

Minutes

Audio Tape No. 485

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, May 1, 2000. Mayor Peggy J. Dunn presided.

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

Staff present: Richard J. Garofano, City Administrator; Mark Andrasik, Director of Information Services; Sarah Hilton, Administrative Services Manager; Captain Scott Barton, Police Department; Joe Johnson, Public Works Director; Diane Binckley, Planning Services Administrator; Ben C. Florance, Fire Chief; Kathy Rogers, Finance Director; Chris Claxton, Parks & Recreation Director; and Patricia A. Bennett, City Attorney.

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA. The agenda was approved unanimously on motion of Bussing, seconded by Rawlings, after 5, presentation and approval of the 1999 Comprehensive Annual Financial Report, was moved to 11E; consideration of 10A moved from Old Business to follow the Consent Agenda; and the addition of 12B, a discussion about silt problems on the Ironhorse golf course and failure to comply with and/or enforce City ordinances.

3. PROCLAMATIONS. The Mayor proclaimed May 1-7, 2000, as “Student Achievement Days Showcasing Student Excellence,” and designated the James and Ruth Amen home at 8116 Lee Blvd. and the abandoned stone railroad bridge at the back of the property at 15232 Sherwood near the Ironhorse golf course as Leawood Historic Structures.

4. PRE-BUDGET PUBLIC INPUT MEETING. G. Gordon Thomas, 10516 Mohawk Lane, addressed the Governing Body. Councilmember Gill asked that the Finance Director look into whether or not there was an issue with the statistical model that the County used with reappraisal; he was concerned that they might be using the very high property values experienced in 1998, that property owners might be on the receiving end of an overly aggressive statistical model, that there might be an over valuation issue.

6. CITIZEN COMMENTS. Citizens were invited to speak to the Governing Body.

7. CONSENT AGENDA

- A. Minutes of the April 3, 2000 Council meeting;
- B. Minutes of the April 17, 2000 Special Council meeting;
- C. Minutes of the April 17, 2000 Council meeting;
- D. Committee reports – removed from the agenda;
- E. Mayor's appointments to committees and commissions, attached as part of the record;
- F. Appointment of presiding officers;
- G. Pay Request No. 6 (FINAL) by S.K. Design Group in the amount of \$9,109.75 for preliminary design study for SMAC project DB-04-014 (Phase 2) from 83rd and Sagamore to Lee Blvd. and Meadow Lane;
- H. Purchase of utility body for Public Works from the second low bidder Knapheide Truck Equipment in the amount of \$12,129.00;
- I. Contract with S.E.C.T. Theater Supplies in the amount of \$7,950 to provide a complete production package for the Leawood Stage Company's summer performance at City Hall.

The Consent Agenda was approved unanimously on motion of Bussing, seconded by Rasmussen, after the Clerk was asked to make a few mechanical corrections on the last pages of A and C, and a question on G concerning budget compliance.

10. OLD BUSINESS

A. Ordinance No. 1859 vacating street right-of-way at approximately 111th and State Line Rd. On motion of Bussing, seconded by Rasmussen, Council unanimously passed the ordinance on roll call vote.

8. PLAN COMMISSION

A. Resolution No. 1521 approving request for rezoning from AG to CP-1, and approving preliminary site plan and preliminary plat, for Ironhorse Centre, southeast corner of 151st and Nall. Planning consultant Andy Schlagel appeared on behalf of the applicant. Councilmember Rasmussen wanted to know why the fence requirement, covenant running with the land concerning recognition of the golf course, and the stormwater design, all noted in the minutes of a Golf Course Committee meeting, weren't Plan Commission stipulations of approval. Mr. Schlagel stated for the record that he understood the 3 issues were part of the approval.

Mr. Rasmussen said that the Golf Course Committee made it very clear that on the 25-foot no-build easement, it was permissible to have a sidewalk, but no benches. Regarding stormwater, he wanted to be sure it was understood that the golf course engineer and City engineer had to protect City property, and the area being adjacent to the golf course made it unique, and as far as he knew, there was no argument about that.

Councilmember Taylor asked if the applicant would be willing to place a sunset condition on the zoning, with a provision that as the project moved along, the provision could be relieved as the phases were developed. Mr. Schlagel said the equity of such a condition concerned him a little bit; the property to the north of the project had been zoned CP-1 for a

number of years and didn't have a sunset condition. He saw a timely initiation of the project; perhaps if the sunset provision was fair enough and applied across the board to other applicants for some uniformity throughout the City, that would make him feel a little better. Mr. Taylor said that such a sunset condition would give the City an opportunity to make sure that the land didn't lay idle like the property to the north.

Councilmember Gill asked Mr. Schlagel if it was his intention that there be adequate retention so that there wasn't any incremental increase in the water flow post development than presently existed, or did he intend to increase the flow. Mr. Schlagel said more engineering studies needed to be done as they moved to the final development, but the work they had done with the City engineer to date hadn't directed them towards any detention on the site. Mr. Gill asked if Mr. Schlagel would be amenable to such a condition of approval. Mr. Schlagel said he would be amenable to following whatever City policies and Public Works directed them to do in the development of the site. Mr. Gill said he agreed with Mr. Taylor that there should be a sunset condition.

The Mayor asked that wording be added to the first sentence of stipulation #4 so it would read, "The applicant is responsible for a public art impact fee or a piece of public art."

Mr. Taylor moved to adopt the resolution with 4 additional stipulations that were approved by the Golf Course Committee at their December 13, 1999 meeting – 1) standard, wrought iron fencing to be supplied by the developer, 2) covenant regarding the 25-foot no-build zone, liability to be addressed by the developer, 3) stormwater design to be engineered so that it would not affect erosion or silting on the golf course and reviewed by the Golf Course Committee, and 4) retaining walls and landscaping to be reviewed by the Golf Course Committee at the time of development, in particular the stormwater design plans to be in compliance with the review and approval by the Golf Course Committee and its engineer - and with another stipulation of a 5-year sunset provision for the zoning with the understanding that as the developer progressed, that sunset time could be increased if an effort to develop the phases was shown. Motion seconded by Gill with a point of clarification on the 5-year sunset – the developer had to start actual construction of the project, making meaningful progress towards the fulfillment of the plan, then they would be locked onto the project. Mr. Gill read into the record the City's procedure (Ordinance Section 15-516, procedure for submission and review and approval of stormwater drainage study) regarding stormwater incremental flow, and expressed his strong belief that it would be adhered to – there wouldn't be an increase in flow emanating from the source.

Councilmember Bussing supported the concept of sunsetting zoning approvals, however, he was reluctant to go forth without any consideration of the implications of a sunset on a developer and how the City might address them down the road. He wouldn't, however, oppose the motion.

Mr. Schlagel said that the first phase was tied to the completion of 151st Street, and he asked for some consideration that if there was going to be a 5-year sunset, that it not be initiated until 151st Street project presently underway or on the books was completed. Mr. Taylor agreed to amend the wording of his motion to that effect and Mr. Gill who seconded the motion concurred.

Mr. Taylor's motion carried; Dunn opposed; Gulledege, Bussing, Rawlings, Gill, Rasmussen, Taylor in favor. Mr. Dunn was opposed to legislating as part of a plan approval and he felt that was what the Council was doing with the 5-year sunset provision.

B. Ordinance No. 1860 rezoning from AG to CP-1, Ironhorse Centre. On motion of Taylor, seconded by Rasmussen, Council passed the ordinance on roll call vote; Dunn opposed; Gulledge, Bussing, Rawlings, Gill, Rasmussen, Taylor in favor.

C. Resolution No. 1522 approving final site plan for modifications to the parking lot design for Town Center AMC Theatres at 11701 Nall Ave. City Administrator Garofano noted that the Police Department previously reported that they didn't have a problem with moving the start of the last show time from 10:45 P.M. to 11:00 P.M. Chuck Stilly of AMC gave a presentation. Councilmember Taylor was concerned about the location of handicap parking and the elimination of 66 parking spaces, imposing 66 more cars into an area of retail and other uses. Councilmember Dunn noted that the problem wasn't that there weren't plenty of places to park but rather getting from a parking space safely to the theater, and he thought the design addressed those safety concerns. Councilmember Bussing moved to adopt the resolution with an additional stipulation that the start of the last show be extended permanently to 11:00 P.M., seconded by Dunn. Motion carried; Taylor, opposed (because of the immediate inadequacy of parking); Gulledge, Bussing, Rawlings, Dunn, Gill, Rasmussen in favor.

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

- a. Recent strategic planning session for the Johnson County Community Foundation
- b. Recent Johnson County function - Preserving Future Community Infrastructure Summit
- c. Recent arts function at the Leawood United Methodist Church for disabled students
- d. Volunteer appreciation picnic, April 30th at City Hall
- e. Greater Kansas City area Mayors' International Tourism Summit
- f. "Leawood Day" on May 20th sponsored by Leawood Soccer and the Kansas City Wizards, 4:30 P.M., at Arrowhead Stadium
- g. "Grazing the Trail-A Taste of Leawood" on June 3rd at City Hall, a benefit for Leawood Chamber of Commerce

10. OLD BUSINESS (continued)

B. Resolution of finding as to the advisability and authorizing the improvement and construction of 133rd Street from Roe Ave. to Mission Rd. Councilmember Gill moved to continue the matter to the May 15th Council meeting, seconded by Gulledge. Mr. Gill wanted to know if the Blue Valley School District, which had not signed the petition for a benefit district, was satisfied and amenable to going forward with the benefit district. Dave Hill of the School District said that Senator John Vratil, general counsel to the Board of Education, wrote an additional letter to City Administrator Garofano which the Governing Body hadn't seen requesting answers to 3 or 4 questions. Motion carried unanimously.

C. Resolution of finding as to the advisability and authorizing the improvement and construction of 133rd Street from Mission Rd. to State Line Rd. Councilmember Gill moved to continue to the May 15th Council meeting, seconded by Taylor and carried unanimously.

D. Ordinance No. 1861 levying an additional City retailers' sales tax of .125% in addition to the 1% currently levied, effective July 1, 2000 and ending June 30, 2005. On

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

11. NEW BUSINESS

A. Approval of Appropriation Ordinance No. 890. On motion of Rasmussen, seconded by Dunn, Council unanimously passed the ordinance on roll call vote.

B. Request to proceed with the creation of an improvement district for SMAC project DB-04-015, 84th Terr. and State Line Rd., in order to assess the cost of condemnation of easements required for the project. Councilmember Rasmussen moved to approve the request, seconded by Gullede. There was discussion that 13 easements still had to be obtained, and some of those 13 would be asking for a lot of money. Councilmember Dunn was comfortable with this being a test case for the City's new policy (where an improvement district couldn't be created unless it was declared to be in the public interest to do so, where public safety wasn't an issue), but staff needed to watch the process very carefully because this could be a special benefit district that could be quite costly to the residents. Public Works didn't want to send letters to the 13 property owners indicating the possibility of condemnation if they didn't grant easements until Council had approved the request to proceed. There was discussion about assessing the costs of condemnation back to the property owners. Mr. Rasmussen's motion carried unanimously.

C. Ordinance No. 1862 accepting deeds and easements for Nall Ave. widening, College Blvd. to 119th St. Councilmember Rasmussen moved to pass the ordinance, seconded by Bussing. All easements were donated, saving the City the estimated \$90,000 cost to obtain them. There was discussion that Overland Park had accelerated the construction schedule so the project would be completed in 2000 instead of over a 2-year period, creating an additional amount of approximately \$26,000 for Leawood to pay, said amount not an out-of-pocket cost to the City in terms of it being a trade-off on a future project. Ordinance passed on roll call vote; Gill opposed (as with prior comments on the project, he still thought the City was overpaying for someone else's project, but he did agree with the acceleration); Gullede, Bussing, Rawlings, Dunn, Rasmussen, Taylor in favor.

D. Schedule executive session. On motion of Bussing, seconded by Rawlings, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss litigation and personnel matters.

E. Presentation and approval of the 1999 Comprehensive Annual Financial Report. Lou Herman of audit firm Cochran and Head gave a presentation. Councilmember Rasmussen moved to accept the report and receipt of the management letter, seconded by Gill. Motion carried unanimously.

12. OTHER BUSINESS.

A. Discussion of executive session confidentiality. The Mayor had distributed a memo concerning privileged/confidential information and/or executive sessions for review. Councilmember Gill noted there was pending state legislation that updated open meetings or open records and he asked the City Attorney to supplement the Mayor's memo when it became law.

B. Discussion of silt problems at Ironhorse golf course/silt enforcement problems. Councilmember Gill said there was good news - for the first 3 months ending April 2nd, Ironhorse Golf Course was 129% above budget, during a period in which one wouldn't expect to make money, but to lose money. There was bad news however - there were approximately 20 situations where adjoining construction was causing silt to run onto the golf course for one reason or another and the City wasn't enforcing erosion control, siltation issues. Building Official Sam Maupin advised the Council about what staff was in the process of doing enforcement-wise. Councilmember Rasmussen felt that the City should start collecting for the damage done to City property on the golf course. Staff to have a further report at the May 15th Council meeting.

13. ADJOURN. 10:30 P.M. Council convened in executive session and returned to regular session at 11:20 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk