approve a retaining wall (paid for as part of the project) with a 6-foot above ground concrete block wall with stucco facing for a total estimated cost of $78,210.70, and have Public Works Director Brandt pursue cost sharing on the 6-foot block wall with other entities involved in the road project, and the possibility that costs of acquiring an easement will not have to be paid. Motion seconded by Patterson and carried unanimously.

**Authorize Amended Interlocal Agreement with Johnson County and Kansas City, Missouri, for State Line Road Improvements, Phases 1, 2 & 3** - necessitated by an increase in project costs; authorizes increase from $10,380,000 to $11,880,000, due in general to right-of-way acquisition, utility relocation and construction items. On motion of LaHue, seconded by Clawson, Council unanimously approved the amended agreement.

**Resolution No. 1171 Directing the City Clerk to Publish Notice of Proposed Assessments to Pay the Costs of Acquiring Property Necessary for the Construction of the Leawood Public Golf Course** - public hearing to be held June 6, 1994, at 7:00 P.M. in the Council Chamber: Adopted unanimously on motion of LaHue, seconded by Clawson. Attached as part of the record.

**Resolution No. 1172 Directing the City Clerk to Publish Notice of Proposed Assessments to Pay the Costs of the Construction of Town Center Drive** - public hearing to be held June 6, 1994, at 7:00 P.M. in the Council Chamber: Adopted unanimously on motion of Dunn, seconded by LaHue. Attached as part of the record.

**Approval of Employee Benefit Program Renewal**: Staff recommended the following coverages effective July 1, 1994:
1. Health and major medical with Blue Cross & Blue Shield, and Humana Prime Health; total premium for 12 months, $442,164.
2. Group term life insurance with the Hartford Life Insurance Co.; premium for 12 months, $18,144.
3. Group long-term disability program with the Hartford Life Insurance Co.; premium for 12 months, $16,750.68.
4. Employee Assistance Program with EAP Systems; premium for 12 months, $3,376.

Councilmember Dunn moved to approve all recommendations, seconded by Clawson. Motion carried; Patterson abstained to avoid the appearance of a conflict of interest, all others in favor.

**Approval of Appropriation Ordinance No. 733**: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

**Discussion of Final Site Cleanup, Grading, Sodding and Landscaping at New City Hall, 4800 Town Center Drive**: On motion of Rasmussen, seconded by Giblin, Council unanimously approved a proposal from Atcheson Lawn and Landscape, Inc., in the amount of $16,250.00, for cleanup, final grade and sod of the eastern portion of the site, east of the new Leawood Pioneer Branch Library to Roe Avenue, north from Town Center.
REQUEST FROM ST. THOMAS AQUINAS HIGH SCHOOL FOR A DONATION FOR THEIR "PROJECT GRADUATION 1994" - private school: The City has given to the public schools that serve Leawood students. Councilmember LaHue moved to continue donations only to public-supported schools, seconded by Moore. Motion carried; Dunn abstained (her son will be attending the graduation), Rasmussen opposed, all others in favor.

OTHER BUSINESS: Discussion of the continuation of engineering studies for specific street improvements - to be discussed in executive session.

At the May 2 Council meeting, a drainage concern at the Barnard residence, 4525 W. 131st St. in the Woodlands, was referred to the Public Works Committee, but not until the matter was reviewed by Planning Director McKay for a recommendation at tonight's meeting as to whether or not it be referred to the Committee. Mr. McKay advised the Council that staff was not prepared to render a final judgement on the drainage issue until June 30th. He will report after that date.

11:30 P.M. On motion of Moore, seconded by Rasmussen, Council extended the meeting for 30 minutes; LaHue opposed, all others in favor.

EXECUTIVE SESSION: On motion of Moore, seconded by Rasmussen, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss 2 matters under attorney-client privilege and 1 matter of litigation.

12:00 P.M. Council returned to regular session, same members present. On motion of Clawson, seconded by Moore, Council voted to extend the meeting until 12:30 A.M. and to return to executive session to continue discussion of the same matters; LaHue opposed, all others in favor.

12:12 A.M. Council returned to regular session, same members present. The discussion of the continuation of engineering studies for specific street improvements will be continued at another meeting.

There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 9615 Lee Boulevard, at 9:00 P.M., Monday, May 23, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers Ronald LaHue, Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, Doug Patterson, and Louis Rasmussen, for the purpose of considering a contract for the construction of the Iron Horse Golf Club maintenance building and of convening an executive session to discuss several matters under attorney-client privilege. Councilmember John R. Campbell, Jr. was absent.

Staff present: Richard J. Garofano, City Administrator; Robert McKay, Director of Planning & Development; Harry Malnicof, Finance Director; Scott Whitaker, Director of Parks and Recreation; and Richard S. Wetzler, City Attorney. The City Clerk was absent.

Authorize Contract for the Construction of the Iron Horse Golf Club Maintenance Facility, Two Rest Stations and One Pump House Enclosure:

Councilmember LaHue moved to approve the contract with Eshenroder Construction, Inc., of Raytown, Missouri, in the amount of $407,800.00, seconded by Rasmussen. Motion carried unanimously.

Executive Session:

On motion of Moore, seconded by Clawson, Council voted unanimously to convene in executive session for a period not to exceed one hour to discuss several matters under attorney-client privilege. Council convened in executive session at 9:10 P.M.

10:10 P.M. Council returned to special session, same members present. On motion of Giblin, seconded by Moore, Council voted unanimously to return to executive session for 15 minutes to continue discussion of the same matters.

10:25 P.M. Council returned to special session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
PUBLIC HEARING

Tape No. 302

# 20 Minutes of a public hearing held Monday, June 6, 1994, at 7:05 P.M., in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

The purpose of the hearing was to hear public comment on proposed assessments to pay the costs of construction of Town Center Drive, connecting Nall Avenue in the vicinity of 115th Street to Roe Avenue in the vicinity of 117th Street.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; Harry Mainicof, Finance Director; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

Mr. Malnicof gave a brief overview of the project.

Resident Gordon Thomas asked who would pay if property owners did not pay their assessments and/or if there was a project cost overrun. He also asked if principal only or both principal and interest would be paid off. Mr. Malnicof explained that projects are not bonded until they are finished and the total costs are known, all bills received. So an overrun would be irrelevant. If someone doesn't pay an assessment, it becomes a general obligation of the City, but there would be a lien against the property - the assessment would remain with the property. Mr. Malnicof explained that if someone pays their assessment within the next 30 days, they will pay principal only since the bonds will not be issued until after the 30-day period. After the bonds are issued, principal and interest will be paid.

273 7:13 P.M. Councilmember LaHue moved to close the hearing, seconded by Moore. Motion carried unanimously.

Martha Heizer, City Clerk
MINUTES
PUBLIC HEARING

Tape No. 302

# 279 Minutes of a public hearing held Monday, June 6, 1994, at 7:13
P.M., in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

The purpose of the hearing was to hear public comment on proposed as-
sessments to pay the costs of acquiring property necessary for the con-
struction of the Leawood Public Golf Course in the vicinity of 151st
Street between Mission Road and Nall Avenue.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S.
Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and
Doug Patterson. Louis Rasmussen was absent. Staff present: Richard
J. Garofano, City Administrator; Harry Malnicof, Finance Director;
Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

Mr. Malnicof gave a brief overview of the project.

There was no public comment.

7:16 P.M. Councilmember LaHue moved to close the hearing, seconded by
Moore. Motion carried unanimously.

[Signature]
Martha Heizer
City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, June 6, 1994. Mayor Marcia Rinehart presided. Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Baer Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Mainicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Dunn, after the addition of 1) an executive session to discuss a matter under attorney-client privilege; 2) under the Consent Agenda for referral to the Plan Commission for review, a letter from Angela McNamara of 3300 W. 93rd St. requesting that vinyl siding be permitted on her house; and 3) a discussion of safety issues on 123rd St.

RECOGNITION OF ARLENE SIMPSON FOR SERVICE TO THE CITY: The Mayor presented a Certificate of Appreciation to Mrs. Simpson on her retirement. Mrs. Simpson served the City in the Administrative Services and Finance Departments from May 1, 1979, to June 1, 1994.

CITIZEN COMMENTS: None.

PROCLAMATIONS: The Mayor proclaimed:
1. June 18, 1994, as "Leawood Lions Club Day" (in honor of the Club's 40th anniversary);
2. June 22-26, 1994, as "American Society of Certified Engineering Technicians Week"
3. June 14, 1994, as "Flag Day".

CONSENT AGENDA: Change Order No. 2 to the contract for improvements at 143rd & Mission Rd., and a request to keep a potbellied pig, were removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Campbell:
1. Purchase of an Intoxilyzer for the Police Department through the Breath Alcohol Unit of the State Department of Health and Environment in the amount of $5,955;
2. Acceptance of a grant effective July 1, 1994, for a community policing program - the Police Department will be able to hire 1 additional officer; of the approved amount, $28,412 is federal money and the remaining $9,470 is the required local match;
3. Resolution No. 1173, attached as part of the record, expressing intent to support a bi-state Empowerment Zone application by Kansas City, Missouri, and Kansas City, Kansas, to be submitted to the Department of Housing and Urban Development no later than June 30, 1994; an Empowerment Zone designation offers the opportunity for neighborhood
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revitalization, increased economic activity, and a higher level of family self-sufficiency;
4. Purchase of an ink jet plotter for the Public Works Department (Inspection/Design Division) to generate plans for in-house projects, from Cedar Computer Center in the amount of $6,438.00;
5. Request by Angela McNamara of 3300 W. 93rd St. that vinyl siding be permitted, referred to the Plan Commission for review.

Change Order No. 2 to the contract with Holland Corp. for improvements at 143rd & Mission Rd., in the amount of $3,450.00, for additional grading and a reinforced concrete end section to provide adequate storm drainage away from the 143rd St. project and across 143rd St. on the east end of the project: Councilmember Patterson had received a letter from John Irwig concerning his additional easements and agreements on the project. Mr. Irwig has a buyer for his property and is concerned that lack of the easements might affect the sale. Mr. Patterson gave the letter to City Engineer Terry Uhl for review. On motion of Rasmussen, seconded by Patterson, Council unanimously approved the change order.

Request to keep a Vietnamese potbellied pig: Trey Hornbeck, 9200 High Dr., presented pictures and other documentation, including a petition signed by neighbors who did not object to the pig. On motion of Rasmussen, seconded by Clawson, Council unanimously approved a permit to keep the pig.

826 RESOLUTION NO. 1174 APPROVING THE REVISED PRELIMINARY SITE PLAN FOR TONY ROMA'S RESTAURANT AT APPROXIMATELY 119TH & ROE AVENUE: Councilmember Rasmussen moved to adopt the resolution, seconded by Giblin. Councilmember LaHue was concerned that there was not enough landscaping to hide the unattractive "warehouse" look of the north side (back) of the building; some enhancements were needed. Councilmember Dunn was concerned that there were not enough parking spaces due to the general overflow of parking at the Camelot Court Shopping Center. Planning Director McKay said that landscaping (bushes and trees) would be planted that would hide, break up and give definition to the back of the building. Motion to adopt the resolution carried unanimously. Resolution attached as part of the record.

1281 ORDINANCE NO. 1415 AMENDING SECTIONS 3-1(RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), AND 3-13 (AG) OF THE SUPPLEMENT OF AMENDMENTS TO THE LEAWOOD DEVELOPMENT ORDINANCE; PROVIDING FOR CHANGES IN PROVISIONS FOR ROOFING TYPES AND ROOFING APPLICATION MEASURES: One change in each section provided for the Plan Commission to approve alternate roofing materials by resolution, in order to avoid amending the ordinance each time a new roofing material was considered. A second change in each section removed the requirement calling for the removal of the 1x4 stringers before the solid decking and the composition roofing could be applied.

Councilmember Moore felt that wording (as underlined) should be added to K.1.g)6) of each section so it would read, "Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1x4's".
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Councilmember Rasmussen disagreed with having a Plan Commission resolution take the place of an ordinance passed by the City Council; it would dilute the authority of the Council. Roofing materials should be considered by the City Council, especially since aesthetics is so important in Leawood; his ward might be adversely affected by new roofing materials. He said it could take more Councilmembers to pass an ordinance than a resolution. However, he would agree to K.1.f)2) of each section being worded, "Other tile or roofing materials as specifically authorized by Resolutions of the Plan Commission and the City Council provided that all building code requirements are met".

Councilmember Moore moved to pass the ordinance with the wording changes discussed, seconded by Campbell. Councilmember LaHue moved to amend the motion to state that K.1.f)2) of each section read, "Other tile or roofing materials as specifically authorized by Resolution of the Plan Commission and ordinance of the City Council provided that all building code requirements are met". Motion to amend seconded by Rasmussen and carried; Campbell opposed, all others in favor.

On roll call to pass the ordinance as amended, the vote was: Yeas---LaHue, Clawson, Giblin, Moore, Dunn, Rasmussen. Nays---Campbell, Patterson. Mr. Campbell felt that passage of the ordinance defeated the purpose of expediting the allowance of different roofing materials and still maintaining Council control. He favored use of a Council resolution, not an ordinance. Mr. Patterson felt the ordinance was redundant - roofing matters are presently approved by Plan Commission resolution and Council ordinance - and problems could arise by letting people know they can get an alternate roofing material other than one stated in an ordinance.

MAYOR'S REPORT: The Blue Valley North High School Marching Band participated in ceremonies for the 50th Anniversary of D-Day (June 6th, 1944) in Normandy, France. The Band was the only nonmilitary band to be invited.

CHANGE ORDERS 6, 7 & 8 TO THE CONTRACT WITH LANDSCAPES UNLIMITED, AND LETTER OF UNDERSTANDING WITH EVERGREEN ALLIANCE GOLF LIMITED CONCERNING THE IRON HORSE GOLF CLUB: Change Order No. 6 was for rock removal on green #2, fairway #14, and fairway #16. On motion of LaHue, seconded by Clawson, Council unanimously approved the change order in the amount of $120,000.

Councilmember Moore moved to approve Change Order No. 7 which added construction of the short game (learning) center and 3 practice holes to the contract in the amount of $84,000, seconded by LaHue. Councilmember Giblin wanted to discuss the "Letter of Understanding" with Evergreen Alliance Golf Limited before Change Order No. 7. The "Letter" provided a means of financing the Learning Center. The vote on the Change Order will take place after approval of the "Letter".

EAGL, the City's golf course management firm, was willing through the "Letter of Understanding" to finance the construction of the golf course Learning Center in the event other funding sources were not available. The City would eventually amend its contract with EAGL to increase their base management fee and provide them a share of the revenue from the Learning Center and driving range in consideration for their financing. Any funds the City might generate through fund rais-
ing efforts, etc., would be used to reduce the amount to be financed by EAGL, and, likewise, the necessity to increase the management fees and course revenue sharing. On motion of Campbell, seconded by Dunn, Council unanimously approved the "Letter of Understanding".

Mr. Moore's motion to approve Change Order No. 7 carried unanimously.

On motion of Moore, seconded by Campbell, Council unanimously approved Change Order No. 8 in the amount of $33,600 for the purchase and placement of bunker sand.

**DISCUSSION OF DELINQUENT 1993 RENTAL LICENSING FEES TO BE PAID BY LEAWOOD MANOR APARTMENTS LOCATED ON KENNETH ROAD SOUTH OF K-150:** John Larson, attorney for the apartments, requested that the Council reconsider the 1993 rental licensing fees for the apartments. Only a portion of the units paid the 1993 license fee and were subsequently inspected. The matter is now in municipal court. Mr. Larson contended that due to government-sponsored financing of the apartments, it was difficult to pass on license fees/expenses to the tenants, and, therefore, not equitable. To settle the 1993 fees ($5,840 remaining to be paid), Mr. Larson proposed to pay the inspection fees and an additional $2,000 for a total of approximately $3,200. He would pay all fees for 1994, which had been reduced from $40.00 (fee in 1993) to $20.00 per dwelling unit per year. As an alternative settlement, he proposed to pay 1993 inspection and application fees at the 1994 rate, which would result in a payment of approximately $3,600.

Councilmember Campbell moved to accept the $3,600 as full payment, seconded by Patterson. Mr. Campbell said that if the Council looked at the actual costs of licensing and inspections, it seemed to him that the costs to the City would be quite a bit lower because staff was doing a number of inspections at one time, thereby reducing the actual costs to the City, so there seemed to be a legitimate rationale for compromise.

Councilmember Rasmussen was concerned that Council would be setting a dangerous precedent by compromising. Council had voted on a fee schedule which should be followed.

Mr. Campbell moved to amend his motion to add the stipulation that the $3,600 would have to be paid no later than 5:00 P.M., Friday, June 10th. Motion seconded by Patterson. Mr. Patterson said that the owner of the apartments was an institutional owner. If money didn't go to the City, it would go back into the project which needs all the money available. He would hate to see the project lose cash flow. The project needs the money more than the City does as a whole. Motion to amend carried; Clawson, Moore, Rasmussen opposed; all others in favor.

Mr. Campbell's main motion as amended failed; Campbell, Dunn, Patterson in favor; all others opposed. The matter will remain in municipal court.

**DISCUSSION OF RETAINING WALL ON ROE AVENUE AT 124TH STREET:** John Michaels, a representative of the Berkshire Homes Association, wrote to the Governing Body requesting that something be done to improve the appearance of the retaining wall on Roe Ave. at 124th St. Many residents consider it an eyesore. Previous attempts to disguise it (with wrought iron and trees for approximately $25,000 from the annual budget,
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working with the Berkshire Homes Association) have failed. Because the retaining wall is adjacent to the main entrance of the Berkshire development, the Berkshire Homes Association formed a committee to investigate possible ways of improving the appearance, and came up with a plan which would cost approximately $20,000 and would include application of a graffiti-resistant coating. Mr. Michaels wanted the Council to refer this matter to a committee to consider the $20,000 option and perhaps other more extensive and expensive options.

Councilmember LaHue suggested considering improvements to the wall when the future Roe Ave. widening project is done (probably at least 3 years away) in order to include the improvement costs in the project. It might be appropriate to refer the matter to the Public Works Committee to investigate some temporary measures regarding the graffiti retardant and maintenance.

Councilmember Rasmussen would not favor spending another $25,000 in City funds.

Councilmember Giblin felt the City had not corrected the "ugly" wall since it was constructed, and that the problem should be addressed again and corrected.

Councilmember LaHue moved to refer the matter to the Public Works Committee, seconded by Patterson. Motion carried; Moore opposed (there were better things on which to spend City funds); all others in favor. Dr. LaHue said his intent was for the Committee to give the Council some thoughts on what the costs would be in association with the widening of Roe Ave., costs of options, what graffiti retardant would cost. Mr. Patterson noted that private funding might move improvements along a little faster.

Acceptance of Proposal ("Memorandum of Understanding") Relating to the Funding of Nall Avenue Improvements, 119th Street to 135th Street:
Funds will be allocated from a Federal source (CFR Section 9 funds) for Nall Ave. improvements, and subsequently reduce the County's C.A.R.S. allocation by an exact amount. On motion of Rasmussen, seconded by Campbell, Council unanimously approved the proposal.

Ordinance No. 1416 Levying Assessments on Property for the Purpose of Paying the Cost of Constructing Town Center Drive, Connecting Nall Ave. in the Vicinity of 115th Street to Roe Ave. in the Vicinity of 117th Street: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Gibli. Mr. Giblin opposed because of the money being spent on this street project rather than spending the money on streets where the City has safety problems - K-150, 143rd St. and Mission Rd.; his was a protest vote.

Ordinance No. 1417 Levying Assessments on Property for the Purpose of Paying the Cost of Acquiring Property in the Vicinity of 151st Street Between Nall Ave. and Mission Rd. Necessary for the Construction of the Leawood Public Golf Course: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4299
AGREEMENT WITH JOHNSON COUNTY FOR LEAWOOD'S CONTINUED PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR FISCAL YEARS 1995-1997: This cooperation allows the County to qualify for "urban county" status under HUD guidelines. Leawood's participation means that Leawood can apply for CDBG and HOME Investment Partnership funds through the County when it has eligible projects. On motion of Clawson, seconded by Moore, Council approved the agreement; LaHue opposed, all others in favor. Dr. LaHue felt it was ludicrous for the Council to authorize the agreement; the nature of the block grant is basically for investment into urban blighted areas.

City Administrator Garofano said that the agreement adds Leawood's population to the County's so the County can qualify for CDBG funds.

APPROVAL OF APPROPRIATION ORDINANCE NO. 734: The ordinance was considered and passed on motion of LaHue, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

DISCUSSION OF SAFETY ISSUES ON 123RD STREET: Councilmember LaHue said that a woman was recently struck and killed while walking in the bike lane on the south side of 123rd St., a section with no sidewalk. He wanted the City to investigate extending the sidewalk on the south side of 123rd St. west to Mission Rd. City Administrator Garofano recalled that the City did investigate at one time extending the sidewalk and found that there was not enough right-of-way and it would be fairly expensive because of the topography, steep slopes.

Dr. LaHue moved to refer this matter to the Public Works Committee to consider engineering and cost of extending the sidewalk on the south side of 123rd St., seconded by Dunn. Mrs. Dunn felt that the bike lane was unsafe. Police Chief Cox reviewed the accident history on 123rd St. Motion carried unanimously.

The Mayor suggested a public relations campaign by the Police Department, working with the press, to advise the public that in accordance with City ordinance, they should walk/jog on sidewalks when there are abutting sidewalks, and not walk in the streets, and that tickets will be written if they do walk in the streets.

EXECUTIVE SESSION: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session for a period not to exceed 15 minutes to discuss a matter under attorney-client privilege.

9:53 P.M. Recess.
9:58 P.M. Council convened in executive session, same members present.

10:13 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 303

# 20 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, June 20, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Dunn, after the addition of 1) (under the Consent Agenda) an agreement with the County wastewater district to allow the City to use County property for an additional exit from Leawood Park after the July 4th fireworks display, 2) another matter under attorney-client privilege to be discussed in the executive session at the end of the meeting, 3) a discussion of storm drainage improvements at 86th St. and Overhill Rd., 4) a discussion of a contract with Overland Park to provide them fire protection services, and 5) an update on the private streets issue.

CITIZEN COMMENTS: Dale Putman, 8405 Reinhardt Lane in the Cloisters subdivision, expressed his opposition to the proposed Leawood Park Place apartments to be considered later in the meeting. The complex would be detrimental to the City, would help change the character of the community.

Frances Gershon, 2708 W. 118th St. in Hallbrook subdivision, said a traffic signal was needed at 119th and Brookwood (the entrance to Hallbrook) because of a large increase in traffic. She requested the Council approve the traffic study which was included in the meeting’s Consent Agenda. Randy Sunberg, 11808 Brookwood in Hallbrook, hoped something could be done in lieu of the signal, which he felt might actually encourage traffic through Hallbrook. Perhaps the school crossing pedestrian signal on 119th St. between High Dr. and Meadow Lane could be activated to break up the traffic enough so the additional signal wouldn’t be needed.

CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Clawson:

1. Minutes of the May 16, 1994 Council meeting;
2. Minutes of the May 23, 1994 Special Council meeting;
3. Minutes of the June 6, 1994 public hearing on proposed assessments to pay the costs of construction of Town Center Drive;
4. Minutes of the June 6, 1994 public hearing on proposed assessments to pay the costs of acquiring property necessary for the construction of the Leawood Public Golf Course;
5. Minutes of the June 6, 1994 Council meeting;
6. Parks & Recreation Advisory Board report (minutes) of their June
15. 1994 meeting;

7. Departmental reports;

8. Assignments to the Public Works Committee:
   a. review storm drainage problem at 3201 W. 119th St. (Sloan residence)
   b. review storm drainage problem at 8435 Cherokee Lane (Roller residence)

9. Public Works recommendation that a traffic study be done for a traffic signal at 119th & Brookwood (entrance to Hallbrook subdivision);

10. Acceptance of $1,300 donation from the Leawood Woman's Club to the Fire Department towards the purchase of 2 replacement cots for 2 ambulances;

11. Acceptance of $1,950 donation from the Leawood Woman's Club to the DARE (Drug Abuse Resistance Education) Trust Fund;

12. Resolution No. 1175, attached as part of the record, approving the revised final plat of Leawood Commons at Town Center Drive and Nall Avenue;

13. Agreement with Wald and Company d/b/a All American Display Fireworks for the July 4th fireworks display at Leawood Park, in the amount of $5,400;

14. Change Order No. 1 to the contract with Bachman Construction for the construction of the new city hall plaza at 4800 Town Center Drive - adds $5,266.00 to the original contract amount;

15. Appointment of Jack Mozur, 9435 Lee Blvd., to the Leawood Historic Commission to fill the unexpired term (to May 1996) of T. James Hardwick;

16. "Roadway License" (agreement) with the Johnson County Unified Wastewater Districts to allow the City to use County property as an additional exit from Leawood Park after the fireworks display on July 4th.

343 RESOLUTION NO. 1176 DENYING THE REQUEST FOR APPROVAL OF REZONING FROM AG TO RP-3, AND APPROVAL OF THE PRELIMINARY PLAT AND PLAN AND MASTER DEVELOPMENT PLAN MAP AMENDMENT, FOR LEAWOOD PARK PLACE APARTMENTS AT COLLEGE AND TOMAHAWK CREEK PARKWAY: The Mayor read a statement, made as a result of a flyer which had been distributed to Leawood homes by members of the Longwood Forest Homes Association. She said her statement was not to be perceived as support for or against the project; the project would be approved or disapproved on the merits of the application, not on an opinion about Leawood's reputation. The Mayor took exception to the tone of the flyer and questioned the accuracy of some of the comments. She said that residents did not completely pay for their share of City services through property taxes. The opinion in the flyer about apartments was based on the City's loss of reputation; she considered that inflammatory and biased. When she moved to Leawood in 1976, there was an image that Leawood was not an inclusive community. The City has worked very hard to be inclusive of all people. The flyer came out specifically equating Leawood's fine reputation with high family income. She felt that was elitist and snobbish; people should be judged on individual merits and qualities and values, their contribution to society, and not on their income level or monetary worth. Apartment dwellers are good
citizens. The flyer’s viewpoint was shallow and narrow.

The Plan Commission recommended denial of the applicant’s request because of a danger of flooding, because the application of density credits didn’t imply apartments, they were opposed to amending the Master Development Plan to allow apartments, were concerned about density and lack of access during high water. Andy Schlagel, land planner and planning consultant, spoke on behalf of the applicant, and requested the matter be remanded to the Plan Commission to allow the development of a new improved plan that complied with and addressed the Plan Commission’s five concerns.

Councilmember LaHue wanted to know how much assessed valuation the property would add to the City compared with condominiums, and if rental properties were able to financially carry their weight with increased costs to public services—fire, police, utilities, schools—which were concerns in the flyer. City Administrator Garofano said that staff had not compared taxes this project would generate versus taxes generated by a single family project. Planning Director McKay did not see how a comparison could be made. Mr. McKay said that lower income and the general nature of apartments with a larger number of people in an area created certain circumstances leading to an increase in public services. Mr. McKay confirmed that the project was not federally subsidized. Mr. Schlagel said the applicant would be able to provide tax information. The applicant Scott Laravae described the tenant profile which included young professionals and people with homes in vacation areas who wanted to retain homes in Leawood.

Several residents addressed the Governing Body. Tony Kostusik, 4201 W. 110th Terr., President of the Longwood Forest Homes Association, said that the flyer was not meant to say anything about the quality of life or quality of people, but to say something about the best use of the property. Shellie Neiburger, 4117 W. 110th Terr., said that residents of Longwood Forest have seen their property values, and therefore taxes paid to the City, steadily decrease as the area has become enclosed, as the College Blvd. widening plans have been made, and now the consideration of this apartment complex. Resale of homes in Longwood Forest has become very difficult. She said that going from no housing to 2 apartment complexes (one already approved) was a drastic step for the City to take.

Al Armstrong, 4316 W. 110th St., presented a demographic and economic impact study of high density housing that he had done. He believed there was an inverse relationship between high density and taxes collected—the higher the density, the lower the taxes per unit—and believed apartment dwellers would not contribute greatly to Leawood’s revenues while requiring an increase in public services.

Kenene Dorian, 11017 Buena Vista, was concerned that the developer, The Block Group, was an out-of-state investor, from Austin, Texas, who could turn the complex over on a secondary market. The project was not consistent with the quality Leawood had attained for its citizens.

Phil Gibbs, 4113 W. 110th Terr., was concerned that the project not become a liability to the City under flooding conditions, the project being located very near the confluence of Tomahawk Creek and Indian Creek (together, draining a total of 38,656 acres of water). There would be more water at this point as residential development
increased in the basins. The City needed to be careful not to create another tax burden when it might have to figure out a way to raise buildings or levee them.

Bob Fallon of Longwood Forest said that opponents had new facts they wanted to present to the Plan Commission.

Joe Borich, 4108 W. 110th St., sited Golden vs. Overland Park (Kansas Supreme Court decision) which said that the Council and Plan Commission needed to take into consideration the character of the neighborhood, the zoning and uses of the property nearby, and the relevant gain to health and safety compared to the hardship on an individual landowner. An individual landowner had a right to develop his property, but within the framework of the Golden decision. Four to five units per acre was medium density; residents were concerned about the 12.1 units per acre, which they thought the developer was unwilling to change.

Liz Vavona and Veronica Henning from Verona Gardens subdivision felt the area would be too congested with the apartment complex and it would detract from the beauty of the Tomahawk Creek Parkway area.

Wayne Miller, 88th and Cherokee, said that flooding in the area increased year after year. The area wasn’t safe.

Stuart Murdock, 4613 W. 113th Terr. in Brittany Court, said that apartments were allowed to deteriorate. Leawood had an image to maintain.

Councilmember Rasmussen moved to adopt the resolution, to concur with the Plan Commission’s recommendation that the request be denied. Motion seconded by Clawson. Mr. Patterson and Mr. Moore were in favor of remanding the matter to the Plan Commission, to keep the rezoning application process moving, to keep a time frame. Mr. Campbell favored denial because of the numerous and serious problems with the development; the developer might not be willing to compromise to the extent that was needed. Mr. Giblin felt the area was more suited to planned office development. Mrs. Dunn favored denial because so many residents were opposed to rental property, and Mr. Schlagel had indicated that any new plan would still be rental. Dr. LaHue wanted to remand in order to see a second proposal from the developer.

The motion to adopt the resolution carried; Campbell, Clawson, Giblin, Dunn, Rasmussen in favor; LaHue, Moore, Patterson opposed. Council discussed reasons for denial. Mr. Rasmussen said that if College Blvd. was extended, the water level at that time would increase 3/4 foot to 1 foot. The developer proposed to build foundations 2 feet above the current 100-year flood level, which meant the margin of safety would be roughly cut in half. Also, to increase the density of housing units in this area would only exacerbate traffic problems. Also, at the last Council meeting, the Council had voted unanimously to request that the Plan Commission review the master plan from 115th St. to College Blvd., Tomahawk Creek Parkway to Roe Ave. Mrs. Clawson was concerned about flooding and density. Mrs. Dunn took into consideration the concerns of surrounding residents about the incompatibility of the apartment complex with the surrounding neighborhood. Mr. Giblin felt a planned office area was more compatible. Resolution attached as part of the record.

3562 9:25 P.M. Recess. Council returned to regular session at 9:35 P.M.,
same members present.

3573 REQUEST BY LEAWOOD MIDDLE SCHOOL, 2410 W. 123RD STREET, FOR A SPECIAL USE PERMIT: On motion of Rasmussen, seconded by Moore, Council unanimously approved a 2-year permit for the use of 4 mobile classrooms east of the main building directly off the east parking lot to facilitate adding to the existing building without having to move students to other schools. Mr. Rasmussen expected inspectors to make sure that the electric service terminals were the right sizing.

3602 REQUEST BY THE UNITED METHODIST CHURCH OF THE RESURRECTION, 137TH AND ROE AVENUE, FOR A SPECIAL USE PERMIT: On motion of Patterson, seconded by Rasmussen, Council unanimously approved a permit with stipulations to place temporary mobile units on the west side of the first phase of the church for classrooms. The permit was not to exceed 2 years from the date of occupancy of the units. The units were the same ones the City was using for the temporary municipal offices at 9615 Lee Blvd. Mr. Rasmussen expected inspectors to make sure that the electric service terminals were the right sizing.

3614 RESOLUTION NO. 1177 APPROVING THE REQUEST FOR REZONING FROM AG TO RP-1, AND THE PRELIMINARY PLAT AND PRELIMINARY PLAN FOR BRIDgewood AT 132ND AND ROE AVENUE: Adopted unanimously on motion of Dunn, seconded by Giblin. Attached as part of the record.

3723 ORDINANCE NO. 1418 REZONING PROPERTY (BRIDgewood) LOCATED AT APPROXIMATELY 132ND AND ROE AVENUE FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL): The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3738 MAYOR'S REPORT: The Mayor attended the June 18th dedication of the new Leawood Pioneer Branch of the Johnson County Library. She also attended the Leawood Lions Club 40th anniversary celebration the same day.

The Governing Body thanked Marguerite Bacher, immediate past president of the Leawood Woman's Club, for the Club's donations to the police and fire departments (see Consent agenda). Police Chief Cox said that since 1990, the Woman's Club had donated approximately $10,000 to the DARE Trust Fund.

3947 AUTHORIZE INDEMNIFICATION AGREEMENT WITH KANSAS CITY POWER & LIGHT COMPANY RELATING TO ELECTRICAL SERVICE FOR AND ACCESS TO THE IRON HORSE GOLF CLUB: For reasons of aesthetics, beautification, lack of obstruction, the City desired that KCPL position electrical equipment at locations on the golf course which were not as convenient for or accessible to KCPL for installation, operation, maintenance, and removal purposes, as the positioning of such equipment originally intended by KCPL. Therefore, this agreement was necessary. On motion of Moore, seconded by Dunn, Council unanimously approved the agreement.

3978 AUTHORIZE CONTRACT FOR 1994 ASPHALT REHABILITATION PROJECT: On motion
of LaHue, seconded by Clawson, Council unanimously authorized the Mayor to sign a contract with the low bidder Seal-O-Matic Paving Company in the amount of $590,309.00.

4032 KDOT PRESENTATION ON LANDSCAPING AND SOUND BARRIER ALONG I-435: Scheduled for Tuesday, July 5th, 6:30 P.M., in the Council Chamber.

4137 APPROVAL OF APPROPRIATION ORDINANCE NO. 735: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4160 EXECUTIVE SESSION: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session following regular business for a period not to exceed 30 minutes to discuss 2 matters under attorney-client privilege.

4201 OTHER BUSINESS: Councilmember Patterson said that the continuation of the work session on private streets led to a staff report on amendments to the requirements and criteria for acceptance of private streets, which was included in the Council packets. Councilmember Dunn moved that the report be sent to the homes associations and individuals involved in the private streets issue, seconded by Patterson. Councilmember LaHue had a problem with the criteria which said that a private street shall have been constructed to City standards in effect at the time of initial construction. Dr. LaHue said that some streets were constructed when the City had no standards. He was looking for a mechanism that would allow the City to basically incorporate all private streets. The aforementioned criteria would exclude some. Councilmember Rasmussen said there didn't appear to be any unanimity among residents living on private streets - some wanted to keep private streets, others didn't. Mrs. Dunn's motion carried; Moore opposed; LaHue abstained; all others in favor. The Council will consider the private streets issue at a Council meeting in July.

4415 Councilmember Moore asked for a status report on the storm drainage improvements at 86th St. and Overhill Rd. Public Works Director Brandt reported that the project was on hold because a permit from the Kansas Board of Agriculture, Division of Water Resources, had not been obtained. Staff will meet with residents after the permit is obtained. The Mayor suggested residents be informed about the delay and the timeframe for the project.

4639 Fire Chief Strack had distributed a memo advising that the City of Overland Park had entered into a 2-year contract with Consolidated Fire District No. 2 for fire protection services at a cost of $426,000 per year, $100,000 less than the year before. Chief Strack said he had informed the director of the Overland Park fire department that the City of Leawood would not get into a bidding war annually with the District over providing fire protection services to Overland Park. If Leawood was to entertain an offer from the District, the District needed to present an approved agreement for the Council's consideration.
Mrs. Dunn said several constituents had asked her about the possibility of a traffic signal at the entrance to Leawood South subdivision at 128th and State Line Rd. Mrs. Dunn will check later with Public Works Director Brandt about a conduit being included in the plans for the State Line Rd. improvements.

EXECUTIVE SESSION: Council convened in executive session at 10:10 P.M., same members present, and returned to regular session at 10:40 P.M., same members present. On motion of Rasmussen, seconded by Moore, Council unanimously approved an agreement with Bachman Construction, Inc. of Stilwell, Kansas, in the amount of $769,069, to complete the construction of the new city hall at 4800 Town Center Drive.

On motion of Campbell, seconded by Rasmussen, Council unanimously approved an agreement with the United States Fidelity and Guaranty Company (USF&G) to provide for funding the contract with Bachman to complete the city hall.

10:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
Minutes of a hearing for public comment on the proposed 1995 Budget, held Tuesday, July 5, 1994, at 7:15 P.M. in the Council Chamber, 9615 Lee Boulevard, Leawood, Kansas.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson. Councilmembers Douglas Moore and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; J. Stephen Cox, Police Chief; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

City Administrator Garofano presented highlights of the proposed 1995 Budget. He said there would be no tax increase, the mill levy rate staying at the 1994 rate of 25.447. However, due to an increase in assessed valuation and sales tax receipts, the City was able to add a number of services/items for 1995, over and above those in 1994.

Gordon Thomas, 10516 Mohawk Lane, asked if interest was being charged to the golf course on the advanced startup funds. Finance Director Malnicof said none had been calculated nor would have to be calculated. Mr. Thomas said that according to the IRS, interest-free loans could not be made without penalty. Mr. Malnicof said the City, as a municipality, was not subject to that IRS regulation, and he explained that the golf course was a municipal course, not a private one.

Harold Steenbergen, 8029 Belinder, felt the City should be competitive with other cities and governmental agencies in the area in employee compensation, since Leawood has good employees who have rendered quality services to residents. Mr. Garofano said there was about $93,000 set aside in the 1995 Budget for the merit program. All pay increases are based on evaluation of performance; there are no cost-of-living or automatic increases. There was an additional $41,000 to make adjustments in the pay plan to make pay more equal with other Johnson County cities.

The hearing was closed at 7:30 P.M.

Martha Heizer City Clerk
Tape No. 304

# 526 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Tuesday, July 5, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, and Doug Patterson.

Councilmembers Douglas Moore and Louis Rasmussen were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Dunn, after the addition of 1) a discussion of the 1995 Budget, 2) a discussion of the College Boulevard extension improvements at a work session following the Council meeting, 3) an executive session, attorney-client privilege, prior to Council consideration of 2 drainage issues on the agenda.

637 CITIZEN COMMENTS: Kim Barnett, 8520 State Line Rd., said she did not know that the above-ground swimming pool she had purchased was not allowed in Leawood, and requested that the Council consider changing City ordinance. Planning Director McKay said ordinance allowed in-ground pools only. The Council could refer this matter to the Plan Commission for an ordinance amendment.

Gordon Thomas, 10516 Mohawk Lane, asked if any actions had been taken on some recommendations he had made to the Council. The Mayor said there was no Council interest in having partisan elections or compensating members of the Governing Body. Regarding the proposed bridge on College Blvd., over Tomahawk Creek, Mr. Thomas had proposed deeding some right-of-way back to the County. He had also recommended a public survey in a City newsletter soliciting opinions on splitting Leawood into 2 cities (north Leawood and south Leawood, with I-435 being the dividing line). The Mayor said the proposal to deed 1 inch on each side of the bridge back to the County had not been studied (confirmed by Public Works Director Brandt), and no action taken on the suggestion that there be a north Leawood and a south Leawood (question not included in the recent 1994 citizen survey).

825 CONSENT AGENDA: A resolution to approve the final plat of Hallbrook Farms 7th Plat was removed for further discussion. The following were approved unanimously on motion of Giblin, seconded by Clawson:

1. Minutes of the June 20, 1994 Council meeting;
2. Public Works Committee report (minutes) of their June 16, 1994 meeting;
3. Sister City Committee report (minutes) of their June 22, 1994 meeting;
4. Resolution No. 1178, attached as part of the record, approving the final plat of Patio Homes at Hallbrook 2nd Plat located at ap-
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proximately 115th & Overbrook;

5. Resolution No. 1179, attached as part of the record, approving
the final plat of Town Center Plaza located at the northwest corner of
119th & Roe Ave.;

6. Resolution No. 1180, attached as part of the record, approving
the final plat of Bridgewood located at 132nd & Roe Ave.;

7. Change Order No. 1 to the contract with Vision Construction Co.
for the 1993 Curb Rehabilitation Program - a $308.00 reduction in the
contract amount due to the contractor’s failure to satisfactorily com-
plete the restoration of the lawn at 2016 W. 86th St.;

8. Pay Request No. 3 (FINAL) by Vision Construction Co. for
$5,659.43 for the 1993 Curb Rehabilitation Program.

Resolution No. 1181, attached as part of the record, approving the
final plat of Hallbrook Farms 7th Plat located at approximately 112th
and Brookwood: Councilmember Patterson thought that final plat ap-
proval would be given when the design and funding of College Boulevard
were resolved in relation to the intersection of College and Brookwood.
Planning Director McKay said that the developer had agreed that prior
to any building permits being issued (as opposed to no occupancy per-
mits being granted, as originally agreed upon), a contingency plan for
a road connection to College had to be made, reviewed, and be ready to
be implemented in case of a delay in the College Boulevard improve-
ments. Council unanimously adopted the resolution on motion of Giblin,
seconded by Campbell.

953 MAYOR’S REPORT: The American Revolution Tricentennial Fund had a bal-
ance of $4,033.07 as of June 30, 1994. The original Certificate of De-
posit of July 1, 1976, was $1,000.

The Mayor thanked staff for the successful July 4th celebration.

1032 DISCUSSION OF A DRAINAGE CONCERN BETWEEN WORTHINGTON AND LEAWOOD MEAD-
OWS SUBDIVISIONS (between 138th Terr. in Leawood Meadows and the north
limit of Worthington): In general, Leawood Meadows property owners had
requested that the City enclose an existing open/gabion channel in
their subdivision. The Public Works Committee recommended not to build
an enclosed storm drainage system which would cost approximately
$76,000. The City did not have funding to address the problem, and the
existing open channel and defined overflow swale provided sufficient
capacity to drain the Leawood Meadows development in the area of con-
cern, and the Worthington development would not detrimentally impact
drainage in the area of concern. Staff requested that the Council ap-
prove the Committee’s recommendation.

Councilmember Dunn, Chairman of the Public Works Committee, said
that the Committee had requested that Planning and Development urge or
require developers to provide storm drainage structures as needed in
subdivisions bordering their new developments. It was Mr. McKay’s un-
derstanding that Worthington was not interested in spending money for a
storm drainage improvement in Leawood Meadows.

Councilmember Giblin understood that the Public Works Committee
had instructed someone to contact adjacent Worthington residents after
the June 16th Committee meeting. No contact was made. Councilmember
LaHue moved to defer the matter to the August 1 Council meeting in or-
order to contact the Worthington subdivision to see if they were willing to do stormwater improvements on Leawood Meadows property, seconded by Dunn.

Don Ruppin, 13812 Fontana Lane in Leawood Meadows, said Leawood Meadows residents had 3 concerns - 1) safety; children go down into the sewer pipes, 2) inconsistent drainage facilities (both enclosed and open drainage exist in the City), and 3) the original approval of Leawood Meadows 3rd Plat required the developer to remove the underground drainage system and replace it with a gabion ditch.

Dr. LaHue’s motion to defer the matter carried unanimously.

1342 DISCUSSION OF A REQUEST FOR A CUL-DE-SAC (STREET CLOSURE) AT 86TH STREET AND STATE LINE ROAD: The Public Works Committee recommended that the City not build the cul-de-sac. A majority of residents on 86th St. opposed the improvement; residents on other streets in the area felt traffic would increase on their streets; the improvement would establish a precedent which would not be in the best interest of the general public, as property owners along comparable streets might make similar requests; the City did not have funding for the improvement, and property owners did not appear willing to form an improvement district; and the improvement would have a detrimental impact on property values on the corner of 86th and State Line Rd. Staff, including Police Chief Cox, requested that the Council approve the Committee’s recommendation.

Gail Roberson, 2016 W. 86th St., and Ben Varner, 2007 W. 86th St., presented a petition signed by 9 of 13 homeowners on the block requesting that the problem at the intersection be addressed and indicating a willingness to form an improvement district for a cul-de-sac if the City did not build one. Mr. Varner said the residents were concerned about the expansion of the theaters and other commercialization at the Ward Parkway Shopping Center and the increase in traffic and safety concerns they would create. He felt that cul-de-sacs added to property values, and in this case, would provide a buffer from traffic congestion, and help to control crime and safety. He said the homes association would maintain the area.

Arlene Kirk, 2000 W. 86th Terr., was opposed to the cul-de-sac; there would be an overflow of traffic onto 86th Terr. if it was built. She said that residents in the area purchased their homes with full knowledge of the commercialization of the area. She felt it was not appropriate at this point for one street to stop looking at it and the rest to continue looking at it because property values would decline.

Louise Spruill, 2001 W. 86th St. (the corner of 86th & State Line), opposed the cul-de-sac; it would place too many burdens on her.

Councilmember Dunn moved to deny the request for the cul-de-sac, seconded by Giblin. Councilmember LaHue had no problem with a cul-de-sac, particularly if residents said they wanted it and were willing to fund it, and he had no problem with setting a precedent; if traffic and commercialization in the area supported the need for a cul-de-sac, then it needed to be considered. Public Works Director Brandt said petition signatures would have to be verified and the petition reviewed by the City Attorney to determine if the petition was sufficient to create an improvement district. Councilmember Giblin did not think the City should allow streets that connect with major
collectors to become cul-de-sacs. Mrs. Dunn’s motion to deny carried; LaHue opposed, all others in favor.

Mrs. Dunn moved to refer 86th Street back to the Public Works Committee for a traffic study (which could include consideration of a median alteration), seconded by LaHue. Councilmember Clawson asked if Leawood could legally restrict the ingress and egress from Ward Parkway Shopping Center onto State Line, could the City alter what they already had. City Attorney Wetzler thought restrictions were possible, but of course, it would require study. Mrs. Dunn’s motion carried unanimously.

PURCHASE OF A PEDESTRIAN BRIDGE FOR THE GREENWAY TRAIL EAST OF ROE AVENUE IN THE VICINITY OF 123RD ST. & ROE AVE.: On motion of LaHue, seconded by Clawson, Council unanimously approved the purchase of the bridge from Continental Bridge of Alexandria, Minnesota, in the amount of $21,242.00. Johnson County will erect the bridge.

EXECUTIVE SESSION: On motion of Giblin, seconded by Dunn, Council voted unanimously to convene in executive session for a period not to exceed 20 minutes to discuss 2 matters (drainage concerns) under attorney-client privilege.

8:45 P.M. Council left the Council Chamber to convene in executive session in the conference room of the Police/Court Building. They returned to the Council Chamber and regular session at 9:05 P.M., same members present.

DISCUSSION OF A DRAINAGE CONCERN AT THE LEAWOOD SOUTH COUNTRY CLUB GOLF COURSE - vicinity of 12600 Overbrook Road (Kerrigan residence), 12602 Cherokee Lane (Brown residence), and the Leawood South Golf Course: In general, property owners Kerrigan and Brown had requested that the City construct a concrete channel where a storm system from the Leawood South development converged with an open channel on the golf course. The Public Works Committee recommended that the City not build the improvements which would cost approximately $70,000. The Committee did recommend that the entire drainage system across the golf course be submitted to the County’s Stormwater Management Advisory Council for possible funding under the SMAC program, and also directed staff to prepare a cost estimate for interim improvements to stabilize the area. The approximate cost would be $23,000 (if contracted out). Staff requested that the Council approve the Committee’s recommendation because they felt that the existing concrete channel provided sufficient capacity to convey the discharge from the City-owned system(s) in the vicinity, and because the City did not have funding to address the problem. Public Works Director Brandt said that this drainage concern had already been submitted to SMAC.

John Overman, 9901 Ensley Lane, wanted to know the source of water in the area of concern and in the area of 98th and Ensley Lane (next item of discussion), how the water had been redirected in both areas to end up where it ended up and caused erosion, and how did the 2 problems differ other than geographic locations (golf course versus a residential area). Mr. Brandt explained that the drainage basin for the Leawood South Country Club, Leawood South subdivision, and portions of
the Royse subdivision generally followed the characteristics of an old drainage pattern. He didn’t believe there was any redirection of the flow in this situation (as he didn’t believe there was any redirection in the area of 98th and Ensley Lane). Erosion in the vicinity of the golf course occurred because water went from concrete to soil.

Councilmember Campbell said the interim improvements might alleviate the drainage situation enough to move its priority on the SMAC list of projects lower, which would substantially reduce the chance of it being approved by SMAC. Mr. Brandt said he would have to emphasize to the County that the City would request reimbursement for the interim improvements which were meant to solve an immediate problem, rather than the overall, long-term solution.

Councilmember Dunn moved to submit the entire drainage system across the golf course to SMAC and to fund the interim improvements suggested by the Public Works Department, seconded by Giblin. There was discussion of where the funds would come from. Dr. LaHue reminded Council that there was money in the stormwater management account ideally earmarked for SMAC projects with 75% County funding. The Mayor said that the Council had never agreed to divert the money from those SMAC projects to anything else, and if the motion carried, Council would be setting a precedent. Mr. Brandt said there was a chance to find and store enough excess rock at different sites around the City to work on the project over a period of time to save money.

Councilmember LaHue moved to amend Mrs. Dunn’s motion to state that if the interim improvements did not meet SMAC requirements, the City bond the interim improvement cost of approximately $14,000 (materials only with the City providing the labor), seconded by Giblin. (The $300,000 set aside for SMAC projects with 75% County participation would not be touched.) Motion to amend failed; LaHue, Patterson, Giblin in favor; Campbell, Clawson, Dunn opposed; Mayor opposed.

Mrs. Dunn moved to amend her main motion to state that funds come from another source other than the $300,000 allocated for SMAC projects, seconded by Patterson. Motion to amend carried unanimously.

Mrs. Dunn’s main motion as amended carried unanimously.

DISCUSSION OF A DRAINAGE CONCERN BETWEEN CHARTWELL WEST SUBDIVISION (102ND & LEE BOULEVARD) AND THE AREA IN THE VICINITY OF 98TH ST. & ENSLEY LANE:

The Public Works Committee recommended that the City not build an enclosed storm drainage system which would cost approximately $60,000. The Committee had directed the Public Works staff to prepare a cost estimate for interim improvements along the channel to stabilize its banks. The Committee recommended that the project be submitted to SMAC for possible funding, and to fund interim improvements. Staff requested that the Council approve the Committee’s recommendations. The estimated cost of the interim improvements was $21,223.83 (based on Public Works crews doing the work and purchasing the rock).

Councilmember LaHue moved to do the interim improvements for approximately $21,223.83 from a source other than the $300,000 allocated for SMAC projects with the provision that property owners involved furnish the City with appropriate easements and hold the City harmless, and to submit the project to SMAC for possible funding, seconded by Clawson.

Councilmember Campbell said that if the interim improvements, from
a functional standpoint, corrected the drainage problem, it seemed futile to submit the project to SMAC; if the City essentially corrected the problem, why would SMAC add the project to their list. It seemed to him that the City should either do the interim improvements or submit the project to SMAC and take a chance that it would be approved for funding. The enclosed system would be the best alternative and Mr. Brandt had indicated that the project would have a substantial likelihood of being a high priority on the SMAC project list, and Mr. Campbell did not want to do anything that would reduce that chance and perhaps even eliminate it.

Dr. LaHue's motion carried unanimously.


3995 RESOLUTION NO. 1182 AUTHORIZING EXECUTION OF AGREEMENT NO. 110-94 WITH KDOT FOR COLLEGE BOULEVARD IMPROVEMENTS, PHASE 1; TOMAHAWK CREEK BRIDGE TO STATE LINE ROAD - KDOT to obtain benefits for Leawood under the program of the Transportation Enhancement Intermodal Surface Transportation Efficiency Act (ISTEA): The estimate of all construction related costs for Phase 1, $6,980.00. The agreement was approved unanimously on motion of Campbell, seconded by Dunn. Resolution attached as part of the record.

4066 AUTHORIZE ENGINEERING SERVICES AGREEMENT FOR STREET INVENTORY AND REHABILITATION STUDY UPDATE: On motion of Clawson, seconded by Patterson, Council unanimously approved an agreement with Larkin Associates in an amount not to exceed $9,600 to upgrade software for the LASIS Street Inventory Program.

4106 RESOLUTION NO. 1183 AUTHORIZING SALE OF $8,300,000 GENERAL OBLIGATION BONDS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS: construction of Mission Rd. improvements, 103rd St. to College Blvd.; construction of improvements to Town Center Drive; acquisition of park land and construction of a public municipal golf course thereon in the vicinity of 151st St. and Nall Ave. Adopted unanimously on motion of LaHue, seconded by Clawson. Attached as part of the record.

4211 ORDINANCE NO. 1419 GRANTING A RIGHT-OF-WAY EASEMENT TO KANSAS CITY POWER & LIGHT COMPANY FOR ELECTRICAL SERVICE AT THE IRON HORSE GOLF CLUB - granted in conjunction with an indemnification agreement with KCPL approved at the June 20, 1994 Council meeting: The ordinance was considered and passed on motion of Dunn, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Patterson. Nays---None.

4231 APPROVAL OF APPROPRIATION ORDINANCE NO. 736: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Patterson. Nays---None.

4268 OTHER BUSINESS: Councilmember Dunn asked Planning Director McKay to
comment on Kim Barnett's request under citizen comments for an ordinance change to permit above-ground pools. Mr. McKay said that the Plan Commission did not want to see above-ground pools all over the City. Property values needed to be considered. The City's ordinance, The Uniform Swimming Pool, Spa, and Hot Tub Code/1991 Edition, specified the water level permitted; an above-ground pool containing more than 24 inches of water was not permitted. The Council did not wish to make any ordinance change.

4:48 9:55 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 305

# 47 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Monday, July 18, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Julie Hakan, Human Resources Director; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

57 The agenda was approved unanimously on motion of Moore, seconded by Giblin, after the addition of 1) a discussion of condemnation of private property for State Line Rd. improvements, Phase 3; 2) an executive session at the end of the meeting to discuss potential litigation, and 3) a report on the Leawood Foundation.


147 APPEAL OF A DENIAL OF A PERMIT TO KEEP 3 DOGS - DANIEL & CYNTHIA BARNARD, 9905 ENSLEY LANE: In June 1994, Animal Control denied the Barnards a permit to keep 3 dogs based on the written objections of 2 residents within 200 feet of the Barnard residence - John Overman, 9901 Ensley Lane, and Edward Gouvela, 9904 Ensley Lane, had complained about barking and the dogs running at large. Mr. Barnard presented the names and addresses of 12 area residents who did not object to the 3 dogs. He said he had installed an invisible fence. The Barnards will not replace the oldest dog when it dies.

Councilmember LaHue moved to grant a 3-month temporary permit to keep 3 dogs and that the dogs remain in the Barnard’s yard, seconded by Moore. Motion carried unanimously.

524 CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, requested that a questionnaire be printed in a City newsletter soliciting residents’ opinions on the following: 1) having partisan elections, 2) compensating councilmembers, 3) limiting the mayor and council to 2 terms, 4) having competitive bidding for City business, 5) having competitive bidding for legal services, 6) placing a cap on salaries of all employees, 7) having a residential requirement for City staff, 8) auditing City finances bi-annually, 9) re the bridge on College Blvd. over Tomahawk Creek, deeding the right-of-way for the bridge plus 1 inch on each side of the bridge back to Johnson County, and 10) separating Leawood into 2 cities – north Leawood and south Leawood, with I-435 being the dividing line.

The Mayor said the City had not issued a newsletter in quite a while, and had no plans to do so.

4316
CONSENT AGENDA: The following were approved unanimously on motion of Moore, seconded by Clawson:

1. Minutes of the July 5, 1994 Public Hearing on the proposed 1995 Budget;
2. Minutes of the July 5, 1994 Council meeting;
3. Departmental reports;
4. Change Order No. 3 to the contract with KLC, Inc. for construction of the Iron Horse Golf Club irrigation water line - an additional $6,969.00 to eliminate future silt problems;
5. Acceptance and finalization of the Preliminary Official Statement, dated July 18, 1994, prepared for the City's proposed $8,300,000 General Obligation Improvement Bonds, Series 1994-A.

RESOLUTION NO. 1184 APPROVING THE REQUEST FOR REZONING FROM AG TO CP-0 AND CP-1, AND APPROVING THE PRELIMINARY PLAT AND PLAN, FOR TOWN CENTER BUSINESS PARK, LOCATED AT APPROXIMATELY 117TH AND ROE AVENUE: Greg Walker, representing the property owner Thomas Morgan of MD Management, presented the plan with 8 lots for office use and 4 lots for retail, 3 of which had been approved by the Plan Commission. He said that Jeff Alpert, developer of adjacent residential property Edgewood, had expressed concerns about the fourth retail pad site (Lot 6) - noise decibel, lighting (already addressed by Plan Commission), odors (from a stack for a restaurant), convenience stores, gasoline stations. Mr. Walker said the Morgans were in favor of deed restrictions for retail Lot 6 that would indicate no convenience stores, no gasoline stations, and no uses that caused odors. Mr. McKay said convenience stores and gasoline stations would not be allowed in CP-1 anyway. The Mayor said the Morgans were asking that the resolution be adopted with the addition that Lot 6 have the conditional use "no uses that caused odors".

Councilmember Patterson moved to adopt the resolution with the addition that Lot 6 be authorized as retail, and at such time that a restaurant might be proposed for Lot 6, an engineering report on odor control would be submitted with the final plan, seconded by Giblin. Motion carried unanimously.

ORDINANCE NO. 1420 REZONING PROPERTY (TOWN CENTER BUSINESS PARK) LOCATED AT APPROXIMATELY 117TH AND ROE AVENUE FROM AG TO CP-0 AND CP-1: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None. Lots 4, 5, and 7-12 zoned CP-0; Lots 1-3 and 6 zoned CP-1.

MAYOR'S REPORT: Councilmember Dunn distributed a new Leawood Foundation brochure, and invited the Governing Body to become charter members of the Foundation. The purpose of the Foundation was to promote cultural, educational, recreational, and environmental activities and projects in Leawood, with membership open to residents, and people with businesses or interests in the City.

Captain Anderson of the Police Department presented promotional information on pedestrian safety and guidelines for pedestrian law enforcement, prepared by the Department's Traffic Management Unit. Cards with reflective strips donated by 3M Company provide safety tips, information on pedestrian right of way, traffic signals, pedestrian use.
areas, and other regulations. They will be distributed to pedestrians, joggers, bikers, and anyone who might be in violation of ordinances relating to safety, instead of giving a warning.

Planning Director McKay gave an update on enforcement of the sign ordinance during election time. He reviewed the regulations, and said that code enforcement officers, to take a positive approach, would remove political signs that were illegally in the right-of-way in front of homes, and place them at least 15 feet from the back of the curb or edge of the pavement. They used to place illegally-placed signs at the front doors of residences. Signs found in other public rights-of-way such as medians would be confiscated.

1817 DISCUSSION OF PRIVATE STREETS: The Council discussed the requirements and criteria for acceptance of private streets. Criteria No. 4 stated that storm sewers shall be in place and designed according to public works standards. Councilmember Rasmussen wanted to add a sentence to No. 4 to state that the design must take into consideration the effect of the subdivision on water flow onto adjacent areas. If water flow off a private street development adversely affects adjacent property, then corrections must be made before the City accepts the private streets as public. He understood that was not a problem in the third and fourth wards, but it was a problem in (his) ward two. Councilmember Clawson suggested that the additional sentence read that the design must minimize the adverse impact of water flow onto adjacent development.

2093 Ed Gunn, 12107 Sagamore, said that Pembroke Court residents did not object to the criteria, but did have concerns about Nos. 2 and 4 of the requirements relating to a staff analysis of a private street and costs incurred in the dedication of a private street as public. They wanted to know more about what the analysis process would involve before they committed to something. The Mayor said the process would vary subdivision by subdivision. Councilmember Dunn understood it was the intent to have an engineer give an estimate subdivision by subdivision of what it would take to do core samples, etc. Then each subdivision would have the right to approve or disapprove of the estimate, and even stop the private street acceptance, before proceeding, since the subdivisions would bear the costs.

2175 Councilmember LaHue did not agree with the requirement 1.a. that 100% of the property owners abutting a private street be required to sign a petition requesting the private street be accepted as public, where the property lines ran to the center of the street. There would probably be cases where 100% signatures could not be obtained. Regarding requirement 1.b., the % of owners required under the individual deed restrictions to affect change or amendments to the restrictions, the % was probably a simple majority and that might be too few signatures.

Planning Director McKay said that when property lines ran to the center of the street, in order for the street to be dedicated as public, there had to be complete consensus among property owners, the City receiving 100% of a section of roadway. Councilmember Rasmussen felt 1.a. and 1.b. were fair for all parties, and he would be reluctant to change them.

2386 Dr. LaHue was concerned about sidewalks - the City taking over a
private street either with no sidewalks or with sidewalks not built to current City standards. City Attorney Wetzler said there was a risk, liability, for the City. On one hand, the City would not permit a new street to be built without sidewalks, but on the other hand, unfortunately, there were some private streets in the City that did not have sidewalks. To limit the liability, the City would require sidewalks.

Councilmember Giblin moved to approve the requirements and criteria for acceptance of private streets with Mr. Rasmussen’s addition to criteria #4 that the design of storm sewers must minimize the adverse impact of water flow onto adjacent development. Motion seconded by Rasmussen. Councilmember Patterson said it was up to the City and the homes associations to go through a process of acceptance on a case-by-case basis. Dr. LaHue was concerned about turning neighbors against each other if the City compromised standards in one case and not in another. Mr. Rasmussen was opposed to private streets, but felt this was a fair and equitable way to accommodate all of the desires in the City - there was a lot of compromise to minimize the cost to the City at large. Mrs. Dunn felt all subdivisions would be able to meet the criteria for acceptance, so neighbors would not be pitted against each other.

Criteria #1 stated that private streets shall have been constructed to City standards in effect at the time of initial construction. Resident Bart Cohen said that was an absolute type of criteria and didn’t seem to allow for any kind of variance. Some variation from such strictness was needed, or perhaps the criteria could state that the streets shall have been substantially constructed to City standards, for some flexibility.

Councilmember Moore said he would vote against the requirements and criteria which was consistent with his past position - private streets should not be taken back as public by the City mainly due to adverse cost implications on the majority of Leawood residents that had not been considered. Councilmember Clawson said criteria #1 had been discussed at great length because of the cost involved, and it was that concern that made the private streets committee take a strong stand on the construction standards of the streets.

Motion to approve the requirements and criteria carried; Moore opposed, all others in favor.

**DISCUSSION OF RETAINING WALL/SOUND BARRIER, 12800 BLOCK OF STATE LINE ROAD - STATE LINE IMPROVEMENTS, PHASE 3:** At the May 16th Council meeting, Council approved a retaining wall (paid for as part of the project) with a 6-foot above ground concrete block wall with stucco facing for a total estimated cost of $78,210.70. Public Works Director Brandt was to pursue cost sharing on the 6-foot block wall with other entities involved in the road project, and the possibility that the City would not have to pay the costs of acquiring an easement from the Cambridge Lane Homes Association. Johnson County Public Works redesigned the plan, using a combination concrete sidewalk/retaining wall and a wooden privacy fence to act as a sound barrier. Mr. Brandt told the County that the City would prefer to continue with the segmented wall as used on the other phases of the State Line Rd. project. Also, the homes association had signed a temporary construction easement based upon the Council’s May 16th action. The County agreed to build
the retaining wall in the same manner as those in the other construction phases of State Line Rd., but would not participate in funding the sound barrier wall, nor would Kansas City, Missouri. The concrete block retaining wall with stucco finish would cost the City of Leawood approximately $30,000 (a trade with the homes association for easement and destruction of trees).

Staff will design the retaining wall and return to the Council with a firm cost estimate. The Council's May 16th directive remained effective.

3296 DISCUSSION OF PROPOSED STORM SEWER IMPROVEMENTS - 97TH/98TH BETWEEN SAGAMORE ROAD AND HIGH DRIVE: A survey of the project was being completed by Schlagel and Associates engineers in order to provide a preliminary engineering report for the entire basin. The Public Works Department will begin the preliminary engineering in the fall after the design is completed on 2 other stormwater projects. Staff remained confident that some improvements were needed in the basin, and would make a recommendation to the Council after the engineering report was completed. The need for the project had been documented since the 1979 Master Stormwater Plan approved by the Council, and was reaffirmed by the Johnson County Stormwater Management Advisory Council (SMAC).

The Mayor said this matter was placed on the Council's agenda to give a status report only to Council and residents. No Council action would be taken until the preliminary engineering report was finalized. A meeting with residents was scheduled for July 20th, 5:30 P.M., in the Council Chamber, to explain the status. Staff should have the preliminary engineering report completed in October.

4252 9:40 P.M. Recess. Council returned to regular session at 9:45 P.M., same members present.

DISCUSSION OF SOLICITATION ORDINANCE: The Mayor read a statement indicating her dismay when she read a newspaper article last week which called undeserved and unwarranted negative attention to the City of Leawood and its police department regarding the solicitation ordinance. She said that an alleged confrontation between a police officer and a campaign worker who did not have a permit to go door-to-door, and who did not believe one was necessary, did not occur. However, the question raised about first amendment rights remained. She said the intent of the Governing Body with the current ordinance was not to infringe upon a solicitor's first amendment right to free speech, but to protect residents' rights to safety and privacy, also guaranteed by the Constitution. It had been thought that the Leawood ordinance struck a balance between these rights. The Mayor said certain questions needed to be considered - 1) did the current ordinance infringe upon the right of free speech? 2) should a political campaigner's rights to free speech supersede a resident's right to safety and privacy? 3) should there be an amendment, or clarification, to the current solicitation ordinance?

Captain Anderson of the Police Department explained the enforcement of the solicitation ordinance and described the procedure (including a computer background records check for criminal violations/convictions) for obtaining a solicitation permit.

4671 City Attorney Wetzler described how the current ordinance evolved
Council Minutes
Tape No. 305
July 18, 1994

in 1987. To his knowledge, there had been very few complaints about
the ordinance since that time.

Councilmember Moore said he was against changing the ordinance be-
cause 1) it seemed the desire to change the ordinance was for political
reasons; he hadn't heard complaints during past elections; shouldn't
change the ordinance for one situation, 2) the ordinance change was
recommended and supported by some Councilmembers; a common complaint
was that public officials are too self-serving; a change would be con-
structed as such, 3) elderly constituents opposed a change; they wanted
everyone going door-to-door to be checked by the Police Department, 4)
in any campaign, the potential existed that canvassers might be non-
residents; further, in a Citywide election, a candidate might not know
all the campaign workers, and he (Mr. Moore) thought the candidate
would want to be sure of who was working for him.

Councilmember Campbell questioned whether the ordinance would even
apply to a political canvasser or someone simply disseminating informa-
tion. It wasn't clearly addressed in Section 5-201 of the Code of the
City of Leawood which states the purpose of the solicitation ordinance.
If the Council determined that the ordinance was applicable to po-
litical canvassers, then he would favor an ordinance amendment since he
didn't believe that campaign workers and politicians disseminating in-
formation should be subject to this type of ordinance. There should be
no impairment to the political process at all. On the other hand, if
they were seeking political contributions, then the ordinance needed to
be structured to cover that situation - they would need a permit. If
the Council determined that the ordinance was not applicable to po-
litical canvassers, then he would favor an amendment to clarify that.
Section 5-205 (d) of the Code which says that the City may refuse to
issue a solicitation permit to any person who has been found guilty of
violating any ordinance of the City of Leawood was too broad and should
be repealed.

Councilmember Clawson felt the current ordinance protected the
right to privacy in homes, and pertained to anyone going door-to-door.
She would not favor wholesale change in the ordinance. Councilmember
LaHue felt the current ordinance was in the best interest of the City
and would not favor a change.

Dick Kurtenbach representing the American Civil Liberties Union,
said that the Council had more authority to regulate fund-raising
door-to-door than it had to regulate political speech. He felt the
current ordinance did address and regulate political speech; it did de-
fine a canvasser in terms of proselytizing and political poll taking,
so clearly the ordinance required political campaigners to obtain a so-
lcitation permit. However, the ordinance regulated the number of
times a campaigner could visit a residence - once every two months -
and stated that the City could refuse to issue a permit for violations
such as traffic violations. Those were very serious violations of the
first amendment. People should have the right to go door-to-door and
talk to people, and if people didn't want to talk, they didn't have to
open their doors. That was the cost of living in a free society. The
current ordinance couldn't be enforced equally across the board. The
Council should write an ordinance that distinguished between fund-rais-
ing and political activity.

Kerry Patrick, 10009 Howe Dr., did not believe the current ordi-
nance was applicable to political activity, but only applied to commercial vendor activities. Politics was not even mentioned in the ordinance. The City couldn't impose prior restraints and criminal background checks on individuals going door-to-door for political activity; it was a gross invasion of their rights. The ordinance was not applied in a constitutional manner and therefore selectively enforced, violating due process and equal protection rights.

City Attorney Wetzler recommended that the Police Department continue to enforce the ordinance in the manner they were using, namely that the City not require political candidates to obtain solicitation permits. This would allow the Council time to study the ordinance. However, a political candidate who was soliciting funds, either directly or indirectly, clearly would need a permit. Religious activity, as long as there was no fund-raising, would be treated the same as political activity.

Councilmember Rasmussen felt that, as a City Councilmember, he had the absolute responsibility to discuss with constituents issues that affected them, and never felt that he was obligated to obtain a permit.

The Council discussed placing a moratorium on any kind of canvassing (permits would not be required), with no moratorium on request for funds in any form, and directing the City Attorney to study the issue. Councilmember LaHue felt that the City was still entitled to know who was going door-to-door and for what purpose (even if criminal background checks were no longer done).

Councilmember Giblin moved to declare a 90-day moratorium, seconded by Clawson.

The City Attorney reaffirmed that the City was not suspending the provisions of the ordinance that related to any form of solicitation for commercial purpose, or related to sale of products or fund-raising activity by anyone, either directly or indirectly.

Motion to declare a moratorium carried; LaHue, Moore opposed; all others in favor.

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

PROPOSAL TO PROVIDE LANDSCAPE DESIGN SERVICES FOR I-435 ACCESS ROAD:
Negotiations were underway with Johnson County Wastewater District and Saddle & Sirloin Club for the access required to build a frontage road on the south side of I-435 between Lee Blvd. and Mission Rd. KDOT will fund the road, but Leawood would be responsible for the cost and acquisition of the access corridor. In exchange for the access, the District and Club requested compensation in the form of landscape improvements, the District to screen their wastewater operation from motorists.

On motion of Clawson, seconded by Rasmussen, Council unanimously approved a proposal from Howard Needles Tammen & Bergendoff (HNTB) in the amount of $5,200.
129 AUTHORIZE LAND ACQUISITION NEGOTIATIONS FOR INTERSECTION IMPROVEMENTS AT 89TH STREET AND MISSION ROAD: On motion of Campbell, seconded by Clawson, Council unanimously approved total payments of $18,657 to 5 property owners, and authorized Metropolitan Appraisers to negotiate with the property owners for land acquisition.

218 ACCEPTANCE OF BID FOR 1994 SANITARY SEWER REHABILITATION PROGRAM: On motion of LaHue, seconded by Moore, Council unanimously approved the bid (only one received) from Insituform Missouri, Inc., of Chesterfield, Missouri, in the amount of $402,897.00.

297 REQUEST BY VAN-REICH PRODUCTIONS FOR A TEMPORARY SPECIAL USE PERMIT TO ALLOW PARKING ON GRASS AT BI-STATE BUSINESS PARK, APPROXIMATELY 143RD AND KENNETH ROAD, DURING AN OUTDOOR CONCERT ON JULY 30, 1994: On motion of Giblin, seconded by Campbell, Council voted unanimously to deny a permit because of traffic, trash, and debris.

510 APPROVAL OF APPROPRIATION ORDINANCE NO. 737: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays—None.

523 CONDEMNATION OF PRIVATE PROPERTY FOR STATE LINE ROAD IMPROVEMENTS, PHASE 3: On motion of Campbell, seconded by LaHue, Council unanimously authorized the payments of 3 condemnation awards (to be paid by the County) - the airport property at 135th & State Line (Tract K-1), $103,000; property just north of the airport (Tract K-2), $53,000; and a residential property (Tract K-17, Hosler, 1901 W. 127th St.), $3,800.

630 EXECUTIVE SESSION: On motion of Campbell, seconded by Giblin, Council voted unanimously to convene in executive session for a period not to exceed 10 minutes to discuss potential litigation.

649 11:20 P.M. Council convened in executive session. They returned to regular session at 11:30 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 307

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, August 1, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Human Resources Director; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Martha Heizer, City Clerk; and Attorney Patricia Bennett in the absence of the City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Clawson, after the addition of 1) a discussion of the sale of cereal malt beverages and liquor on election days, 2) an executive session at the end of the meeting to discuss land acquisition, 3) a discussion of the increase in residential burglaries, 4) a discussion of the speed limit on K-150 (135th St.), and 5) a report on the City’s recent bond rating upgrade.

CITIZEN COMMENTS: None.

CONSENT AGENDA: The Leawood Historic Structure and Designation Policy was removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Dunn:

1. Minutes of the July 18, 1994 Council meeting;
2. Pay Request No. 7 (FINAL) by KLC, Inc. for $14,795.90 for construction of the Iron Horse Golf Club irrigation water line;
3. Declaration of surplus property - 11 General Electric radios no longer used by the Public Works Department;
4. Assignment to the Public Works Committee to review James Bergin’s request that the City improve the James Branch creek channel on a portion of his property at 9814 Lee Boulevard;
5. Resolution No. 1185, attached as part of the record, approving the final plat of Leawood Country Manor, 11th Plat.

Leawood Historic Structure and Designation Policy: Councilmember Dunn asked under what circumstances someone would protest the designation of a historic site. Debbie Welch, a member of the Leawood Historical Commission, said a protest could occur if an application for designation was denied by the Commission. Since designations would be honorary in nature, Mrs. Welch couldn’t imagine that anyone would disapprove of their property being designated as historic. On motion of Dunn, seconded by Moore, Council unanimously approved the Policy which outlined the process that a property owner or interested party would follow to seek designation of a property as historically significant to Leawood, and established a Leawood Register of Historic Places, a local listing that would record sites designated as having historic or architectural significance.
RESOLUTION NO. 1186 APPROVING THE PRELIMINARY SITE PLAN FOR HALLMARK SHOWCASE AT CAMELOT COURT SHOPPING CENTER, 119TH & ROE AVENUE: Ken Frashier of Frashier-Miles and Associates architects presented the plans. Councilmember LaHue was concerned about the "factory" look of the blank wall with a service entrance and a trash receptacle on the 119th St. side (south side) of the building. Mr. Frashier said there would be considerable landscaping. Dr. LaHue felt a couple of windows might help to break up the wall. Mr. Frashier said pad sites were difficult to work with because of the exposure on all sides. He said fake windows had not been considered. Dr. LaHue moved to remand the matter to the Plan Commission to investigate a different design pattern for the pad site. Motion died for lack of a second...

Councilmember Patterson moved to adopt the resolution, seconded by Rasmussen. Mr. Frashier would convey to his clients that some Councilmembers wanted a consideration of fake windows on the south side of the building. Planning Director McKay said the Plan Commission did stipulate special architectural treatment, relief, on the brick work on the south wall; they didn't want a blank wall either. Mr. Patterson's motion carried; LaHue opposed, all others in favor. Resolution attached as part of the record.

MAYOR'S REPORT: The Mayor will appoint the Economic Development Task Force at the next Council meeting. Their first meeting will be August 22nd or 29th.

There may be a work session on August 29th to hear a report on City facilities.

On May 16th, the Council requested the Plan Commission consider reviewing the land use designation on the Master Development Plan for the area between Roe Avenue and Tomahawk Creek Parkway and 115th St. to College Boulevard, including any necessity for rezoning. The Plan Commission adopted a resolution on July 26th which recommended no change in the existing land use classification from the Master Development Plan for the study area at this time.

City Administrator Garofano reported that Moody's Investors Service had upgraded the City's bond rating from Aa to Aa1 (second highest rating) for several reasons - 1) the strong socio-economic characteristics of the community; 2) well-managed finances, particularly steps taken to improve fund balances which was very difficult to do in Kansas because of budget laws; 3) the City's growing debt program was offset by tax base growth; 4) a fairly aggressive capital improvements program was funded largely by noncity funds and special assessments; 5) the minimum impact of recent litigation relating to K-150 and State Line Rd. funding mechanisms on the City's finances; 6) a significant amount of debt would be paid out in 10 years.

PRESENTATION OF RESULTS OF CITIZEN SURVEY, SUMMER 1994 - prepared by Elaine Tatham of eTo Institute of Olathe to learn about the concerns and opinions of Leawood residents about services and other matters; Mrs. Tatham presented information on the survey, information received from 501 households (1491 people) by a combined mail-telephone survey.

DISCUSSION OF CHANGE ORDER NO. 9 TO THE CONTRACT WITH LANDSCAPES UNLIMITED FOR THE CONSTRUCTION OF THE IRON HORSE GOLF COURSE: Golf course
project manager Phil Gibbs of Continental Consulting Engineers explained the change order outlining 11 additional items to the contract, most dealing with creek channel improvements. The change order increased the contract by $74,611.45. Mr. Gibbs said there had been many visitors to the area, and he suggested the Council might want to consider some type of one-day or weekend walk-through for the public, perhaps in late August. He was concerned about unauthorized entry into construction areas and people getting hurt.

Councilmember Rasmussen moved to approve the change order, seconded by Moore. Councilmember LaHue felt the creek channel improvements should be submitted to the County Stormwater Management Advisory Council (SMAC) for funding consideration. Staff will work on this. Mr. Rasmussen’s motion carried unanimously.

DISCUSSION OF LEAWOOD MEADOWS/WORTHINGTON DRAINAGE CONCERNS: At the July 5th Council meeting, staff was asked to contact Worthington subdivision to see if they would be willing to do stormwater improvements on Leawood Meadows property - remove an existing open gabion channel and replace it with an enclosed system. In a letter to the Public Works Department, the Worthington Development Company stated they did not believe the cost to modify the existing gabion channel in Leawood Meadows was their responsibility. The gabion channel had functioned satisfactorily since it was built in 1985, and the development of Worthington did not cause it to be built or change its function. The letter further stated that flow from the existing gabion channel was considered by Ed Schlager of Schlager and Associates when the Worthington stormwater management system was designed in consultation with and approved by the City of Leawood. Engineering professionals at the city, state, and federal levels all reviewed and approved the manner in which Worthington had addressed stormwater management. The Company understood it was more aesthetically pleasing to Leawood Meadows property owners for the gabion to be enclosed, and had no objection to the property owners making such a modification at their cost and with the approval of the City of Leawood and review by Worthington’s engineer.

Public Works Director Brandt reviewed the drainage concerns. The 2 Leawood Meadows property owners (adjacent to the northern limit of Worthington) on either side of the open gabion channel had requested that the City build an enclosed system. The City determined it did not have the funds (approximately $75,000) to build the improvements; a project was to be submitted to SMAC for funding consideration. Then staff was asked to contact Worthington about their participation in the improvements.

Mr. Brandt felt there was no danger of flooding and that the real issue was aesthetics.

Don Ruppin, 13812 Fontana in Leawood Meadows, felt it was the City’s responsibility, not Worthington’s, to build the enclosed drainage system, and reiterated the concerns he had expressed at the July 5th Council meeting. Not only was the ditch unsafe for children, but was very unsightly with a buildup of weeds and dirt, and would probably flood. Mr. Brandt said that since this storm channel was within an easement, the City did maintain it, but usually in the winter months. If weeds were restricting the water flow, Public Works would check it immediately.
Councilmember Dunn, Chairman of the Public Works Committee, said the Committee had recommended discussions with Worthington. However, since the letter from Worthington Development Co. indicated that the storm channel would not flood Leawood Meadows subdivision or cause any flooding, the Committee would urge that SMAC give prompt consideration to the matter. Mrs. Dunn moved that the open gabion channel in Leawood Meadows subdivision be submitted to SMAC, seconded by Rasmussen and carried unanimously.

REQUEST BY WORTHINGTON DEVELOPMENT COMPANY AT APPROXIMATELY 140TH AND ROE AVENUE FOR A SHORT-TERM SPECIAL USE PERMIT - for the installation of a temporary sales information trailer at their main entrance from Roe: On motion of Rasmussen, seconded by Clawson, Council unanimously approved two ten-day temporary permits with stipulations to be effective on the date of occupancy. The City Council will consider a one-year special use permit at a future Council meeting.

ORDINANCE NO. 1421 AUTHORIZING ISSUANCE OF $8,300,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 1994-A, TO PROVIDE FUNDS TO FINANCE THE COST OF THE ACQUISITION OF PARK LAND IN THE VICINITY OF 151ST AND NALL AVENUE AND IMPROVEMENTS THERETO (THE CONSTRUCTION OF A MUNICIPAL GOLF COURSE), AND THE COST OF MAKING IMPROVEMENTS TO CERTAIN ROADS AND BRIDGES (MISSION ROAD FROM 103RD STREET TO COLLEGE BOULEVARD, AND TOWN CENTER DRIVE): The low bidder was George K. Baum & Associates with other participants with a 5.684517% average net interest rate. The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

AUTHORIZE CONTRACT FOR ENGINEERING DESIGN SERVICES FOR 83RD STREET IMPROVEMENTS: The Mayor said she would abstain from voting to avoid the appearance of a conflict of interest. On motion of Rasmussen, seconded by Campbell, Council unanimously authorized the Mayor to sign a contract with Black & Veatch in the amount of $237,683.00.

DISCUSSION OF 91ST STREET REHABILITATION PROJECT: Staff recommended that the Council reject all bids (5) since they were over the engineer's estimate. In lieu of modifying the plans to get the price within the budgeted amount, staff proposed that the project be reconsidered in 1995 with a submittal to SMAC, and that the 1994 Asphalt Rehabilitation project currently underway be modified by change order (next item to be considered) to include some streets proposed for 1995. Councilmember Rasmussen said that since 91st Street was in dire need of improvement, and it appeared to him that the project might be postponed for 2 years rather than 1, he felt the Council should accept the low bid and find the additional money in the budget.

Councilmember Giblin moved to reject the bids and follow the Public Works Director's recommendation, seconded by Clawson and carried unanimously.

DISCUSSION OF CHANGE ORDER NO. 1 TO THE CONTRACT WITH SEAL-O-MATIC PAVING COMPANY FOR THE 1994 ASPHALT REHABILITATION PROJECT: The change order was proposed due to the requested rejection of bids for the 91st
St. Rehabilitation project. Due to the time of the year, staff requested necessary modification and additions to the asphalt rehabilitation project rather than attempt to rebid the 91st St. project in 1994.

On motion of Rasmussen, seconded by Moore, Council unanimously approved Change Order No. 1 in the amount of $240,467.76, which added High Dr. between 89th St. and Lee Blvd., and Pawnee Lane between 119th St. and 121st St.; improved pavement sections on 6 selected streets; and a change in curb drain construction.

4017 ORDINANCE NO. 4122 ESTABLISHING THE 1995 ANNUAL ASSESSMENT FOR THE LEAWOOD SEWER SYSTEM: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4361 RESOLUTION NO. 1187 APPROVING THE REVISED PRELIMINARY PLAT OF STEEPLECHASE LOCATED AT THE SOUTHEAST CORNER OF 143RD AND MISSION - a revision of the plat previously known as Hillsboro: Planner Brick Owens of Ochsner Hare & Hare presented the plans.

The resolution, attached as part of the record, was adopted unanimously on motion of Patterson, seconded by Rasmussen.

4972 APPROVAL OF APPROPRIATION ORDINANCE NO. 738: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

5096 DISCUSSION OF THE SALE OF CEREAL MALT BEVERAGES AND LIQUOR ON ELECTION DAYS: The 1994 Kansas legislature changed state law to permit the sale of 3-2 beer and liquor on election days. City ordinance did not permit the sale of those beverages on election days. Councilmember LaHue moved to declare a moratorium on the enforcement of the sale of cereal malt beverages and liquor on election day, seconded by Clawson and carried unanimously. This matter will be considered by the Council approximately the first Council meeting in October.

5252 OTHER BUSINESS: Councilmember Dunn asked for an update on the increase in residential burglaries. Police Chief Cox said burglaries had not fit any particular pattern. Officers were being extra vigilant, and were trying to reinforce crime prevention efforts.

Councilmember Giblin said that the speed limit of 55 mph on 135th St. (unimproved) in Leawood was too high, and the intersection at Roe and 135th St. needed to be signalized. The speed limit on the improved section of 135th St. west of Leawood was 45 mph. City Administrator Garofano said the City would have to talk to the State of Kansas about lowering the speed limit since 135th was a state highway. He said it would be difficult to place an effective signal at the intersection without improving 135th St. itself. Police Chief Cox will make inquiries about lowering the speed limit.

5660 EXECUTIVE SESSION: On motion of Clawson, seconded by Campbell, Council voted unanimously to convene in executive session for a period not to exceed 15 minutes to discuss land acquisition.
5688 10:12 P.M. Recess.

10:17 P.M. Council convened in executive session. They returned to regular session at 10:27 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
PUBLIC HEARING

Tape No. 308

# 70 Minutes of a hearing for public comment on an amendment of the
original notice of hearing for the proposed 1995 Budget, held Monday,
August 15, 1994, at 7:30 P.M., in the Council Chamber, 9615 Lee Boule-
vard, Leawood, Kansas.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S.
Clawson, Graham G. Giblin, Sr., Douglas J. Moore, and Louis Rasmussen.
Councilmembers Peggy J. Dunn and Doug Patterson were absent. Staff
present: Richard J. Garofano, City Administrator; Terry Uhl, City En-
gineer; Robert McKay, Director of Planning and Development; Harry
Malnicof, Finance Director; J. Stephen Cox, Police Chief; Jerry Strack,
Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha
Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

Mayor Marcia Rinehart opened the hearing.

Finance Director Malnicof explained that the original notice of hearing
for the 1995 Budget had incorrectly indicated that the Golf Course Fund
would require $1,188,249 of taxes. Those tax dollars and mill levy re-
quirement should have been shown for the Bond and Interest Fund; no
tax dollars were required for the Golf Course Fund. Therefore, it was
necessary to publish an amended notice of hearing and conduct a new
hearing on the budget requirements for the Golf Course and Bond and In-
terest Funds.

There was no public comment.

The hearing was closed at 7:35 P.M.

Martha Heizer
City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Monday, August 15, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald Lahue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, and Louis Rasmussen. Peggy J. Dunn and Doug Patterson were absent. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Moore, after the addition of a recognition of Police Department employee achievements.

RECOGNITION OF POLICE SGT. DAVID SLADE AND POLICE OFFICER RANDY WILER: Police Chief Cox announced that Sgt. Slade had been elected president of the Kansas Association of Law Enforcement Planners, and that Officer Wiler was the new president of the Kansas DARE (Drug Abuse Resistance Education) Officers Association.

CITIZEN COMMENTS: Wayne Johnson, 4561 W. 138th Terr., was concerned about the storm drainage in the Leawood Meadows/Worthington subdivisions (had been discussed at several Council meetings) - the open gabion channel in Leawood Meadows was not safe. He urged the Council to investigate the cost of installing a 6-foot concrete pipe in the channel. Planning Director McKay told Mr. Johnson that the Council had decided at their last meeting not to build an enclosed drainage system and to submit a drainage project to SMAC for possible funding.

Allen Agron, 8021 Sagamore, behind the State Line Executive Office Park at 80th and State Line Rd., was concerned about the Office Park's work on a retention pond/retaining walls. Mr. Agron said there was a storm sewer outlet at the end of his cul-de-sac, and was concerned that it might lead into the retention pond, and if blocked, could cause backups during heavy rains. He was concerned about drainage from the retention site, pockets of ponding water breeding insects and causing erosion. He was also concerned about odor from sludge. He requested that lime be placed on the material to help eliminate the odor and that spraying be done for mosquitoes. He asked that the Council consider ordinances addressing retention ponds should ordinances not exist, and control over developments after development. Councilmember Moore was concerned that the City had not been able to produce plans for the work, and that no formal drainage study was done to insure that the work did not impact the area. Planning Director McKay said that a section of the property maintenance ordinance dealt with changing of drainage areas; reconfiguration of drainage swales and water being pushed into new areas and causing problems violated City ordinance. Staff would investigate the matter.
CONSENT AGENDA: A request for a traffic signal at 135th and Roe Ave., and recommendations on the City's property and casualty insurance coverages for 1994-1995, were removed for further discussion. The following were approved unanimously on motion of Campbell, seconded by Moore:

1. Minutes of the August 1, 1994, Council meeting;
2. Public Building Commission's report (minutes) of their August 8, 1994, meeting;
3. Public Works Committee report (minutes) of their August 4, 1994, meeting;
4. Departmental reports;
5. Appointments to Economic Development Task Force, attached as part of the record;
6. Bid of Twin Traffic Marking Corp. (only one received) in the amount of $13,231.44 for the 1994 Street Marking Program;
7. Assignment to the Public Works Committee to review the "Consulting Engineers Selection Policy/Procedures" (specifically, the part that stated that an RFP might be sent out to all pre-qualified firms along with a project interview schedule for each of the pre-qualified firms when projects had a consultant fee budget of $10,000 or more - staff wanted to increase the $10,000 to $20,000 to reduce staff and committee time associated with interviewing consultants);
8. Renewal of retail liquor occupation license - Faust's Retail Liquor, 11841 Roe Ave., Camelot Court Shopping Center.

City's property and casualty insurance coverages for 1994-1995: After a brief discussion to confirm the recommended insurance companies, and on motion of LaHue, seconded by Campbell, Council unanimously approved the recommendations for the various coverages with premiums totaling $183,929.00.

Request by J.E. McNair, 13703 Granada, for a traffic signal at 135th (K-150) and Roe Ave.: Public Works staff had indicated that a temporary signal was needed, but timing was not good since it would take 6 months to obtain state (KDOT) approval (K-150 being a state highway) and complete the temporary construction, and by then, K-150 improvements could be under contract with construction in progress. Also, a temporary signal at 135th and Mission Rd. had increased the number of accidents at that intersection.

City Administrator Garofano said that K-150 improvements had been held up by a recent lawsuit brought by abutting property owners, disputing the City's method of spreading part of the cost of improving K-150 to them. On July 21st, District Court ruled in favor of the City, saying that the use of impact fees along K-150 was a legal exercise of home rule authority. Property owners had until August 21st to appeal the decision. If an appeal was not filed, KDOT would bid the improvements early spring 1995. Public Works suggested holding off building a temporary signal to see if K-150 improvements would start in the spring.

City Engineer Uhl confirmed for Councilmember Rasmussen that a traffic signal at 135th & Roe was part of the K-150 improvements approved to date, to be installed at some point in the future.

City Attorney Wetzler confirmed for Mr. Rasmussen that the City's option to form a benefit district to fund K-150 improvements was pend-
August 12, 1994

TO: Council
FROM: Mayor Rinehart
RE: Economic Development Task Force

Submitted for Council approval is the membership of the Economic Development Task Force:

INFORMATION SERVICES
Co-Chairs
Doug Moore
Graham Giblin
Citizen Members
Marlene Nagel -- MARC
Randy Huber -- A.L. Huber Co.
Joe Neuner -- retired;
formerly president of BMA

RESOURCE MANAGEMENT
Chair
Peggy Dunn
Citizen Members
John Moffit, Jr. -- Moffit Development Co.
Stu Murdock -- United Missouri Bank
Carroll Boylan -- C. J. Boylan Commercial Realty

ATTRACTION EFFORTS
Co-Chairs
Marnie Clawson
Doug Patterson
Citizen Members
Dennis Eskie -- D.J. Eskie & Assoc.
Kirby Deeter --
Varnum-Armstrong-Deeter
Paul Khoury -- restaurateur

RETENTION STRATEGIES
Co-Chairs
Ron LaHue
John Campbell
Citizen Members
Bernard Erdman -- Padgett Thompson Div./American Management Associates
Don Crews -- Metro Distributors
Dan Froelich -- Burns & McDonnell

All proposed citizen members live in Leawood and have extensive business experience.

As you recall, the Council has agreed to a kick-off meeting of the Task Force on Monday, August 29, 1994, at 7:00 p.m. in the Council Chambers. The focus groups will decide their own meeting schedules that evening.
ING, awaiting a decision of the Kansas Supreme Court in the fall on Leawood's, Overland Park's and Olathe's appeals of lawsuits relating to the use of benefit districts for main trafficway improvements.

Several residents spoke in favor of the need for a signal. Charles Schaefer, 13701 Fontana, presented a petition with 319 signatures requesting installation of a signal. Mr. Schaefer did not anticipate quick resolution of the K-150 lawsuit, and therefore felt the City should install a temporary signal immediately for safety purposes. Residents also felt the speed limit needed to be reduced from 55 mph to 45 mph.

Councilmember Giblin moved to approve the installation of a temporary traffic signal at 135th & Roe Ave., seconded by Moore and carried unanimously.

RESOLUTION NO. 1188 APPROVING REQUEST FOR REZONING FROM CP-0 TO CP-2, AND APPROVING THE FINAL SITE PLAN, FOR GEORGE'S IMPORTS (CAR DEALERSHIP) AT 8011 STATE LINE ROAD: Adopted unanimously on motion of Rasmussen, seconded by Giblin. Attached as part of the record.

ORDINANCE NO. 1423 REZONING PROPERTY (GEORGE'S IMPORTS) LOCATED AT 8011 STATE LINE ROAD FROM CP-0 TO CP-2: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas—LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen. Nays—None.

DISCUSSION OF SIDEWALK ON THE SOUTH SIDE OF 123RD STREET, STATE LINE RD. TO MISSION RD.: Public Works staff and the Public Works Committee recommended that the City not build the sidewalk, cost estimated to be $249,125. There was a sidewalk on the north side of the street. Councilmember Rasmussen moved to accept the recommendation, seconded by Clawson and carried unanimously.

PROPOSAL (LETTER OF AGREEMENT) FOR A STORMWATER/EROSION CONTROL STUDY FOR THE LEAWOOD SOUTH COUNTRY CLUB (GOLF COURSE) DRAINAGE PROJECT: On motion of LaHue, seconded by Campbell, Council unanimously approved the proposal of George Butler Associates in the amount of $8,900. The project would be submitted to SMAC for possible funding.

REQUEST FOR CONTRACT TIME EXTENSION TO COMPLETE THE BRIDGE REPLACEMENT AT 85TH TERR. AND HIGH DR.: On motion of LaHue, seconded by Campbell, Council unanimously approved a 30-calendar day extension to Mega Construction Co. Delays were due to utility relocation conflicts, material and design modifications, and inlet modifications.

AGREEMENT WITH PULTE HOMES OF GREATER KANSAS CITY, INC., FOR THE IMPROVEMENT OF 143RD AND MISSION ROADS: Pulte had the contractual right to purchase approximately 138 acres located generally at the southeast corner of 143rd St. and Mission Rd. (John Irwig property). Councilmember Rasmussen moved to approve the agreement, seconded by Campbell and carried unanimously.

ORDINANCE NO. 1424 AUTHORIZING THE IMPROVEMENT OF 83RD STREET: The ordinance was considered and passed on motion of Rasmussen, seconded by
Council Minutes  
Tape No. 308  

August 15, 1994  

Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen. Nays---None.

2752 **AUTHORIZE CONTRACT FOR ENGINEERING SERVICES FOR ADA SIDEWALK MODIFICATION PROGRAM:** On motion of Clawson, seconded by Rasmussen, Council unanimously approved the contract with Shafer, Kline & Warren, P.A., in the amount of $8,452.97.

2866 **APPROVAL OF APPROPRIATION ORDINANCE NO. 739:** The ordinance was considered and passed on motion of Campbell, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Rasmussen. Nays---None.

2945 **DISCUSSION OF IMPROVEMENT PROJECTS ALONG I-435 AND ON SECTIONS OF MISSION ROAD:** Potential bottlenecks could result from the scheduling of the various improvement projects - I-435 widening; I-435 frontage road, Lee Blvd. to Mission Rd.; Mission Rd., I-435 to College Blvd.; Mission Rd., 103rd St. to I-435; and Mission Rd. bridge over Indian Creek. Staff recommended that the Governing Body authorize staff to bid the Mission Rd. project between the bridge over Indian Creek (proposed frontage road access to the City park) and College Blvd., and to take the appropriate action to terminate the lease agreement with Indian Valley Stables so they could relocate their operation in a timely manner. The Council discussed funding and a report prepared by the City Engineer.

4004 Councilmember Moore moved to approve the extension of Mission Rd. from the frontage road to College Blvd. (staff’s recommendation), seconded by Clawson. City Administrator Garofano suggested staff meet again with KDOT to discuss the City’s project, KDOT’s project, and the project from 103rd St. to I-435, and report to the Council at the August 29th work session or at a September Council meeting. Motion and second were withdrawn.

4285 **OTHER BUSINESS:** The Economic Development Task Force would meet August 29th at 7:00 P.M. The Council would have a work session following the Task Force meeting to discuss the space needs study and perhaps the design criteria for 83rd St.

4326 9:40 P.M. There being no further business before the Council, the meeting was adjourned.

[Signature]
Martha Heizer  City Clerk
Tape No. 309

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Tuesday, September 6, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Mark Andrasik, Director of Information Services; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Campbell, seconded by Clawson, after the addition of a proclamation for the Kansas City Chiefs Football Team's "Red Friday" and a proposal relating to the City's legal services, and the deletion of a request for a special use permit to hold a Kansas State University pep rally at Camelot Court Shopping Center, 119th and Roe Ave.

CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, repeated the request he had made at the July 18th Council meeting that a questionnaire be printed in a City newsletter or mailing to solicit residents' opinions on several issues.

Ray Pitman, 11400 Brookwood in Hallbrook, said he had recently received a request to survey (pre-blast survey) his home prior to some blasting that would be done in Hallbrook 7th Plat for sanitary sewer construction. His home had sustained damage during blasting about a year and a half ago. The contractor's insurance company never paid his claims as they should have, and as far as he knew, his neighbors hadn't received compensation either. Mr. Pitman's company, Pitman Construction Co., had laid most of the water lines in Johnson County, so he knew equipment had been developed to remove rock so that blasting was not necessary. He felt it was not fair for a developer to use blasting because he had a "schedule to meet", without regard for the homeowners who had invested in his subdivision. Mr. Pitman asked that the blasting permit not be issued.

Brad Muhl (2404 W. 114th St.), Ray McGuire (2500 W. 114th St.), and Bob Rosevear (11345 Brookwood) also opposed the blasting.

Residents presented a petition requesting rejection of any and all permits and/or approvals for any form of explosive blasting in Hallbrook Farms, 7th Plat, at any time. City Administrator Garofano reviewed the procedure to appeal to the City Council the approval of a blasting permit. City Attorney Wetzler advised that even though the petition might not meet the technical language of the blasting ordinance, he felt it was fairly clear that the residents were trying to make an appeal. Fire Chief Strack said the blasting contractor was in the process of applying for a blasting permit, that no permit had been issued.
Mr. Pitman said he had received nothing but negative responses from the blasting contractor McCorkendale Construction, Hallbrook developers, and the contractor's insurance carrier, relative to the damage caused by the blasting several months ago. Councilmember Rasmussen asked why the City would issue a blasting permit to the same company (McCorkendale Construction) if the City's procedures were followed but the end result was not accomplished. He thought the City could handle the problem in the same manner as contractors who didn't perform satisfactorily - the contractor wouldn't get the work.

City Attorney Wetzler said there had been a number of occasions when the City had imposed additional restrictions, monitoring, photographs, or even prohibited blasting, in accordance with City procedure/ordinance.

Councilmember Campbell was concerned that the request for an appeal of an approved permit would not stay a contractor's ability to execute the permit - it was conceivable that blasting could occur before an appeal ever took place. Mr. Campbell hoped there would be some kind of hearing before action was ever taken on the issuance of the permit.

Fire Chief Strack said the blasting ordinance was written to protect homeowners, and he thought the Council might want to consider amending the ordinance to address bonafide damage claims that were not paid by insurance companies.

1546 **PROCLAMATIONS:** The Mayor proclaimed:
1. October 10, 1994, as "Double Tenth Day" (for sister city I-Lan, Taiwan, in honor of the 83rd anniversary of the Republic of China on Taiwan);
2. September 12, 1994, as "Verbal Abuse Awareness Day";
3. September 11-17, 1994, as "The National Association of Women in Construction Week";
4. September 9, 1994, as "Red Friday" (to honor the Kansas City Chiefs Football Team and the Red Coaters).

1550 **CONSENT AGENDA:** The 1993 audit with management letter, and the space needs study, were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by LaHue:
1. Minutes of the August 15, 1994, public hearing on an amendment of the original notice of hearing for the 1995 budget;
2. Minutes of the August 15, 1994, Council meeting;
3. Resolution No. 1189, attached as part of the record, approving the final plat of Steeplechase at the southeast corner of 143rd and Mission Rd.;
4. Appointment of Frances Gershon (owner of U.S. Toy Co. at 103rd & State Line Rd.) to the Economic Development Task Force;
5. Authorization to negotiate a final contract for janitorial service for City facilities with the low bidder Town & Country ($2,364 per month) - for police, court, public works, temporary facilities, and the new city hall.

Independent Final Audit of the City's 1993 financial statements with Management Letter: After questions about the Management Letter's prior year recommendations on the general ledger system, fixed assets on a computer schedule rather than on a manual ledger, cash reconcilia-
Space Needs Study prepared by CDFM2 on future requirements of Fire, Parks & Recreation, Public Works, Police, Municipal Court: Councillor Patterson said he wanted to acknowledge receipt and satisfaction of the study, rather than accept the contents or concur with the recommendations. Councillor LaHue moved to acknowledge receipt of the study, seconded by Dunn and carried unanimously.

RESOLUTION NO. 1190 APPROVING THE FINAL SITE PLAN FOR THE IRON HORSE GOLF CLUB CLUBHOUSE: Adopted unanimously on motion of Rasmussen, seconded by Campbell. Attached as part of the record.

AUTHORIZATION TO OBTAIN BIDS FOR CONSTRUCTION OF MISSION ROAD, I-435 TO COLLEGE BOULEVARD: The City would let a contract for the construction of Mission Road as a 4-lane arterial from College Blvd. to the north end of the Indian Creek bridge. The section of roadway from the end of the Indian Creek bridge north towards I-435 would be built to final grade but with 2 lanes of temporary surface under KDOT's I-435 widening contract (as would the new frontage road into Leawood Park). Later, the City would add the 4 lanes of permanent surface for this section as part of the Mission Rd., 103rd to I-435, project, which would be funded in part with federal funds. The Council would consider an agreement with KDOT at their September 19th or October 3rd meeting.

Councilmember LaHue asked City Administrator Garofano to restate why the City would go ahead and spend additional dollars without County funding, and not postpone the project to a future date when the City could reapply for that funding. Mr. Garofano said it was basically due to the timing of the improvements to I-435. KDOT had requested the City delay the project from 103rd St. south under I-435 until KDOT had completed construction on I-435, and since Mission Rd. from 103rd St. south would be under construction one way or another for approximately 30 months, the City felt it imperative to provide an additional access into Leawood Park and to the frontage road coming from the south. The frontage road access into the park could be constructed to its final grade to intersect with the new section of Mission Road, not the 103rd to I-435 project. And Mission Rd. from I-435 to College should be completed prior to construction of the College Blvd. improvements to avoid conflicts in that area between contractors.

Councilmember Campbell moved to authorize staff to obtain bids for the construction of Mission Road, I-435 to College Blvd. Motion seconded by Moore.

Councilmember Rasmussen said he would vote against the motion. When the City first learned about I-435 improvements, the Council was concerned about the Lee Blvd. bridge over I-435. They were assured at that time that the City would have access to Leawood Park. There would be an access road south of I-435 before the Lee Blvd. bridge was removed. Now it seemed to him (that KDOT was saying) that because KDOT wanted to have various efficiencies with the control of the intersec-
ation of Mission Rd. and I-435, and that if the City didn't allow that, the City would have difficulties having access to Leawood Park from the south, and that to maintain access, the City would have to pay the full cost of Mission Rd. from College Blvd. to I-435, and the City would have an access road that would cost the City $575,000.

The Mayor stated that KDOT never said that the City would have to construct Mission Rd. from College Blvd. to I-435. KDOT merely requested that Mission from the bridge to the frontage road (park access) be at a grade acceptable to get traffic-in, but never demanded that the City construct the road. KDOT had assured the City that Mission Rd. would be open from 103rd St. to the frontage road. There was a consensus at the August 29th work session that it was important to provide access from the south as well as from the north, and because it appeared that the County would not participate at least in the next five years in the funding of Mission from College to I-435, it was important that the City go ahead and do the project.

Mr. Campbell's motion to obtain bids carried; Rasmussen opposed, all others in favor.

2560 AUTHORIZATION OF A CONTRACT FOR THE DESIGN AND CONSTRUCTION OF THE IRON HORSE GOLF CLUB CLUBHOUSE: Councilmember Rasmussen said he did not detect in the draft of the contract the concept expressed by the golf course committee that the engineering/architect firm was going to prepare a contract that would have a not-to-exceed price, and that the bidding for the subcontracts would go out and be reviewed and that any savings that accrued in those contracts would be returned to the City. Golf course project manager Phil Gibbs said Mr. Rasmussen was correct. Mr. Gibbs would propose that there be a not-to-exceed of $489,778.00 (the guaranteed maximum by the contractor), with review of all the major subcontractors' bids, with the savings to be returned to the City.

Mr. Rasmussen said the section on appliances was not clear. It was his understanding at the committee meeting that the City would work with Evergreen Alliance Golf Limited (EAGL) to try to get better prices on the appliances, not to exceed $50,000, and any savings to be to the benefit of the City. Mr. Gibbs said the contractor could furnish and install the appliances for an additional lump sum of $50,000, and that this option would have to be exercised by the City within 60 days from the date of the contract. Mr. Gibbs said that Mike Lohner of EAGL had indicated he could do better. Mr. Rasmussen said the committee was concerned about the coordination of the framing for the equipment and how that would be handled; that was not clear in the contract either. Mr. Gibbs said the contractor's cost for the kitchen equipment was roughly $39,000, the installation was $6-7,000, and the remainder of the $50,000 was markup. Mr. Gibbs said the City should insist on getting the breakdown from the contractor so the City could use the figures if necessary. Mr. Rasmussen said that the time frame for the construction of the clubhouse with the golf course being operational in April 1995 necessitated the contract being considered by the Council at this time. However, the contracts were not in any shape that Mr. Rasmussen felt comfortable with, but he did have confidence in staff and Mr. Gibbs to reflect the intent of the golf committee.

Councilmember Campbell moved to approve the contract with Eshenroder Construction in substantial conformity with the terms dis-
cussed tonight giving staff adequate flexibility with that purpose and intent to come up with the proper form of the contract, seconded by Rasmussen. Motion carried unanimously.

ORDINANCE NO. 1425 GRANTING A SANITARY SEWER EASEMENT TO LATERAL SEWER DISTRICT #6 OF TOMAHAWK CREEK SEWER SUB-DISTRICT #4 — since sanitary sewer construction in Hallbrook Plat 7 had to cross land within the Leawood Greenway: The sewer line would be owned and maintained by the Johnson County Unified Wastewater District and constructed by the Hallbrook developer. The ordinance was considered and passed on motion of LaHue, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

DESIGNATION OF VOTING AND ALTERNATE VOTING DELEGATES TO THE ANNUAL CONGRESS OF CITIES, DECEMBER 1-4, 1994, IN MINNEAPOLIS, MINNESOTA: On motion of Moore, seconded by Clawson, Council unanimously selected City Administrator Garofano to be the voting delegate and Councilmember Dunn the alternate voting delegate.

APPROVAL OF APPROPRIATION ORDINANCE NO. 740: The ordinance was considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

EXECUTIVE SESSION: On motion of Dunn, seconded by Moore, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss land acquisition.

OTHER BUSINESS: Councilmember Rasmussen moved to authorize the City Administrator to issue requests for proposals to provide legal services to the City, including those performed by the City Attorney and/or the City Prosecutor, seconded by Patterson. The Mayor explained that the City Attorney and City Prosecutor were by ordinance appointed by the Mayor by and with the consent of the City Council.

Councilmember Patterson moved to amend the motion to include bond counsel, seconded by Rasmussen. The Mayor felt the Council would have to fully discuss what their requirements would be before RFP’s could be issued, and it seemed only fair to meet with the City Attorney and City Prosecutor to obtain their input. Also, it might be prudent to reconsider whether or not the City should hire an in-house attorney in the future.

Councilmember Campbell was opposed to Mr. Rasmussen’s proposal - a great deal of time would have to be spent in formulating the specifications for the positions, how would the City narrow down the law firms to receive RFP’s, and it would not be practical to try to compare bids the way the City compared construction bids.

The City Attorney was evaluated several months ago. Councilmember LaHue thought the Council had decided to review his performance again in 2 years. Councilmember Moore felt the matter should not be considered until the 2 years were up. Mr. Rasmussen did not recall any commitment on his part to a contract term for existing legal services.
Council Minutes
Tape No. 309

September 6, 1994

Mr. Patterson's motion to amend failed; Giblin, Dunn, Rasmussen, Patterson in favor; LaHue, Campbell, Clawson, Moore opposed.

Mr. Rasmussen's main motion failed; Rasmussen in favor; Giblin abstained (he needed more information); all others opposed.

Councilmember Dunn moved to have a work session (October 10th) to consider legal services, seconded by LaHue and carried unanimously.

9:40 P.M. Council convened in executive session, same members present. They returned to regular session at 10:10 P.M., same members present. On motion of Giblin, seconded by Moore, Council voted to return to executive session for 10 minutes to continue discussion of the same matter; LaHue opposed, all others in favor.

10:18 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 310

# 22 The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, September 19, 1994. Councilmember Marnie Clawson presided in the absence of Mayor Marcia Rinehart.

Councilmembers present: Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Ronald LaHue and John R. Campbell, Jr., were absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Battalion Chief Steven Blann, Fire Department; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

On motion and duly seconded, the agenda was approved unanimously after the addition of an executive session at the end of the meeting to discuss appraisers’ proposals for College Boulevard improvements.

CITIZEN COMMENTS: None.

PROCLAMATIONS: The Mayor had proclaimed:
1. September 17-23, 1994, as "Constitution Week"; and
2. October 1994, as "City of Leawood Safety and Wellness Month".

CONSENT AGENDA: Consideration of a bid for the installation of a pedestrian bridge at Roe Ave. and Tomahawk Creek was removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Moore:
1. Minutes of the September 6, 1994, Council meeting;
2. Parks and Recreation Advisory Board report (minutes) of their September 13, 1994 meeting;
3. Departmental reports;
4. Declaration of surplus property - various pieces of office furniture and equipment used by City staff not to be relocated to the new city hall at 4800 Town Center Drive, but to be sold at a public sale at the administrative offices during the month of October 1994.

Pedestrian bridge at Roe Ave. and Tomahawk Creek: After confirmation that the County would pay for additional items mentioned in the contractor’s proposal, and on motion of Giblin and duly seconded, Council unanimously accepted the proposal of L.G. Barcus & Sons in the amount of $19,494.00, for construction of abutments, footings, mobilization, loading, unloading, and placement of the bridge.

APPEAL OF A DENIAL OF A PERMIT TO KEEP 5 CATS - Peggy Johannsen, 12309 Overbrook Rd.: On August 24, 1994, Animal Control had denied a permit to keep 5 cats based on the written objections of 2 neighbors within 200 feet of the Johannsen residence in accordance with City ordinance. Mrs. Johannsen presented letters from several other neighbors who did not object to the 5 cats. Animal Control did not object to a permit.
being issued. On motion of Moore, seconded by Patterson, Council unanimously approved a permit to keep 5 cats at the Johannsen residence.

443 RESOLUTION NO. 1191 APPROVING A REQUEST FOR REZONING FROM CP-0 TO CP-1 AND REVISED PRELIMINARY SITE PLAN APPROVAL FOR COMMERCE BANK, LOT 1, LEAWOOD COMMONS, NORTHEAST CORNER OF TOWN CENTER DRIVE AND NALL AVENUE: Councilmember Dunn moved to adopt the resolution, seconded by Rasmussen. Mr. Rasmussen was concerned that landscaping would hinder security of the ATM units. Applicant indicated that additional lighting and fencing had been added to the plan. The Police Department would have a chance to review security at final plan approval. The resolution, attached as part of the record, was adopted unanimously.

ORDINANCE NO. 1426 REZONING PROPERTY LOCATED AT THE NORTHEAST CORNER OF TOWN CENTER DRIVE AND NALL AVENUE (COMMERCE BANK) FROM CP-0 TO CP-1: The ordinance was considered and passed on motion of Moore, seconded by Rasmussen. On roll call, the vote was: Yea---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

738 RESOLUTION NO. 1192 APPROVING A REQUEST FOR A SPECIAL USE PERMIT AND PRELIMINARY PLAT AND PRELIMINARY SITE PLAN APPROVAL FOR STERLING HOUSE OF LEAWOOD, APPROXIMATELY 12TH AND STATE LINE ROAD: The special use permit was limited to an assisted living community designation, and would be valid for as long as that use was maintained. The resolution, attached as part of the record, was adopted unanimously on motion of Rasmussen, seconded by Moore.

1013 AUTHORIZE PROPOSAL (SUPPLEMENTAL AGREEMENT) TO PREPARE CONSTRUCTION PLANS AND PROVIDE CONSTRUCTION MONITORING SERVICES FOR TEMPORARY TRAFFIC SIGNALS AT THE INTERSECTION OF K-150 AND ROE AVENUE: On motion of Rasmussen, seconded by Giblin, Council unanimously approved the proposal of Howard Needles Tammen and Bergendoff (HNTB) engineers in the amount of $8,200. The City would select and negotiate a construction contract; a formal bidding process would not be used.

1084 AUTHORIZE ENGINEERING DESIGN MEMORANDUM FOR 83RD STREET IMPROVEMENTS, STATE LINE ROAD TO MENONGA: Councilmember Rasmussen pointed out a conflict between #5 "Lighting" of staff's memo which indicated that the City would own the street light system, and #4 "Street Lighting" on page 12 of the design memorandum which indicated the City might conduct a study to determine whether leasing or purchasing of the street lighting system would offer the best economic advantages. Mr. Rasmussen said the street lighting design should be appropriate for 83rd Street.

On motion of Rasmussen, seconded by Moore, Council unanimously approved the design memorandum prepared by Black and Veatch engineers.

1256 DISCUSSION OF CONSULTING ENGINEERS SELECTION POLICY: The Public Works Committee supported staff recommendation to increase the budgeted design fee for small projects from $10,000 to $20,000 so the Public Works Department could recommend consultants for projects under $20,000 to the Public Works Committee without going through an interview process. On motion of Rasmussen, seconded by Dunn, Council unanimously approved
staff's recommendation.

1319 **DISCUSSION OF STORM DRAINAGE IMPROVEMENTS AT 8435 CHEROKEE (ROLLER RESIDENCE):** This matter had been assigned to the Public Works Committee for review at the June 20, 1994, Council meeting. The Public Works Committee and staff recommended that 2 existing pipes be replaced with one concrete pipe at $159,220.35 (including engineering), to be funded by bonds and built in 1995. On motion of Dunn, seconded by Rasmussen, Council unanimously authorized the recommended improvements.

1421 **DISCUSSION OF BLASTING ORDINANCE:** Concern had previously been expressed (especially by residents of Hallbrooke subdivision) about the appeals process for protesting the issuance of a blasting permit. Under City ordinance, a permit could be issued and blasting could occur prior to an appeal being heard by the City Council.

Ray Pitman, Vicki Springs (damage to her home, damage claim denied, no support from Hallbrooke Realty) and Sam Devinki of Hallbrooke subdivision, spoke against the issuance of a blasting permit in Hallbrooke, 7th Plat. Mr. Devinki said that the ordinance as written did not really protect homeowners; it needed to be reviewed and amended.

Councilmember Giblin felt perhaps blasting should not be permitted within 1000 feet of residences instead of within only 500 feet. Councilmember Moore felt that the problems with insurance carriers denying damage claims needed to be addressed. Councilmember Rasmussen felt staff should be instructed not to issue a blasting permit for blasting in Hallbrooke, 7th Plat, until the blasting ordinance (appeals process) was amended. Councilmember Patterson felt the appropriateness of blasting versus using a hoe ram should be considered, and the past experiences of contractors and insurance companies.

Councilmember Rasmussen moved to direct the City Attorney to rework the appeals provision of the blasting ordinance to preclude blasting prior to Council hearing on an appeal, and to review Sec. 77.103 (c), "Blasting Operations", for more detailed wording. Motion seconded by Moore and carried unanimously.

2150 **REQUEST FOR A SPECIAL USE PERMIT FOR OUTSIDE SEATING AND MUSIC - CACTUS GRILL,** 11849 ROE AVENUE, CAMELOT COURT SHOPPING CENTER: On May 10, 1994, the Plan Commission approved a revised final site plan to allow outside seating with stipulations - outside amplification/music prohibited, and the applicant to file for a special use permit within 30 days. The applicant violated the stipulations by having outside music and did not apply for the special use permit within the 30 days as required. The applicant finally applied for the permit but did not appear at the Plan Commission meeting to explain and support the application. The Plan Commission recommended that the Council deny the special use permit.

Councilmember Rasmussen moved to deny the special use permit, seconded by Dunn. Councilmember Patterson said it was a nice facility and felt the matter should be returned to the Plan Commission. Councilmember Rasmussen felt that the City needed to get the point across to business owners that they needed to adhere to City ordinances. Motion to deny failed; Rasmussen in favor, all others opposed.
Council Minutes
Tape No. 310

September 19, 1994

3048 Councilmember Patterson moved to approve a special use permit for outside seating without music and signage, seconded by Giblin. Motion carried unanimously.

3122 REQUEST FOR A TEMPORARY SPECIAL USE PERMIT BY WORHTINGON DEVELOPMENT COMPANY: to allow the installation of a temporary sales information trailer for Worthington at approximately 140th and Roe Ave. at their main entrance from Roe. On motion of Rasmussen, seconded by Giblin, Council unanimously approved the permit with stipulations for a period of one year from the date of occupancy.

RESOLUTION NO. 1193 DECLARING THE NECESSITY TO APPROPRIATE PRIVATE PROPERTY REQUIRED FOR IMPROVEMENTS TO NALL AVENUE, 119TH STREET TO 135TH STREET, AND AUTHORIZING A SURVEY AND DESCRIPTION OF LAND AND INTEREST TO BE CONDEMNED: Adopted unanimously on motion of Rasmussen, seconded by Dunn. Attached as part of the record.

3245 ORDINANCE NO. 1427 AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY REQUIRED FOR IMPROVEMENTS TO NALL AVENUE, 119TH STREET TO 135TH STREET, AND AUTHORIZING SURVEY AND DESCRIPTION OF LAND AND INTEREST TO BE CONDEMNED: The ordinance was considered and passed on motion of Moore, seconded by Rasmussen. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3263 AUTHORIZE APPRAISERS' PROPOSALS FOR COLLEGE BOULEVARD IMPROVEMENTS:
See executive session at end of meeting.

3329 AUTHORIZE CONTRACT FOR ENGINEERING DESIGN SERVICES FOR SANITARY SEWER RECONSTRUCTION: On motion of Rasmussen, seconded by Moore, Council unanimously approved a contract with George Butler Associates, Inc., in the amount of $61,454.00.

3385 ORDINANCE NO. 1428C ADOPTING THE 1994 EDITION OF THE "STANDARD TRAFFIC ORDINANCE": The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3458 ORDINANCE NO. 1429C AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR VIOLATIONS OF LOCAL TRAFFIC REGULATIONS: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3472 ORDINANCE NO. 1430C ADOPTING THE 1994 EDITION OF THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES": The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3493 ORDINANCE NO. 1431C AMENDING SECTION 11-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR LOCAL PUBLIC OFFENSE VIOLATIONS: The
ordinance was considered and passed on motion of Moore, seconded by Rasmussen. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3506 ORDINANCE NO. 1432C AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR DRUG OFFENSES: The ordinance was considered and passed on motion of Rasmussen, seconded by Dunn. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3521 RESOLUTION NO. 1194 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT TO INCLUDE THE BRIDGEMOON SUBDIVISION LOCATED AT APPROXIMATELY 132ND AND ROE AVE. ON THE WEST SIDE OF ROE: Adopted unanimously on motion of Moore, seconded by Rasmussen. Attached as part of the record.

3537 DESIGNATION OF VOTING DELEGATES FOR THE LEAGUE OF KANSAS MUNICIPALITIES ANNUAL MEETING IN TOPEKA IN OCTOBER: On motion of Dunn, seconded by Rasmussen, Council unanimously designated the City Administrator as the voting delegate.

3716 APPROVAL OF APPROPRIATION ORDINANCE NO. 741: The ordinance was considered and passed on motion of Rasmussen, seconded by Moore. On roll call, the vote was: Yeas---Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

3964 EXECUTIVE SESSION: On motion of Rasmussen, seconded by Giblin, Council voted unanimously to convene in executive session for a period not to exceed 15 minutes to discuss contractual relationships relating to the College Blvd. improvements.

3972 9:30 P.M. Council convened in executive session, same members present, and returned to regular session at 9:40 P.M., same members present.

AUTHORIZE APPRAISERS' PROPOSALS FOR COLLEGE BOULEVARD IMPROVEMENTS, EL MONTE TO STATE LINE ROAD: On motion of Rasmussen, seconded by Giblin, Council unanimously approved the proposal of Metropolitan Appraisal Company in the amount of $14,000 to perform the appraisals, and the proposal of Shaner Appraisers, Inc., in the amount of $6,300 to perform the review appraisals.

4021 9:42 P.M. There being no further business before the Council, the meeting was adjourned.

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Martha Heizer City Clerk
Tape No. 311

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, October 3, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Terry Uhl, City Engineer; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Fran Kessler (in the absence of the City Clerk); and Richard S. Wetsler, City Attorney.

The agenda was approved unanimously on motion of Clawson, seconded by Moore, after the deletion from the consent agenda of a resolution relating to the final plat of Sterling House located at 127th & State Line Rd.

83 CITIZEN COMMENTS: None.

90 CONSENT AGENDA: The following were approved unanimously on motion of Rasmussen, seconded by Moore:

1. Public Works Committee report (minutes) of their September 8, 1994 meeting;

2. Declaration of surplus property - vehicles no longer used by the Police Department - 5 1992 Chevrolet Caprices (VIN 0951, 0810, 1661, 0969, 0726), and 1 1990 Chevrolet Caprice (VIN 7120);

3. Appointment of Leigh Mutert (3214 W. 101st St.) to the Drug and Alcoholism Council of Johnson County, to temporarily replace Nancy Garland until January 1, 1995, while Mrs. Garland takes a leave of absence;

4. Resolution No. 1195, attached as part of the record, approving the revised final plat of Tomahawk Creek Estates located at 116th and Pawnee.

142 DISCUSSION OF AMENDMENTS TO BLASTING REGULATIONS: The City Attorney presented amendments to the blasting ordinance/Uniform Fire Code - 1) a new section 77.103(p) directing the Public Works Director to maintain blasting permit records for a period of 5 years; 2) a new section 77.103(q) pertaining to blasting applicants' prior history of compliance with ordinance requirements and denial of blasting permits to contractors who had violated the ordinance within the preceding 5 years; and 3) an amended section 77.103.1 which made it clear that an appeal of the issuance of a blasting permit would stay the validity of the permit until Council had heard the appeal, and added that appeals would be limited to property located within 500 feet of a blast site.

Councilmember Rasmussen moved to approve the City Attorney's recommendations on Sec. 77.103(p) as written and Sec. 77.103(q) as written with one change in the last sentence, the word "shall" changed to "may". Motion seconded by Clawson and carried unanimously. Sec. 77.103(p) to read: BLASTING RECORDS. The Director of Public Works
shall maintain records pertaining to all blasting permits issued by the City for a period five years. In addition to the records required by the ordinance, the Director shall include records regarding compliance with this ordinance by all persons and entities that have received blasting permits from the City. Sec. 77.103(g) to read: PERMITS NOT ISSUED TO ENTITIES VIOLATING ORDINANCE. In addition to the penalties provided by this ordinance, it is the policy of the City that the Director of Public Works, in reviewing applications for blasting permits, shall consider the applicants' prior history of compliance with the requirements of this ordinance. The Director of Public Works may refuse to issue a blasting permit to any person or entity that has violated the ordinance within the preceding five years.

Councilmember LaHue moved to approve an amendment to Sec. 77.103.1 (suggested by Mr. Campbell) and a new Sec. 77.103.(h)ll (suggested by the City Attorney). Motion seconded by Clawson and carried unanimously. Sec. 77.103.1 with Mr. Campbell's suggestion underlined to read: APPEALS. The owner, lessee, agent, operator, or occupant of property located within five hundred feet of a blast site who is aggrieved by any decision, order or permit issued pursuant to this Article may file an appeal to the City Council. The appeal shall be in written form and shall be made to the Director of Public Works. Such appeal must be filed within ten days of the date that the written notice of intent of the City to issue a blasting permit is mailed (pursuant to Section 77.103 (h)ll). However, there shall be only one hearing for each blasting permit issued or intended to be issued. The Director shall cause the appeal to be heard at the next available City Council meeting. Such appeal shall stay the execution of any decision, order or permit issued pursuant to this Article until said order has been heard and reviewed, vacated, or confirmed by the City Council. The City Council shall at same hearing confirm, modify, revoke or vacate such decision, order or issuance of permit. Unless revoked or vacated, such decision, order or permit shall then be complied with. Nothing contained in this Article shall be deemed to deny the right of any person, firm, corporation, copartnership, or voluntary association to appeal such decision to a court of competent jurisdiction. Sec. 77.103(h)ll to read: THE CONTRACTOR OR APPLICANT ON BEING advised by the Director of Public Works of his/her intent to issue a blasting permit shall send written notification to all property owners within 500 feet of a blast site of the intent to issue a blasting permit and notice of the appeal provisions of this ordinance. The notification required by this section shall be mailed by certified mail not less than ten days prior to the issuance of a blasting permit.

The City Attorney was asked to prepare an amended blasting ordinance.

2390 AUTHORIZE PROPOSAL FOR DESIGN SERVICES FOR DRAINAGE IMPROVEMENTS, EAST SIDE OF LEE BOULEVARD BETWEEN 97TH AND 98TH STREETS: On motion of LaHue, seconded by Dunn, Council unanimously approved a proposal from Larkin Associates in the amount of $15,150.

2427 ORDINANCE NO. 1433 AUTHORIZING THE IMPROVEMENT OF NALL AVENUE, 119TH STREET TO 135TH STREET: Linda Canny, Highlands of Leawood Homes Association, described a landscaping problem on the corner of 127th and
Nall. The landscaping would be destroyed when Nall was widened. The underlying land was owned by an adjacent homeowner. When Right-of-Way Associates began to obtain easements from property owners for the project, they did not contact the homes association which had a 30-foot recorded landscape easement along the perimeter of the subdivision. $5,450 was paid to the adjacent homeowner to return the corner (the homes association landscaping) to its original condition. The homes association found out that the homeowner was moving, and requested the money from the homeowner but did not receive a response. The homes association did not have funds to landscape. The $5,450 should have been paid to the homes association in the first place. Public Works would have to investigate the ownership.

The ordinance was considered and passed on motion of Moore, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

2785 DISCUSSION OF PROPOSAL FOR LANDSCAPING, NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET: Staff had been requested to work with residents along Nall Ave. on a landscape plan. The City’s offer to Rodney and Nancy Nussbaum of 12668 Sherwood Dr. in Patrician Woods (northeast corner of 127th and Nall), based on appraisals, was $10,000 ($4,500 for acquisition of road right-of-way, $3,400 for temporary construction easement, and $2,100 for cost to cure trees and shrubs). The Nussbaums developed an alternative proposal for noise abatement which included plans for a 3-foot high retaining wall along the back and side yards of their property and a 6-foot high berm with large tree and shrub plantings. The estimate for this proposal was $37,290 ($16,611.99 for landscaping, and $20,679.00 for retaining wall). Staff did not recommend this proposal.

Nancy Nussbaum presented her proposal. Council to continue discussion of the landscape plan for Nall Ave. at the October 17th Council meeting.

3620 AUTHORIZE CONTRACT FOR 1994 CURB REHABILITATION: On motion of LaHue, seconded by Dunn, Council unanimously authorized the Mayor to execute a contract with the low bidder T.S.C., Inc., of Prairie Village, in the amount of $81,255.00.

3650 AUTHORIZE RE-ROOFING OF POLICE/COURT BUILDING, 9617 LEE BOULEVARD: Staff did not want to use wood, making a composition roof more affordable than synthetic slate; however, the Leawood Estates Homes Association had a very negative view of composition roofing materials. Slate was more aesthetically acceptable because it would match the other buildings on the site. Councilmember LaHue moved to authorize the roofing to be done by Industrial Roofing Co., using slate, in the amount of $24,338, seconded by Clawson. Motion carried; Moore and Giblin opposed (Mr. Moore felt it was inappropriate to make reference to the Leawood Estates Homes Association—it had no bearing—and timberline would be adequate, saving $8,300); all others in favor.

3819 ORDINANCE NO. 1434 AUTHORIZING THE ISSUANCE OF TEMPORARY NOTES; SERIES 115-94-20; MISSION ROAD, COLLEGE TO I-435; $400,000: The ordinance was
considered and passed on motion of LaHue, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---Rasmussen.

ORDINANCE NO. 1435 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 124-94-21: 135TH STREET (K-150), STATE LINE-NALL AVENUE; $200,000: The ordinance was considered and passed on motion of LaHue, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1436 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 126-94-22: MISSION ROAD, 95TH STREET-103RD STREET; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by LaHue. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---Rasmussen.

ORDINANCE NO. 1437 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 128-94-23: OLD KENNETH ROAD BETWEEN 135TH STREET (K-150) AND KENNETH PARKWAY; $200,000: The ordinance was considered and passed on motion of Clawson, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1438 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 131-94-24: NALL AVENUE, 119TH-135TH STREET; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1439 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 132-94-25: STATE LINE ROAD, PHASE I; $300,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1440 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 134-94-26: STATE LINE ROAD, PHASE II; $900,000: The ordinance was considered and passed on motion of Moore, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1441 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 136-94-27: STATE LINE ROAD, PHASE III; $200,000: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1442 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 138-94-28: MISSION ROAD, 151ST-155TH STREET; $1,400,000: The ordinance was considered and passed on motion of Campbell, seconded by Moore. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.
ORDINANCE NO. 1443 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 140-94-29; 83RD STREET; $300,000: The ordinance was considered and passed on motion of Moore, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

ORDINANCE NO. 1444 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 142-94-30; BELL DRIVE AND IRON HORSE DRIVE; $300,000: The ordinance was considered and passed on motion of Campbell, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

ORDINANCE NO. 1445 AUTHORIZING ISSUANCE OF TEMPORARY NOTES; SERIES 144-94-31; MISSION ROAD, 103RD - I-435; $200,000: The ordinance was considered and passed on motion of Campbell, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn. Nays---Rasmussen, Patterson.

4165 EXECUTIVE SESSION: On motion of Campbell, seconded by Moore, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

4182 APPROVAL OF APPROPRIATION ORDINANCE NO. 742: The ordinance was considered and passed on motion of LaHue, seconded by Rasmussen. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4385 OTHER BUSINESS: Public Works Director Brandt reported that the one-lane bridge on 143rd St. just west of Kenneth Rd. had settled about 4 inches on Saturday, October 1st. The bridge would be out for about 1 month.

4512 9:50 P.M. Council convened in executive session, same members present.

10:20 P.M. Council returned to regular session. There being no further business before the Council, the meeting was adjourned.

Martha Heizer
City Clerk
The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:35 P.M., Monday, October 17, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, and Doug Patterson. Louis Rasmussen was absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; Captain Ron Anderson, Police Department; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

The agenda was approved unanimously on motion of Moore, seconded by Dunn, after the addition of a report from the Early Start Committee of the Leawood Foundation.

RECOGNITION OF THE CITY'S EMPLOYEE SAFETY COMMITTEE (in conjunction with October being the City of Leawood Safety and Wellness Month): Five members of the Committee were recognized for helping the City maintain a safe work environment - Pete Chronister (Fire), Randy Baer (Parks & Recreation), Walter Huff (Public Works), Cindy Pitts (Human Resources), and Julie Hakan (Human Resources). The City was evaluated each year by its worker's compensation trust (KERIT) to determine the City's compliance with the mandated safety program known as the PLUS Program (Preventing Loss through Utilizing Safety). The City scored highest of the 14 KERIT members. This had a definite positive impact on the City's worker's compensation costs.

CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, asked the status of several suggestions he had made at the July 18th Council meeting (see those minutes), including the hiring of an in-house attorney as opposed to having a city attorney appointed by the Mayor. The Mayor said the Council apparently did not wish to consider his suggestions, and had decided that an in-house attorney was not advantageous.

Sam Devinki, 2408 W. 114th St. in Hallbrook Farms subdivision, who had spoken against blasting in Hallbrook at the September 19th Council meeting, reiterated that the blasting was intolerable, even though it was not being done within 500 feet of homes in accordance with blasting regulations. Damage to his home from blasting more than 700 feet away was not repairable.

PROCLAMATIONS: The Mayor proclaimed October 1994 as "National Disability Employment Awareness Month".

CONSENT AGENDA: Change Order No. 1 to the contract for the construction of Mission Rd. improvements, 151st St. to Bell Dr.; a resolution to approve the final plat of Sterling of Leawood; a request for a special use permit by Quail Crest for an off-site sign at K-150 and Roe; a request for a special use permit by the Pavilions of Leawood for a
sales office trailer at 14801 Sherwood; and a request for a special use permit by WhiteHorse for a sales office trailer at 14800 Juniper, were removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Moore:

1. Minutes of the September 19, 1994 Council meeting;
2. Minutes of the October 3, 1994 Council meeting;
3. Departmental reports;
4. Special use permit to Quail Crest subdivision for a temporary sales office trailer at 13800 Cedar for 1 year from the date of issuance of a certificate of occupancy;
5. Purchase of a wheel loader for the Public Works Department from the low bidder Dean Machinery Co. of Kansas City, Missouri, in the amount of $63,166.00;
6. Change Order No. 3 to the contract with Holland Corp. for 143rd St. improvements, Mission Rd. to 1200 feet east, in the amount of $1,745.00, for modifications required to enhance storm drainage.

Change Order No. 1 to the contract for construction of Mission Rd., 151st St. to Bell Dr., in the amount of $22,142.00, for a rock retaining wall and decorative fence near the Iron Horse Golf Course: After an explanation that only about half the cost was for the construction of a retaining wall to save a specimen Hickory tree, and the remainder for a protective fence along the golf course property line in the vicinity of large box culverts, Council unanimously approved the change order on motion of Campbell, seconded by Giblin.

Resolution No. 1196, attached as part of the record, approving the final plat of Sterling of Leawood, located at 127th & State Line Rd.: After a brief discussion of roofing and siding materials to be used, the resolution was adopted unanimously on motion of Dunn, seconded by Clawson.

Request for a special use permit by Quail Crest subdivision for an off-site temporary sign at the southwest corner of K-150 and Roe Ave.: Mrs. Dunn did not receive the information in her Council packet. On motion of Dunn, seconded by Patterson, Council unanimously approved the permit for a period of 2 years from the date of installation of the sign.

Request for a special use permit by Pavilions of Leawood for a temporary sales office trailer at 14801 Sherwood: After clarification that the permit period would be for 1 year rather than 2, and on motion of Dunn, seconded by Moore, Council unanimously approved the permit for 1 year from the date of issuance of a certificate of occupancy.

Request for a special use permit by WhiteHorse subdivision for a temporary sales office trailer at 14800 Juniper: After clarification that the permit period would be for 1 year rather than 2, and on motion of Dunn, seconded by Moore, Council unanimously approved the permit for 1 year from the date of issuance of a certificate of occupancy.

RESOLUTION NO. 1197 DENYING A REQUEST FOR REZONING FROM R-I TO RP-4, AND DENYING PRELIMINARY PLAT AND PLAN APPROVAL, FOR LEAWOOD TERRACE AT 4352

4352
Approximately 131st and Pembroke: The Mayor felt the matter should be remanded to the Plan Commission to have some questions resolved. She was concerned about the large traffic volume, particularly during construction time. Perhaps a traffic study should be done before the Plan Commission would give final approval. She felt the developer should pay for the study. The Mayor was also concerned about the possibility that additional single family homes or villas adjacent on the east might be built, impacting the traffic situation. There seemed to be a lack of a comprehensive plan for the usage of the homes.

Councilmember Dunn wanted the area to remain R-1. Councilmember Giblin felt a change to RP-4 zoning would adversely affect property values, and felt the matter should be remanded to the Plan Commission for reconsideration.

Councilmember Campbell had some serious concerns about the rezoning, but did not favor a remand because he didn’t know that a traffic study and other concerns voiced by the Mayor would cause him to vote to convert the area to different zoning. He wanted to discuss the matter and take a vote.

Councilmember Moore was concerned about piecemealing the entire property if there was more land to be developed. He wanted to see the entire development package. And the traffic problem had to be addressed.

Councilmember Patterson felt a remand would allow the developer to put or pull the entire area together.

Ed Schlagel, project engineer for the development, said the developer would be in favor of providing a traffic study, and would try to control the access of construction vehicles from another direction. Mr. Schlagel felt that traffic from the development would not be a problem, and said that construction of additional homes to the east would not occur. Planning Director McKay said that the area to the east was zoned for retail.

Councilmember LaHue moved to deny the request for rezoning from R-1 to RP-4, seconded by Clawson.

Don Gossman, 2801 W. 131st St. (Greenbrier subdivision), was concerned about downzoning from R-1 to RP-4, what seemed to be a piecemeal development, and reduced property values for adjacent residential properties. Chuck Ward, 12820 Overbrook, President of the Leawood South Townhouse Assoc., and Jane Lehan, 13113 Pawnee (132nd St. in Waterford subdivision), were concerned about traffic, especially construction traffic.

Dr. LaHue’s motion to deny the rezoning carried unanimously. Reasons for denial: 1) Mrs. Dunn - it was premature to rezone the property from R-1 to RP-4; 2) Mrs. Clawson - supported the master development plan and was not in favor of downzoning against the master plan; 3) Mr. Giblin - rezoning to RP-4 would adversely affect adjacent R-1 property values; 4) Mr. Moore - concerned about traffic issues; and 5) Mr. Campbell - not the most appropriate use for the property. Resolution attached as part of the record.

Ordinance Rezoning Property (Leawood Terrace) Located at approximately 131st and Pembroke from R-1 to RP-4: No action required.

Resolution No. 1198 Approving the Preliminary Site Plan for Houlihan’s
RESTAURANT AT TOWN CENTER PLAZA ON 119TH STREET BETWEEN ROE AVE. AND NALL AVE.: Adopted unanimously on motion of LaHue, seconded by Giblin. Attached as part of the record.

RESOLUTION NO. 1199 APPROVING THE PRELIMINARY SITE PLAN FOR BRISTOL RESTAURANT AT TOWN CENTER PLAZA AT THE CORNER OF 119TH AND NALL AVE.: Adopted unanimously on motion of Clawson, seconded by LaHue. Attached as part of the record.

MAYOR’S REPORT: The Mayor presented a proclamation at the 10/10 (October 10) celebration to honor Leawood’s sister city I-Lan, Taiwan, and the 83rd anniversary of the Republic of China on Taiwan.

Councilmember Clawson announced that the dedication of the new City Hall at 4800 Town Center Drive would be held Saturday, November 5th, 1-4 P.M.

AUTHORIZE AGREEMENT WITH SADDLE & SIRLOIN CLUB TO PERMIT CONSTRUCTION OF A PUBLIC ACCESS ROADWAY BETWEEN MISSION ROAD AND LEE BOULEVARD ON THE SOUTH SIDE OF I-435 IN CONJUNCTION WITH THE I-435 IMPROVEMENTS: Saddle & Sirloin requested that landscaping screens be planted to shield the Club from traffic. The landscaping, estimated at $11,425.00, would be compensation for the access corridor. On motion of Moore, seconded by Campbell, Council unanimously authorized the Mayor to execute the agreement.

AUTHORIZE INTERLOCAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS (AS THE GOVERNING BODY OF THE INDIAN CREEK SEWER DISTRICT NO. 1) FOR THE USE OF CERTAIN PROPERTY LOCATED IN DISTRICT NO. 1 FOR THE CONSTRUCTION OF A PUBLIC ACCESS ROAD BETWEEN MISSION ROAD AND LEE BOULEVARD ON THE SOUTH SIDE OF I-435 IN CONJUNCTION WITH THE I-435 IMPROVEMENTS: The County Commissioners requested that landscaping screens be planted to shield sewer district facilities from traffic. Landscaping up to $29,492.00 would be compensation for the access corridor. On motion of Clawson, seconded by Campbell, Council unanimously authorized the Mayor to execute the agreement.

RESOLUTION NO. 1200 AMENDING RESOLUTION NO. 1153 AND FINDING AS TO THE ADVISABILITY AND A RESOLUTION AUTHORIZING THE IMPROVEMENT AND CONSTRUCTION OF 155TH STREET (BELL DRIVE) AND IRON HORSE DRIVE FROM MISSION ROAD TO THE IRON HORSE CLUBHOUSE AND IN IRON HORSE ESTATES: Adopted unanimously on motion of Dunn, seconded by LaHue. Attached as part of the record. The benefit district petition was amended to allow the City to expand the City’s portion of the benefit district to include the loop road to the clubhouse and the parking lot to be located inside the loop. The Bell family agreed to sign the amended petition as it did not impact that portion of the benefit district for which they were responsible. The purpose of adding this section of the roadway and parking lot to the benefit district was to free up capital from the golf course bond issue to offset startup costs for the golf course.

CHANGE ORDER NO. 1 TO THE CONTRACT WITH O’DONNELL & SONS FOR THE CONSTRUCTION OF BELL DRIVE: The change order would provide for the construction of that portion of roadway (loop road and parking lot) added.
under the amended petition. On motion of Campbell, seconded by Moore, Council unanimously approved the change order in the amount of $377,981.55.

2082 DISCUSSION OF LANDSCAPE PROPOSALS FOR NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET, AT (1) HIGHLANDS OF LEAWOOD, (2) PATRICIAN WOODS/NUSBAUM PROPERTY, AND (3) CARRIAGE CROSSING: The cost estimate for landscaping improvements for the Highlands of Leawood Homes Assoc. was $16,751. The estimate for the Nussbaum property at the northeast corner of 127th and Nall Ave. in Patrician Woods subdivision was $22,600. The estimate to replace Carriage Crossing Homes Assoc.'s sprinkler system was $12,500, and $11,400 to replace trees, for a total estimate of $23,900. Councilmember LaHue moved to approve the 3 proposal amounts, seconded by Patterson.

Randy Pope, President of the Carriage Crossing Homes Assoc., said he had requested an additional $18,200 for new landscaping buffer material (over and above the $11,400). Public Works Director Brandt was not aware of this requested amount.

The motion and second were withdrawn. Councilmember LaHue moved to approve the amounts for the Highlands of Leawood and the Nussbaum property in Patrician Woods, and refer the Carriage Crossing request back to the Public Works Department for further review and consideration, seconded by Patterson. Motion carried unanimously.

2697 AUTHORIZE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR A STORMWATER MANAGEMENT PROJECT KNOWN AS IMPROVEMENTS ON DYKES BRANCH - D.S. LEE BLVD.-86TH STREET AND BELINDER: On motion of LaHue, seconded by Campbell, Council unanimously authorized the Mayor to execute the agreement.

2797 AUTHORIZE CONTRACT FOR ENGINEERING DESIGN SERVICES FOR STORMWATER MANAGEMENT PROJECT IN THE VICINITY OF HIGH DRIVE NORTH OF 95TH STREET: Councilmember Clawson moved to authorize the Mayor to execute the contract with Wilson & Company in the amount of $60,078, seconded by Giblin. Council discussed justification of the amount, which the Public Works Director felt was approximately $10,000 too high ($3,000 of that to be the City's share). Motion carried unanimously.

3250 AUTHORIZE SUPPLEMENTAL AGREEMENT NO. 1 TO THE CONTRACT FOR ENGINEERING DESIGN SERVICES WITH BUCHER, WILLIS & RATLIFF, FOR THE MISSION ROAD IMPROVEMENT PROJECT BETWEEN 103RD STREET AND APPROXIMATELY I-435: On motion of LaHue, seconded by Dunn, Council unanimously approved the agreement which added $15,000 to the firm's design fee. The original scope of services was for the widening of Mission Rd. from 300 feet south of 103rd St. to the south right-of-way line of I-435. The supplemental agreement expanded the project limits to include an area extending from the south right-of-way line of I-435 to the north edge of the wearing surface of the Mission Rd. bridge over Indian Creek, a roadway portion to be completed on an interim basis in conjunction with the I-435 access/frontage road between Mission Rd. and Lee Blvd.

3266 ORDINANCE NO. 1446C AMENDING SECTIONS OF THE CODE OF THE CITY OF LEAWOOD RELATING TO SOLICITATION: Changes were made to allow
door-to-door pure political and other free speech without a solicitation permit. Any fund-raising, canvassing, opinion sampling would require a permit. Councilmember LaHue moved to pass the ordinance, seconded by Patterson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

3792 ORDINANCE NO. 1447C ADDING SECTIONS TO THE CODE OF THE CITY OF LEAWOOD RELATING TO QUALIFICATIONS, SELECTION, AND EVALUATION OF THE CITY ATTORNEY AND ASST. CITY ATTORNEY: Councilmember LaHue moved to pass the ordinance, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

4010 AUTHORIZE PREMIUM REFUND TO EMPLOYEES COVERED BY BLUE CROSS/BLUE SHIELD FOR THE PLAN YEAR 1993-1994: The total refund would be $37,648.00, with 120 employees each receiving an $86.00 refund, and the City having $27,332.00 to use towards any project chosen. On motion of Moore, seconded by Dunn, Council unanimously approved the refund.

4046 ORDINANCE NO. 1448 ACCEPTING A DEED FOR STREET PURPOSES (OVERBROOK ROAD CONNECTING HALLBROOK FARMS PHASE V TO THE HALLBROOK COUNTRY CLUB PLAT): The ordinance was considered and passed on motion of Giblin, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

4062 APPROVAL OF APPROPRIATION ORDINANCE NO. 743: The ordinance was considered and passed on motion of Dunn, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Patterson. Nays---None.

4155 OTHER BUSINESS: Councilmember Dunn moved that contingent upon the Leawood Foundation Early Start Committee raising $25,000 in the sale of bricks for the plaza area (of the new City Hall), the City of Leawood would fund the remainder of monies needed to reach a total of no more than $60,000, seconded by Campbell. Motion carried unanimously.

4373 9:45 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
Tape No. 313

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 9615 Lee Boulevard, at 7:30 P.M., Monday, November 7, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

On motion of Campbell, seconded by Moore, the agenda was approved unanimously after deletion of a request by Dorset Manor subdivision for landscaping in conjunction with Mission Rd. improvements (103rd to I-435), deletion of an ordinance amending blasting regulations, and the addition of a discussion of sidewalks along 83rd Street.

CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, wanted to know what the City was going to do with the wood sculpture given to it by its sister city I-Lan, Taiwan; wanted to know how the City was going to pay for future amenities; and said he had heard there was a lack of parking at the new City Hall. The Mayor suggested Mr. Thomas talk to his Council representatives about his concerns, ideas and suggestions made at past Council meetings, and if they wanted to pursue any of those, they could bring them to the Council’s attention.


CONSENT AGENDA: Pay Request No. 3 (FINAL) for the 1994 Asphalt Rehabilitation Project, and Pay Request No. 1 (FINAL) for the Sanitary Sewer Rehabilitation Project, were removed for further discussion. The following were approved unanimously on motion of Clawson, seconded by Dunn:

1. Minutes of the October 17, 1994, Council meeting;
2. Declaration of surplus property - 1989 Oldsmobile Cutlass Ciera (VIN 7756) no longer used by Police detectives;
3. Pay Request No. 1 (FINAL) by Shafer, Kline & Warren engineers for $7,369.33 for engineering services, 1994 CDBG Program for ADA sidewalk modifications;
4. Change Order No. 2 to the contract with O’Donnell & Sons for construction of Mission Rd., 151st St. to Bell Drive, in the amount of $1,498.00, to improve pavement section and to deduct soil stabilization fabric no longer needed to complete the project;
5. Resolution No. 1201, attached as part of the record, approving the final plat of Worthington, 2nd Plat, approximately 143rd & Roe Ave.
Pay Request No. 3 (FINAL) by Seal-O-Matic Paving Co. in the amount of $124,804.62 for the 1994 Asphalt Rehabilitation Project: After an explanation of the cost overruns, and on motion of Moore, seconded by Clawson, Council unanimously approved the pay request.

Pay Request No. 1 (FINAL) by Insituform Missouri, Inc., in the amount of $404,106.00, for the Sanitary Sewer Rehabilitation Project: After an explanation of the cost overruns, and on motion of Patterson, seconded by Dunn, Council unanimously approved the pay request.

RESOLUTION NO. 1202 APPROVING THE REVISED PRELIMINARY PLAT OF HAZELWOOD LOCATED AT 119TH AND PAWNEE: Councilmember Rasmussen moved to adopt the resolution, seconded by Patterson. Councilmember Dunn thought the developer would be assessed a park impact fee. Councilmember Moore moved to amend the motion to state that approval would be contingent upon ensuring that there would be a park impact fee if there was supposed to be one, as well as including any other items that were in the first review that might not have been included in the resolution under consideration, seconded by LaHue. Mrs. Dunn said she would vote for the project, but was still concerned about the 22-foot streets not meeting public standards. Motion to amend carried unanimously. Motion as amended to adopt the resolution carried unanimously. Resolution attached as part of the record.

RESOLUTION NO. 1203 APPROVING THE FINAL PLAT OF HAZELWOOD, 1ST PLAT, LOCATED AT 119TH AND PAWNEE: Councilmember Clawson moved to adopt the resolution with the same amendment as Resolution No. 1202, seconded by Giblin. Motion carried unanimously. Resolution attached as part of the record.

RESOLUTION NO. 1204 APPROVING THE REVISED PRELIMINARY PLAT AND PLAN FOR BRIDGEWOOD, LOCATED AT 132ND AND ROE AVENUE: Adopted unanimously on motion of Moore, seconded by Dunn. Attached as part of the record.

RESOLUTION NO. 1205 APPROVING THE FINAL PLAT OF BRIDGEWOOD LOCATED AT 132ND AND ROE AVENUE: Adopted unanimously on motion of Moore, seconded by Dunn. Attached as part of the record.

REQUEST BY WORTHINGTON DEVELOPMENT CO. FOR A SPECIAL USE PERMIT FOR AN OFF-SITE TEMPORARY REAL ESTATE/SUBDIVISION SIGN AT THE SOUTHEAST CORNER OF K-150 AND ROE AVENUE: On motion of Giblin, seconded by Patterson, Council unanimously approved a 2-year permit.

MAYOR'S REPORT: The Mayor thanked Councilmembers Clawson and Patterson, and staff member Julie Hakan, for their work preparing for the dedication of the new City Hall. Mrs. Clawson was chairman of the Dedication Committee, Mr. Patterson, a Committee member.

AUTHORIZE CONTRACT FOR CONSTRUCTION OF MISSION ROAD BETWEEN COLLEGE BOULEVARD AND THE BRIDGE OVER INDIAN CREEK: On motion of Moore, seconded by Dunn, Council unanimously authorized the Mayor to execute a contract with the low bidder Industrial Excavation and Equipment in the amount of $933,680.10.
788 **AUTHORIZE CONSTRUCTION CONTRACT FOR 1994 ADA SIDEWALK MODIFICATIONS:**

Councilmember Clawson requested that the intersection of 103rd and Lee Blvd. be checked because of the large amount of bike and foot traffic by children. On motion of Dunn, seconded by Clawson, Council unanimously authorized a contract with the low bidder K & K Concrete Construction in the amount of $57,925.00. The project would be partially funded by a Community Development Block Grant (CDBG) of $55,000.

928 **DISCUSSION OF TRAFFIC SIGNAL WARRANT ANALYSIS FOR 119TH AND BROOKWOOD:**

JBM Engineers and Planners had conducted a traffic signal warrant study; one warrant was satisfied, so the City could build a signal. JBM felt it would be prudent for the City to begin planning for a future signal. Staff recommended that the Governing Body authorize initiation of a signalized intersection design beginning in early 1995. The project would be funded through the capital improvements program. Councilmember Rasmussen wanted to postpone consideration of staff’s recommendation until after discussion of the capital improvements program at a work session; the signal proposal would seem to eliminate the much desired school crossing signal at approximately 119th and High Dr., and apparently would cut into Hallbrook subdivision with lanes. Council to discuss this matter at the November 14th work session.

1228 **DISCUSSION OF TRAFFIC ANALYSIS AT THE INTERSECTION OF 86TH STREET AND STATE LINE ROAD:** The possibility of constructing a cul-de-sac at the intersection had been discussed previously. JBM Engineers and Planners conducted a traffic study and found that little traffic, if any, used 86th St. as a shortcut, contrary to allegations made by area residents. Staff recommended no further action or investigation be taken. Councilmember LaHue moved to accept the traffic study and staff recommendation. Motion seconded by Moore and carried unanimously.

1270 **DISCUSSION OF LANDSCAPING REQUEST BY CARRIAGE CROSSING SUBDIVISION RELATING TO NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET:** For the homes association landscape easement, the Carriage Crossing Homes Association requested replacement of their lawn irrigation system estimated to be $12,500; new landscaping material to act as a buffer from the improved roadway, and replacement of existing trees which would be removed during construction, for $29,600; and assurance that the proposed retaining wall (low and tied in with the sidewalk) along Nall running south from the homes association pool would receive a form liner consistent with other proposed (higher) retaining walls. Public Works would see what could be done about form liner for the retaining wall. The irrigation system would be replaced by the project contractor.

Councilmember Dunn felt the matter should be reviewed by the Public Work Committee to devise a "formula" for approving these types of requests. The project would not be delayed by doing this since landscaping would be done on completion of the project.

George Ordemann, 5263 W. 129th Terr. in Carriage Crossing, said the new landscaping material for buffering/screening, even though an enhancement to the project, was very important to homeowners since a 4-9 foot berm had been deleted.

James Azeltine, 12708 Birch in the Highlands of Leawood, had given
a temporary construction easement for the project, and he wanted assurance that the temporary fence on that easement would be substantial for safety purposes, not just the usual orange plastic snow/construction fence. Public Works Director Brandt would see what type of fence could be used.

The Mayor suggested that for clarification, so the Council clearly understood the costs involved ("costs to cure", landscaping replacement costs, landscaping enhancement costs, monies paid to homeowners for easements), the matter should be referred to the Public Works Committee.

Councilmember Moore wanted to see plans showing the relationship of the roadway to the homes.

Councilmember LaHue moved to approve the $29,600 for replacement and new landscaping, seconded by Giblin. Mrs. Dunn moved to amend the motion to deduct the amount that had been or would be paid for temporary construction easements, seconded by Rasmussen. Mr. Rasmussen felt it was double dipping for homeowners to receive monies for temporary construction easements and monies for project enhancements. Mr. Patterson felt that Nall was an extraordinary roadway, and that the City should go beyond what it typically paid for replacement landscaping and temporary construction easements and pay for the enhancements. Public Works Director Brandt said the City did not know yet what the final condemnation settlements plus court costs would be for 4 property owners. Mrs. Clawson had a problem voting on the matter until agreement was reached with the homeowners. Mr. Brandt felt the homes association should have been a party in the condemnation since it had a right to the landscape easement across private properties. Theoretically, the homeowner was the owner of the land, and could keep the money for the easement and not use it for landscaping. Mr. Brandt also said he was not comfortable with the landscape plan nor with the $29,600. The $29,600 included sales tax which the City did not pay. The motions and seconds were withdrawn.

The matter to be discussed further at the November 14th work session.

2860 AUTHORIZE MODIFICATION (AMENDMENT NO. 1) TO DESIGN CONTRACT FOR COLLEGE BOULEVARD IMPROVEMENTS: JBM Engineers and Planners requested additional compensation of $60,311.29 for changes requested by the City and property owner Hallbrook Farms. The fee would be shared by all participants in the project. Councilmember Rasmussen felt that Hallbrook should pay the entire cost ($7,814.59) of the additional work associated with the Brookwood intersection.

Councilmember LaHue moved to approve the modification, seconded by Clawson. Motion carried; Rasmussen opposed, all others in favor. Mr. Rasmussen felt that if the City gave Hallbrook credit for something and then Hallbrook did something that caused the City extra cost, then the City shouldn't have to pay the extra cost.

3240 AUTHORIZE CONTRACT FOR DESIGN ENGINEERING FOR BELL DRIVE: On motion of Rasmussen, seconded by LaHue, Council unanimously authorized the Mayor to execute a contract with Green Engineering Services, Inc., in the amount of $33,550.00.
WORK SESSION: Scheduled for November 14th at 6:30 P.M. to discuss landscaping for Carriage Crossing subdivision (Nall Ave. improvements, 119th/135th), to hear a presentation of the preliminary report for the design of Roe Ave., approximately 124th St. to K-150, and to complete discussion of the proposed Capital Improvements Program.

APPROVAL OF APPROPRIATION ORDINANCE NO. 744: The ordinance was considered and passed on motion of Rasmussen, seconded by Clawson. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

EXECUTIVE SESSION: On motion of Clawson, seconded by Moore, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

OTHER BUSINESS: Councilmember Moore said many residents along 83rd St. had expressed a major concern at a recent meeting about 83rd St. improvements - many wanted the sidewalk on the south side of the street deleted. The Council might need to take some action soon in order to coordinate with Prairie Village's plans. Public Works Director Brandt thought Prairie Village was proceeding with a south sidewalk because of the new Corinth School at 83rd and Mission Rd. The Mayor said she understood that the County expected a sidewalk on both sides of the street. Yet it was also important to work with homeowners along 83rd St. to mitigate damage to their properties as much as possible.

Councilmember Patterson attended a recent Johnson County Partnership meeting at which Partnership members were asked to commit to a proposed JCP Prospect Protocol which was distributed to the Council for information. The purpose of the Partnership was to attract quality businesses to Johnson County in a cooperative venture that would benefit all members. To avoid any conflict within the Partnership, it was beneficial to state expectations of how the individual Partners would conduct their marketing programs in harmony with the principles of the Partnership. All promotional and marketing efforts of the Partnership would be directed to areas outside of Johnson County, the State of Kansas, and the Kansas City Metropolitan Area. Members also agreed on 3 other points. Partnership members agreed that all individual community prospect activities would be conducted in such a manner as to not create confusion or disharmony within the Partnership in order that they could further the economic development goals of their individual communities and the Partnership.

The annual performance evaluation of the City Administrator was scheduled for November 28th (possibly carrying over to November 29th).

9:43 P.M. Council convened in executive session, same members present, and returned to regular session at 10:05 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer  City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 314

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chamber, 4800 Town Center Drive, at 7:35 P.M., Monday, November 21, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas Moore, Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

On motion of Moore, seconded by Dunn, the agenda was approved unanimously after the addition of a resolution regarding the capital improvements program and an executive session.

RECOGNITION OF THE WINNERS OF THE LEAWOOD FOUNDATION LOGO DESIGN CONTEST: First Place ($100 gift certificate for art supplies to the school and $75 gift certificate to the student), Julie Miller, seventh grade, Mission Valley Middle School; Second Place ($50 gift certificate for art supplies to the student), Karen Doyle, eighth grade, Cure of Ars; Third Place ($25 gift certificate for art supplies to the student), Mary Messner, eighth grade, Leawood Middle School.

PRESENTATION OF CERTIFICATES OF APPRECIATION FOR WORK DONE PREPARING FOR THE NOVEMBER 5TH DEDICATION OF THE NEW CITY HALL AT 4800 TOWN CENTER DRIVE: The Mayor presented certificates to LuAnn Pearson who helped organize the Blue Valley North High School Band and other musical groups that performed during the open house; to Councilmember Marnie Clawson, Chairman of the Dedication Committee; to Councilmember Doug Patterson, a member of the Dedication Committee; and to Julie Hakan, staff liaison to the Dedication Committee. Certificates would be mailed to: Ray Harre and G.W. McDonald who helped organize the Boy Scouts who presented the Colors; Chloe Deuvall of the Leawood Woman's Club and Leawood Singers who arranged the song written in honor of the dedication; Ginny Byrns of the Leawood Woman's Club and Leawood Singers who wrote the lyrics for the song; and the Leawood Singers who performed during the dedication.

CONSENT AGENDA: Allocation of expenditures from the 1995 (United Community Services of Johnson County) Human Service Fund, allocation of expenditures from the 1995 local alcohol tax funds, Pay Request No. 6 (FINAL) for the rehabilitation of Manor Rd. from 95th St. to 98th St., Change Order No. 1 to the contract for the replacement of the bridge at 85th Terr. and High Dr., Pay Request No. 5 (FINAL) for the bridge replacement at 85th Terr. and High Dr., and a citizen request relating to improvement of Mission Rd. from 119th St. to 127th St., were removed for further discussion. The following were approved unanimously on motion of Moore, seconded by Clawson:
1. Minutes of the November 7, 1994, Council meeting;
2. Parks and Recreation Advisory Board report (minutes) of their November 8, 1994, meeting;
3. Departmental reports;
4. Application for Cereal Malt Beverage License (renewal) - Hy-Vee Food Stores, 12200 State Line Rd.;
5. Application for Cereal Malt Beverage License (new) - Paddy O'Quigley's restaurant, 11851 Roe Ave.;
6. Agreement (Letter of Understanding) for the 1995 Johnson County Utility Assistance Program;

Allocation of expenditures from the 1995 Human Service Fund as recommended by the United Community Services of Johnson County: Councilmember Rasmussen was opposed to giving tax dollars to charitable agencies for distribution; it was an involuntary contribution on the part of taxpayers.

The Mayor said this concern was considered when the City first entered into its relationship with UCS. In a citizen survey several years ago, residents were asked if they wanted to participate (about $1 per household at that time) in this charitable effort; a majority said yes. She believed this had been discussed at the time the 1995 budget was prepared.

Councilmember LaHue moved to authorize the allocation of Leawood's contribution of $3,360. Motion seconded by Patterson and carried; Rasmussen and Giblin opposed, all others in favor.

Pay Request No. 6 (FINAL) by McAnany Construction Co. for $19,720.27 for the rehabilitation of Manor Rd. from 95th St. to 98th St.: Councilmember Rasmussen said the rehabilitation was one of the City's less favorable projects, and he wanted to know if the procedure was followed in keeping a record of the problems with the contractor and subcontractors. Public Works Director Brandt said he had a file on the contractor and subs, and had recently denied a subcontractor another project in the City. The Manor Rd. rehabilitation was the project that initiated the establishment of criteria for evaluating the performance of contractors recently approved by the City Council. On motion of Rasmussen, seconded by Moore, Council unanimously approved the pay request.

Request by Larry Hanna, 12909 Canterbury, that funds be provided in the 1995 budget to repair Mission Rd. between 119th St. and 127th St.: Staff advised that Mission Rd. was in need of an asphalt overlay as well as other arterial roads, and estimated the cost to be $75,000 for Mission Rd. alone. There were no funds available in the 1995 Rural Road and Arterial Road Budgets. Perhaps funds would be available in 1996 for overlays of Mission and the other roads. No action was required.

Allocation of expenditures from the 1995 local alcohol tax funds as recommended by the Drug and Alcoholism Council of Johnson County: Councilmember Dunn did not see the D.A.R.E. (Drug Abuse Resistance Education) program.
Education) Program listed among the agencies recommended to receive funds. Finance Director Malnicof said the D.A.R.E. Program was a City program (funds in the City budget) and would not be listed through the Drug and Alcoholism Council. On motion of Dunn, seconded by Moore, Council unanimously authorized the allocation of Leawood's tax funds totaling $25,000.

Pay Request No. 5 (FINAL) by Mega Industries Corp. for $33,392.13 for the bridge replacement at 85th Terr. and High Dr. AND Change Order No. 1 to the contract for the bridge replacement: There was a brief explanation of the difference in the contract amount shown on the pay request as opposed to the amount on the change order, and explanation of the $1,000 deduction in the change order for rough bridge surface. On motion of LaHue, seconded by Moore, Council unanimously approved the pay request for $33,392.13 and the change order in the amount of $10,339.02 for payment of items changed during construction.

DISCUSSION OF LANDSCAPING FOR CARRIAGE CROSSING SUBDIVISION FOR NALL AVENUE IMPROVEMENTS, 119TH STREET TO 135TH STREET: George Ordemann, 5263 W. 129th St., reiterated that the Carriage Crossing Homes Association had come up with a high density plant program for screening from roadway noise to replace the berm which had been eliminated from the improvement project. The Association wanted to be treated equally with the Highlands of Leawood subdivision and the Nussbaums in Patrician Woods whose landscaping requests had already been approved by the Council, and Mr. Ordemann hoped the Council would consider increasing the dollar amount for Carriage Crossing landscaping.

Councilmember LaHue was in favor of the high density planting plan because the Council had agreed with what the Highlands of Leawood and the Nussbaums felt they needed as screening from the roadway. Dr. LaHue moved to fund the trees at (no more than) the requested level ($27,800) minus the cost to cure ($4,215) which equaled $23,585, seconded by Giblin. Councilmember Rasmussen was concerned that the City, according to a homes association landscape easement document, would ultimately be responsible for easement maintenance if the homes association failed to properly maintain the easement. He felt the Council needed to be very cautious as to how it looked at (expensive) landscape damages to properties on improvement projects. He said he could support staff's recommendation which had been distributed to the Council. Dr. LaHue's motion carried; Dunn, Rasmussen opposed; all others in favor. Mrs. Dunn also supported staff's recommendation.

RESOLUTION NO. 1206 AUTHORIZING KDOT TO AWARD CONSTRUCTION CONTRACT TO APAC KANSAS, INC., FOR MISSION ROAD IMPROVEMENTS, 95TH STREET TO 103RD STREET, AND COMMITTING LOCAL FUNDS IN THE AMOUNT OF $393,990.00 (Leawood to pay $112,681.14; Overland Park to pay $281,308.86): Adopted unanimously (except for Mr. Moore who was not seated for the vote) on motion of LaHue, seconded by Campbell. Attached as part of the record.

AUTHORIZE LETTER AGREEMENT WITH KDOT FOR PROPERTY MAINTENANCE ALONG I-435 RELATIVE TO THE NEWLY CONSTRUCTED SOUND BARRIER: The City would maintain the land between the barrier and the north right-of-way line.
KDOT would maintain the area between the barrier and I-435. The City could enter into agreements with property owners adjacent to the project for maintenance of the area as an extension of their rear yards. On motion of LaHue, seconded by Clawson, Council unanimously (except for Mr. Moore who was not seated for the vote) authorized the Mayor to sign the agreement.

1931 ORDINANCE NO. 1449C AMENDING BLASTING REGULATIONS: Councilmember Rasmussen moved to pass the ordinance, seconded by Campbell. Councilmember Giblin moved to amend the motion to change 500 feet in 77.103(g) to 1000 feet so that no blasting could occur within 1000 feet of residences. Motion seconded by Patterson (for purposes of discussion). Motion to amend failed; Giblin in favor, all others opposed. On roll call to pass the ordinance, the vote was: Yeas---LaHue, Campbell, Clawson, Moore, Dunn, Rasmussen, Patterson. Nays---Giblin.

2296 APPEAL OF BLASTING APPLICATION TO BLAST IN PAVILIONS OF LEAWOOD, 2ND PLAT: Blasting was necessary to construct sewer lines. The Public Works Department recommended a blasting permit be issued. The applicant had complied with all blasting regulations.

Bruce Martin, 4430 W. 151st Terr. of Leawood Mission Valley subdivision, was opposed to blasting. He lived beyond the 500-foot limit or zone for previous blasting, therefore, he had not been notified. His home sustained damage; it was reported but never investigated. He had a pre-blast survey for the present series of blasting. Unfortunately, the cracks from the first blasting would be the baseline recorded for future damage claims. Mr. Martin said he also spoke on behalf of residents of the Pavilions of Leawood.

It would cost approximately five times as much to remove rock by alternative method (hoe ram) if blasting was denied.

Developer Phil Acuff said Leawood’s blasting regulations were very strict, and that blasting was safe and well-monitored.

Based on the previous agreement for blasting in Hallbrook, 7th Plat, blasting not to occur within 500 feet of residences, Councilmember Dunn moved to approve the permit for blasting beyond 500 feet of residences. Motion failed for lack of a second.

Councilmember Campbell moved to approve a permit for blasting, seconded by Rasmussen. Motion carried; Giblin, Dunn opposed; all others in favor.

3461 APPEAL OF BLASTING APPLICATION TO BLAST IN HAZELWOOD FOR SEWER LINE CONSTRUCTION: The Public Works Department recommended that a blasting permit be issued. Ruben Krisztal, 3600 W. 119th Terr., requested that Councilmember LaHue not enter into the discussion because of a lawsuit he had against Dr. LaHue, to avoid any appearance of a conflict of interest. Dr. LaHue said he would not participate in the discussion. Mr. Krisztal requested that the Council defer the matter to the next Council meeting because he had been unable to obtain information from the City on blasting regulations, and an ordinance amending the regulations had just been passed (this evening).

Councilmember Campbell moved to approve a permit for blasting, seconded by Clawson. Councilmember LaHue said that as an elected official, no matter what his personal feelings of emotion might be, they
had no warrant in this particular body. He felt that Mr. Krisztal had done a disservice to him and to the Council when he thought that some business or personal issue would have an effect. Motion carried; Giblin, Dunn opposed; LaHue abstained; all others in favor.

RESOLUTION NO. 1209 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT FOR THE DEVELOPMENT OF LEAWOOD (RETIREMENT HOME) AT APPROXIMATELY 127TH AND STATE LINE ROAD: Adopted unanimously on motion of Moore, seconded by Rasmussen. 

4530 RESOLUTION NO. 1207 RELATING TO THE RIGHTS OF VICTIMS OF ORDINANCE VIOLATIONS, DELINEATING VICTIMS' RIGHTS IN CERTAIN MUNICIPAL COURT CASES: Adopted unanimously on motion of Rasmussen, seconded by Moore. Attached as part of the record.

4554 RESOLUTION NO. 1208 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT FOR THE DEVELOPMENT OF LEAWOOD FALLS, 6TH PLAT, NEAR 137TH AND BELINDER: Adopted unanimously on motion of LaHue, seconded by Moore. Attached as part of the record.

4565 RESOLUTION NO. 1209 CONSENTING TO THE ENLARGEMENT OF JOHNSON COUNTY CONSOLIDATED MAIN SEWER DISTRICT FOR THE DEVELOPMENT OF STERLING OF LEAWOOD (RETIREMENT HOME) AT APPROXIMATELY 127TH AND STATE LINE ROAD: Adopted unanimously on motion of Moore, seconded by Rasmussen. 

4569 AUTHORIZE GOLF COURSE MAINTENANCE EQUIPMENT LEASE-PURCHASE AGREEMENT WITH HAWKEYE LEASING CORPORATION OF WEST DES MOINES, IOWA, INVENTORY TOTALING $239,633.11, WITH A TAX EXEMPT INTEREST RATE OF 6.25%: Councilmember Rasmussen moved to approve the agreement. Motion seconded by Moore and carried; Giblin opposed, all others in favor.

4214 DISCUSSION OF PARTICIPATION IN PROFESSIONAL ACCOUNTING SERVICES FOR SPECIAL UTILITY FRANCHISE AUDITS: The purpose of an audit was to ensure that utilities made proper franchise fee payments to the City, as specified in the franchise ordinances. The City of Lenexa had offered the opportunity for other cities to piggyback on an agreement they had with a C.P.A., as once the base program was developed, there would only be incremental costs to add companies and/or cities. The estimated cost for Leawood to participate would be between $5,000 and $10,000. Staff requested that the Council authorize them to enter into an agreement to participate in an audit of gas, electric and telephone franchises.

Councilmember LaHue moved to authorize staff to proceed, seconded by Clawson. Councilmember Campbell requested that the matter be tabled until perhaps the second meeting in December in order to consider a proposal from another accountant who would work on a contingency basis with no out-of-pocket to the City. City Administrator Garofano said the City of Lenexa wanted to know Leawood's decision by the end of November. The motion and second were withdrawn.

Councilmember Campbell moved to defer the matter to the December 5th Council meeting pending submission of a proposal on a contingency basis, seconded by Dunn. Motion carried; Rasmussen abstained; all others in favor.

4054 AUTHORIZE AGREEMENT WITH ACUFF RHODS GROUP FOR PAYMENT TOWARDS THE COST OF IMPROVING PORTIONS OF MISSION ROAD AND 151ST STREET WHICH ABUT PAVILIONS OF LEAWOOD SUBDIVISION: On motion of Rasmussen, seconded by Giblin, Council unanimously approved the agreement.
tached as part of the record.

4581 APPROVAL OF APPROPRIATION ORDINANCE NO. 745: The ordinance was considered and passed on motion of Rasmussen, seconded by Campbell. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen, Patterson. Nays---None.

4717 EXECUTIVE SESSION: On motion of Moore, seconded by Giblin, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 10 minutes to discuss a matter under attorney-client privilege.

4741 OTHER BUSINESS: Councilmember Rasmussen thought the capital improvements program was on the agenda for discussion and had intended to propose a resolution that would direct the Public Works Department to prepare a plan of development for public works facilities that was part of the C.I.P. and have the Public Works Committee review and approve the plan. The Mayor said the Plan Commission would be reviewing and adopting the C.I.P. in December. If Council wanted a plan of development included, it needed to advise the Plan Commission. Councilmember Rasmussen moved to direct staff to prepare a development plan for public works facilities for presentation to the Public Works Committee, seconded by Dunn and carried unanimously. There was discussion that it would not necessarily have to be incorporated into the C.I.P.

4920 10:00 P.M. Council convened in executive session, same members present, and returned to regular session at 10:10 P.M. There being no further business before the Council, the meeting was adjourned.

Martina Heizer City Clerk
MINUTES
SPECIAL COUNCIL MEETING

Tape No.

The City Council of the City of Leawood, Kansas, met in special session in the Main Conference Room of City Hall, 4800 Town Center Drive, at 7:00 P.M., Monday, November 28, 1994. Mayor Marcia Rinehart presided.

The special meeting was requested by Councilmembers John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and Doug Patterson, for the purpose of convening an executive session to discuss a personnel matter. Councilmembers Ronald LaHue and Louis Rasmussen were absent.

Staff present: Richard J. Garofano, City Administrator.

EXECUTIVE SESSION: On motion of Dunn, seconded by Moore, Council voted unanimously to convene in executive session until 10:45 P.M. to discuss a personnel matter.

10:45 P.M. Council returned to special session, same members present. On motion of Campbell, seconded by Clawson, Council unanimously approved an employment agreement with City Administrator Richard Garofano.

10:50 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk
MINUTES
REGULAR COUNCIL MEETING

Tape No. 315

# 48 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, December 5, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Peggy J. Dunn, Louis Rasmussen, and Doug Patterson. Douglas J. Moore was absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

65 On motion of Campbell, seconded by Dunn, the agenda was approved unanimously after the addition of a discussion of the Public Works Department’s summary of key projects which had been distributed to the Council; and deletion of a resolution relating to a special use permit, preliminary site plan and preliminary plat for Covenant Chapel located at approximately 133rd (Eaton) and Pembroke.

106 RECOGNITION OF FIREFIGHTER EDWARD COSGROVE FOR SERVICE TO THE CITY:

The Mayor presented a Certificate of Appreciation to Ed Cosgrove in recognition of his 20 years of service (October 15, 1974-October 15, 1994) to the City. She noted that Mr. Cosgrove had never taken a shift of sick/disability leave during his service. Fire Chief Strack presented a plaque to Mr. Cosgrove.

209 RECOGNITION OF POLICE SGT. BOB CARR AND CITIZEN JIM SCHROER:

Sgt. Carr had received a Certificate of Commendation from the Metropolitan Chiefs and Sheriffs Association and KMBC-TV for conceiving and organizing an annual fishing derby to bring police officers and young people together. The fishing derby was held each September at ponds which were part of the Tomahawk Creek Greenway park area in the City. Sgt. Carr gave a good deal of credit for the event’s success to Jim Schroer, owner of J and J’s Bass Pro Shop. Mr. Schroer was instrumental in organizing the first derby in 1992 and had continued to be an active participant.

313 CITIZEN COMMENTS:

Gordon Thomas, 10516 Mohawk Lane, felt money spent on 2 surveys - a citizen survey and space needs study - could have been spent more beneficially on other projects. He suggested a freeze on all salary increases because the City didn’t have the money. Money for salaries, golf course maintenance, and projects shouldn’t come from increased taxes. He said the City paid $2,500 into DMAC (Debt Management Awareness Council), and he wanted to know what the City had received in return. He said the City needed to spend money on projects that were priority, and not spend money on those that were not needed. He felt a public survey was still needed to obtain input from residents, to get them involved in City government.

536 PROCLAMATION: The Mayor proclaimed December 1-14, 1994, as “Take Care
Council Minutes
Tape No. 315

Kansas City Weeks" (for AIDS awareness campaign).

541 CONSENT AGENDA: Purchase of 1995 Police patrol cars was removed for further discussion. The following were approved unanimously on motion of Rasmussen, seconded by Clawson:
1. Minutes of the November 21, 1994, Council meeting;
2. Minutes of the November 28, 1994, Special Council meeting;
3. Declaration of surplus property - 1969 Caterpillar road grader (trade-in value $6,000), and a 1979 Case W-14 wheel loader (trade-in value $12,000), to be traded in on the purchase of a Caterpillar 928F wheel loader approved by Council at the October 17th Council meeting;
4. Purchase of a Racal Logger-Recorder (VHS) (records telephone and radio traffic in the Police Department) from Voice Products, Inc., of Wichita, in the amount of $19,320.00;
5. Acceptance of donations to the DARE Trust Fund - $250 from graduating members of the third Citizen's Police Academy, $1,000 from Academy graduates Jim and Elsie Boyce of 12802 Sagamore;
6. Appointment of Cecilia Thompson, 3003 W. 90th Terr., to the Sister City Committee.

Purchase of 1995 Police patrol cars: After question about the amount of money the City could receive on the sale of old units, and on motion of Rasmussen, seconded by Giblin, Council unanimously approved the purchase of 6 1995 Chevrolet Caprices through a cooperative purchasing agreement with Kansas City, Missouri, for a total amount of $110,532.00.

614 RESOLUTION NO. 1210 APPROVING A REVISED PRELIMINARY PLAT AND REVISED PRELIMINARY SITE PLAN FOR THE LAKES OF LEAWOOD (FORMERLY KNOWN AS TOMAHAWK CREEK APARTMENTS) LOCATED AT APPROXIMATELY 117TH AND TOMAHAWK CREEK PARKWAY: Adopted on motion of Patterson, seconded by LaHue; Rasmussen opposed, all others in favor. Mr. Rasmussen preferred commercial office buildings for the site because of the lay of the land, the traffic.

1454 DISCUSSION OF ACCOUNTING SERVICES FOR SPECIAL UTILITY FRANCHISE AUDITS: deferred from the November 21st Council meeting. No alternate proposal was received for consideration. Councilmember LaHue moved to piggyback onto the City of Lenexa's contract for the audit services, seconded by Clawson. Motion carried; Rasmussen abstained (he used to be affiliated with a utility company), all others in favor.

1900 REVIEW OF PROPOSED CAPITAL IMPROVEMENTS PROGRAM, 1995-2000: On motion of LaHue, seconded by Dunn, Council voted unanimously to forward the CIP to the Plan Commission for review and adoption as provided by state statute.

2190 AUTHORIZE AMENDMENT TO INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE IMPROVEMENT OF 83RD STREET BETWEEN STATE LINE ROAD AND WENONGA LANE: On motion of Rasmussen, seconded by Clawson, Council unanimously approved the amendment. The amendment increased County (CARS) funding participation from $375,000 to $925,000.
2203 **AUTHORIZE AMENDMENT TO INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE IMPROVEMENT OF 135TH STREET (K-150) FROM STATE LINE ROAD TO NALL AVENUE:** On motion of Clawson, seconded by Giblin, Council unanimously approved the amendment. The amendment increased the County's (CARS) funding participation from $1,471,500 to $2,028,000.

2213 **AUTHORIZE CONTRACT FOR DESIGN OF STORM DRAINAGE IMPROVEMENTS AT 8435 CHEROKEE LANE (ROLLER RESIDENCE):** The project would be done in 1995 with funding from bonds. On motion of Dunn, seconded by LaHue, Council unanimously authorized the Mayor to execute a contract for engineering services with Kaw Valley Engineering, Inc., in the amount of $18,600.

2315 **AUTHORIZE CONTRACT FOR STANDBY GENERATOR REPLACEMENT FOR THE POLICE DEPARTMENT AT 9617 LEE BOULEVARD:** On motion of LaHue, seconded by Clawson, Council unanimously authorized the Mayor to execute a contract with the only bidder Tri-State Equipment of Kansas City, Kansas, in the amount of $27,956.90.

2400 **ORDINANCE AMENDING NUISANCE ALARM REGULATIONS:** Police Chief Cox said the Police Department would not require owner/operator retraining on alarm systems or require alarm system preventive maintenance as originally planned. These could be required in the future. However, for a new alarm system, the Police Department would expect some certification of training. Chief Cox wanted to keep the ordinance fairly simple, or generic, by having rules and regulations separate (adopted by reference); the ordinance would not have to be amended and republished every time regulations were changed. The rules and regulations would be distributed to the Council when they were completed.

Councilmember LaHue was concerned about Chief Cox's statement in his memo to the Council that the ordinance would give his department legal authority to refuse to provide service to problem systems/owners. The City might be leaving itself open to legal complications. Chief Cox said that if an owner/operator corrected a problem system, his department would start responding again to alarm calls. Chief Cox said he did know of any statutory authority that required the Police Department to respond to any alarm call.

Councilmember Rasmussen felt the City should not require residents to pay for permits to have alarm systems installed. It was an individual's right to install an alarm system. But abuse of alarm systems should be addressed. The Police Department should have the right to disconnect a (sound) nuisance system and charge the owner/operator for the disconnect. And after so many false alarms, owners/operators should pay fines.

Chief Cox said the ordinance was a costly one to administer. An installation permit fee (or a nominal user fee) would help offset the costs.

Dr. LaHue suggested there could be an inspection permit fee for new systems (because systems were installed improperly or there was not enough owner/operator education by the installer) rather than an installation permit fee on systems.

Mr. Rasmussen felt the City would not want to have a list available of those people who did not have alarms. That list could end up in the wrong hands. The permitting process was dangerous.
Dr. LaHue felt that a nuisance alarm ordinance would have to pay for itself, so he favored an inspection permit and a yearly fee.

Councilmember Campbell moved to pass the ordinance as written with the elimination of the retraining and preventive maintenance mentioned at the beginning of the discussion, seconded by Giblin. After discussion of deferring the matter to a date certain because of concern about the permitting process, both motion and second were withdrawn.

Councilmember Rasmussen moved to defer the matter to the December 19th Council meeting, seconded by Dunn. Motion carried; LaHue opposed (he wanted to defer to a meeting in January), all others in favor.

EXECUTIVE SESSION: On motion of Giblin, seconded by Clawson, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

APPROVAL OF APPROPRIATION ORDINANCE NO. 746: The ordinance was considered and passed on motion of Clawson, seconded by Giblin. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Dunn, Rasmussen, Patterson. Nays---None.

OTHER BUSINESS: Council goal setting would be discussed at a work session on January 9, 1995.

Staff would prepare a list of 1995 legislative matters for Council's review to be forwarded to state legislators.

Councilmember Dunn had questions about the Public Works Department's summary of key projects which had been distributed to the Council. No. 34 - traffic signal at 119th & Mission Rd. - Public Works Director Brandt would check on the status of changing the signal during mass time at the Church of the Nativity. No. 35 - traffic signal at K-150 & Roe Ave. - Mr. Brandt said the project could commence this month, not December 1995. No. 72 - drainage problem at Chartwell/98th & Ensley Lane - Mr. Brandt said the project would be submitted to the Stormwater Management Advisory Council (SMAC) for possible funding.

10:05 P.M. Council convened in executive session, same members present, and returned to regular session at 10:28 P.M.

A letter from Dewey Towner, Jr., 8108 Sagamore Rd., dated November 29, 1994, requesting correction of surface water which ponded in front of his home, was referred to Public Works.

There being no further business before the Council, the meeting was adjourned.
MINUTES  
REGULAR COUNCIL MEETING  

Tape No. 316  

# 17 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, December 19, 1994. Mayor Marcia Rinehart presided.

Councilmembers present: Ronald LaHue, John R. Campbell, Jr., Marnie S. Clawson, Graham G. Giblin, Sr., Douglas J. Moore, Peggy J. Dunn, and Louis Rasmussen. Doug Patterson was absent. Staff present: Richard J. Garofano, City Administrator; Julie Hakan, Director of Human Resources; J. Stephen Cox, Police Chief; Ronald Brandt, Director of Public Works; Robert McKay, Director of Planning and Development; Harry Malnicof, Finance Director; Jerry L. Strack, Fire Chief; Scott Whitaker, Director of Parks and Recreation; Martha Heizer, City Clerk; and Richard S. Wetzler, City Attorney.

27 On motion of Campbell, seconded by Clawson, the agenda was approved unanimously after the addition of an application for renewal of a cereal malt beverage license from Osco Drug, 11729 Roe Ave. in Camelot Court Shopping Center.

48 PRESENTATION OF LEAGUE (OF KANSAS MUNICIPALITIES) SERVICE AWARDS TO CITY EMPLOYEES: Police Corporal Edward McPheeters, Firefighter III Joel Blackman, and Firefighter II Randall Brumback received League certificates and service pins and City of Leawood certificates of appreciation for their 10 years of service to the City.

117 CITIZEN COMMENTS: Gordon Thomas, 10516 Mohawk Lane, suggested that the Council's meeting agenda format be changed so that the more important issues be discussed earlier in the meetings while most of the public was still in attendance. He also suggested that matters of finance, ethics, and ordinances brought up by Councilmembers or residents receive ample publication either by the City or by the press.

277 CONSENT AGENDA: The following were approved unanimously on motion of LaHue, seconded by Dunn:

1. Minutes of the December 5, 1994, Council meeting;
2. Departmental reports;
3. Resolution No. 1211, attached as part of the record, designating holidays for 1995;
4. Purchase of 5 Kustom Signals Eyewitness in-car video units @ $5,120 for the Police Department, totaling $25,600 ($15,360 from the 1994 budget, and $10,240 from the 1995 budget), purchased from Kustom Signals;
5. Application (renewal) for cereal malt beverage license - Osco Drug, 11729 Roe Ave. in Camelot Court Shopping Center.

292 RESOLUTION NO. 1212 APPROVING A REQUEST FOR REZONING FROM CP-0 TO CP-1, AND APPROVING THE REVISED PRELIMINARY PLAN FOR EXCHANGE NATIONAL BANK LOCATED AT LEAWOOD COMMONS, APPROXIMATELY 114TH AND NALL AVENUE: Adopted unanimously on motion of Clawson, seconded by LaHue. Attached as part of the record.
ORDINANCE NO. 1450 REZONING PROPERTY (EXCHANGE NATIONAL BANK) LOCATED AT APPROXIMATELY 114TH AND NALL AVE. FROM CP-0 TO CP-1: The ordinance was considered and passed on motion of Moore, seconded by Dunn. On roll call, the vote was: Yeas---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen. Nays---None.

RESOLUTION NO. 1213 APPROVING A REQUEST FOR A SPECIAL USE PERMIT FOR A CHURCH, AND APPROVING THE PRELIMINARY SITE PLAN AND PRELIMINARY PLAN FOR COVENANT CHAPEL, LOCATED AT APPROXIMATELY 133RD (EATON) AND PEMBROKE: This matter had been remanded to the Plan Commission at the May 16, 1994, Council meeting with the directive that a traffic study be done prior to final plan approval of each phase, and that there be an alternative means of direct access from a major route to the church property. The church revised its original plan to include temporary access to K-150. The Plan Commission recommended approval with several stipulations, two of which were that access to K-150 be installed as part of the first phase improvements, and that the frontage road (133rd Street/Eaton) have a connection to Mission Rd. or State Line Rd. before any consideration would be given to allow the church access to it. Once access to the frontage road was accomplished, the temporary road to K-150 would be eliminated.

Scott Laravea spoke on behalf of the church. He had just learned there was still some organized effort to oppose the (revised) plan, so he requested a 2-week continuance which would allow the church time to discuss outstanding concerns with residents.

David Marshall, 13029 El Monte, thought the residents' concerns about traffic in the neighborhood had been relieved with the temporary access to K-150, and couldn't imagine what further opposition there could be. He urged support for the church.

Chuck Ward, 12820 Overbrook and President of the Leawood South Townhouse Association, spoke about traffic concerns. The church would add to the traffic. Planning Director McKay said the access to K-150 in phase one would be the only access to the church for construction traffic and partitioners; it should alleviate the traffic. Mr. Ward apparently did not understand this, thought the access would be used only by construction vehicles and closed after construction was completed, sending partitioners driving through the neighborhood, and did not understand that the access would be built to city street standards. Mr. McKay said a condition of approval was initiation of traffic studies before any connection would be allowed to the reverse frontage road.

Jane Lehan, 13113 Pawnee in Waterford, had distributed a letter/petition to Councilmembers from Waterford residents urging the Council to stand by its directive of May 16, 1994, and "continue to require a traffic study of surrounding neighborhood streets (132nd, 131st, Overbrook, and 128th) prior to closure of the temporary access to K-150 and prior to the final plan approval of each phase." She had not seen anything in writing that assured her that traffic studies would be done at each phase once the temporary access road was closed, and only a portion of the frontage road was open to State Line Rd. or Mission Rd. The Mayor explained that the resolution under consideration included the Council's May 16th directive as a stipulation of approval.

Gary Bussing, 2905 W. 131st St. and President of Greenbrier Homes
Association, said that the Association had dropped their concerns about
opposition to the church’s plans, and felt the church had made a
good effort to resolve the traffic concerns with its revised plan.

Councilmember Rasmussen said it appeared from stipulation of ap-
proval #8 of the resolution that staff would assess the traffic impact
and safety requirements with each church construction phase to deter-
mine access to the frontage road, so that in the event part of the
church’s access was to Mission Rd., but not to State Line Rd., perhaps
the temporary access to K-150 should be maintained until the next part
of the infrastructure was built. Mr. McKay felt that was the intent of
#8. Mr. Rasmussen did not understand what could be accomplished by de-
ferring the resolution for 2 weeks.

Councilmember Claws suggested changing the last sentence of
stipulation #8 to read, "The temporary road to 135th Street from the
Covenant Chapel property shall be maintained until access is available
on the reverse frontage road to Mission Road and State Line Road".

Councilmember Campbell suggested that since the Council had the
ultimate control over the access and approval of each phase, they adopt
the resolution as written and then address each phase as the applicant
submitted the applications.

Councilmember Dunn wanted the first sentence of stipulation #8
changed to read, "A professional (rather than staff) traffic study will
be conducted prior to each phase once connection is made to the front-
age road". Mr. McKay said traffic studies would be done by an outside
firm.

Councilmember Moore moved to adopt the resolution with the last
sentence in stipulation #8 to read, "Once the access to the frontage
road is made, the temporary road to 135th Street may (not will) be
eliminated". Motion seconded by Campbell. For the record, Mrs. Dunn
reiterated that traffic studies would be conducted by an outside pro-
fessional firm. Motion carried unanimously. Resolution attached as
part of the record.

RESOLUTION RELATING TO A REQUEST FOR REZONING FROM AG TO RP-4, AND PRE-
LIMINARY PLAT AND PRELIMINARY PLAN APPROVAL, FOR STONE LEDGE LOCATED AT
APPROXIMATELY 154TH AND NALL AVE.: Michael Osbourn of Kaw Valley Engi-
neering represented the developers and gave a presentation. The Plan
Commission recommended denial of the request for rezoning; adjacent
property owners felt that the large homes dwarfed their properties and
could possibly devalue their homes. A valid protest petition had been
filed. Mr. Osbourn requested that the Council remand the request to
the Plan Commission to allow the developer to revise the plans, to
downsize the development. Mr. Osbourn had just learned about the pro-
test petition and said he had a letter from 1 petitioner who felt he
should not have signed the petition and wanted his name removed from
the petition if possible.

Len Frischer, 5445 W. 153rd Terr., backed up to the proposed de-
velopment. He was concerned about the large size of the homes, density
of the plan (overly dense), the plan being contrary to the master de-
velopment plan which called for detached homes (the plan called for at-
tached homes), and the fact that RP-4 zoning would not be acting as a
buffer to a commercial area in this case as it had been utilized (he
believed) historically throughout the City. Residents did not want to
be adjacent to multifamily units. Mr. Frischer requested that the Council deny the request for rezoning. He said that as long as the developer requested RP-4 zoning, residents would continue to be concerned. They would probably prefer R-1.

Councilmember LaHue moved to remand the matter to the Plan Commission because of the desire for changes to the original plan which would perhaps allow for a compromise between the City and the developer. Motion seconded by Moore.

Councilmember Rasmussen did not feel a remand was in order. This was a case where the applicant had become aware of the fact that his application might face insurmountable obstacles, so at the last minute decided to change his plan - it was not fair to residents. He would not vote for a remand, and would vote against the rezoning. The applicant should make his case, and if the Council denied it, then the applicant could return with another application.

Councilmember Campbell was concerned about the density of the plan.

Motion to remand carried; Rasmussen, Giblin opposed; all others in favor.

ORDINANCE REZONING PROPERTY (STONE LEDGE) LOCATED AT APPROXIMATELY 154TH AND NALL AVE. FROM AG TO RP-4: No action taken.

REQUEST FOR A SPECIAL USE PERMIT BY CHRIST COMMUNITY CHURCH AT APPROXIMATELY 142ND AND KENNETH RD.: On motion of Moore, seconded by Clawson, Council unanimously approved a 2-year permit starting on the date of issuance of a certificate of occupancy to allow the installation of a temporary office mobile unit for the church.

MAYOR'S REPORT: The Mayor congratulated those Councilmembers and staff members who had taken the steps to form a Rotary Club in Leawood.

AUTHORIZE CONTRACT FOR DESIGN ENGINEERING SERVICES FOR STORMWATER MANAGEMENT (SMAC) PROJECT, LEE BOULEVARD, 86TH ST. AND BELINDER: Councilmember LaHue moved to approve a contract with Boyd, Brown, Stude & Camben in the amount of $199,500, seconded by Clawson. Councilmember Rasmussen said the Council had authorized an annual budget expenditure of $300,000 for stormwater management projects. He was concerned about how the City was going to pay for all its stormwater projects with only $300,000; how was the City going to schedule payments. City Administrator Garofano said the City had addressed the issue before and had asked the County Stormwater Management Advisory Council to fund projects on a level payment basis. SMAC’s answer was that large projects could be phased.

Construction contracts would not be let that were not within the cash basis law. Mr. Rasmussen was concerned, did not believe the City had enough cash to pay for all the projects. Mr. Garofano said the City could let the authorized annual expenditure accumulate over a few years to fund large projects, or the projects could be bonded.

Public Works Director Brandt reviewed the projects and their costs.

Motion to approve the contract carried; Rasmussen opposed, all others in favor. Mr. Rasmussen wanted reassurance that the budget
would cover this type of project, and that residents would know that the City would be spending only a certain amount each year for these projects.

4177 SCHEDULE WORK SESSION: Scheduled for Monday, February 13, 1995, 7:00 P.M., to discuss a proposed amended nuisance alarm ordinance.

4470 APPROVAL OF APPROPRIATION ORDINANCE NO. 747: The ordinance was considered and passed on motion of LaHue, seconded by Dunn. On roll call, the vote was: Yea---LaHue, Campbell, Clawson, Giblin, Moore, Dunn, Rasmussen. Nays---None.

4709 10:00 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer City Clerk