

Minutes

Audio Tape No. 492

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, August 7, 2000. Mayor Peggy J. Dunn presided.

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

Staff present:

Richard J. Garofano, City Administrator
Julie Hakan, Director of Human Resources
Joe Johnson, Director of Public Works
Sid Mitchell, Chief of Police
Ben C. Florance, Fire Chief
Chris Claxton, Director of Parks & Recreation
Diane Binckley, Planning Services Admin.
Kathy Rogers, Finance Director

Patricia A. Bennett, City Attorney
Jeff Cantrell, Neighborhood Services
Administrator
Bob Sadler, Internet Specialist
Patricia Cooper, Municipal Court Clerk

1. PLEDGE OF ALLEGIANCE.

2. PUBLIC HEARING.

A. Fiscal Year 2001 Annual Budget. There was no public input. On motion of Taylor, seconded by Rawlings, Council voted unanimously to close the hearing.

B. Resolution adopting the Fiscal Year 2001 Annual Budget. On motion of Taylor, seconded by Gill, Council voted unanimously to continue adoption to the August 21st Council meeting which all Councilmembers were expected to attend.

3. APPROVAL OF AGENDA. Approved unanimously on motion of Bussing, seconded by Taylor, after 1) Item 10.B. regarding a work session September 5th to discuss pay plan revisions was removed, 2) Item 10.I. was added to reschedule a work session regarding Lee Boulevard improvements, 103rd to I-435, to 6:00 P.M. on August 21st, 3) the addition of a second attorney-client privilege matter for executive session Item 12, 4) Item 10.H. regarding installation of sidewalks on the east side of Mission between 103rd and 105th was moved to the first item under Old Business, and 5) time permitting, the addition of Item 11.B., a discussion of wood rot that a number of newer homes in south Leawood were experiencing.

On motion of Gill, seconded by Taylor, Council unanimously, formally tabled (as already indicated on the agenda) Item 7.A. regarding Fire Station No. 3 plans to the August 21st Council meeting, and Item 9.C. regarding an ordinance authorizing and providing for condemnation of property for stormwater improvement project at 84th and State Line Rd. (SMAC project DB-04-015) to the September 5th Council meeting.

4. RECOGNITION. The Mayor presented Fire Marshal Gene Hunter a plaque in recognition of his successful completion of the Executive Fire Officer Program at the National Fire Academy.

5. CITIZEN COMMENTS. Citizens were invited to speak to the Governing Body. Margie Mellody, 2008 W. 84th St., spoke about her concerns regarding the SMAC Project DB-04-015 stormwater improvements at 84th & State Line Rd.

6. CONSENT AGENDA.

- A. Minutes of the July 17, 2000 Council meeting
- C. Resolution No. 1557 approving and authorizing the City's consent to the enlargement of Johnson County Consolidated Main Sewer District to serve an area in the general vicinity of 141st St. and Mission Rd.
- D. Approval of and authorization to execute agreement with the Blue Valley School District for the upcoming school session to provide 2 Leawood Police officers as School Resource Officers (SRO)
- E. Acceptance of a SFY2001 Byrne Grant Award in the amount of \$65,000 through the Kansas Criminal Justice Coordinating Council for the purchase of a LiveScan AFIS (Automated Fingerprinting System), for a local funding match of \$16,250.

Items 6 B, F, and G were removed for discussion. The remaining items were approved unanimously on motion of Rasmussen, seconded by Taylor.

- B. Committee reports:
 - 1. Recommendation from the Ad Hoc Benefits Consultant Review Committee to continue City's relationship with CBIZ/Robert D. O'Byrne and Associates, Inc., and to continue to pay them through commissions. Item was removed from the Consent Agenda to thank the Committee and staff for their work.
 - 2. Golf Course Committee minutes of their June 27 and July 27, 2000 meetings. On motion of Rasmussen, seconded by Taylor, Council voted unanimously to direct the City Administrator to report at the next Council meeting on the results of his research as to where the City stood legally with various easements at Ironhorse Golf Course. Also, on motion of Rasmussen, seconded by Gill, Council voted unanimously to request the City Administrator to take necessary actions required under terms and conditions which Mr. Rasmussen outlined which would be within the golf course budget to move (including renovation, restoration, maintenance with the assistance of the Historic Commission) the abandoned stone railroad bridge adjacent to golf course property onto golf course property to be used as a walking bridge.
On motion of Bussing, seconded by Taylor, Council unanimously approved the committee reports.

F&G. Ad Hoc Police Needs Task Force and Tech Review Committee appointments. The Mayor thanked the new appointees for volunteering their services. On motion of Rasmussen, seconded by Taylor, Council unanimously approved the appointments.

7. PLAN COMMISSION.

A. Reconsideration of Fire Station No. 3 plans. Tabled to the August 21, 2000 Council meeting.

B. Resolution No. 1558 approving the preliminary plan for Heartland Bank at approximately Town Center Drive and Roe Avenue. Councilmember Taylor moved to adopt the resolution, seconded by Rawlings. Mike Hoefer, President of Heartland Bank, addressed the Council. Councilmember Rasmussen highly recommended that the Bank not follow the size of the landscaping done by the original Town Center which he felt was totally unsuitable. He also encouraged the Bank to consider having their own piece of public art as other banks had done. Motion carried unanimously.

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

- a. Stone benches outside the Community Center donated by the Leawood Garden Club
- b. Honors and awards received by Leawood Police Department noted in the July 31st memo from Chief Mitchell
- c. Bench near retention pond (south pond) close to 119th St. donated in memory of a resident who enjoyed the area.

10.H. Discussion regarding installation of a sidewalk on the east side of Mission Rd. south of 103rd St.

Staff felt the City should extend the sidewalk north from Mission Farms development to 103rd St. which would allow residents in Mission Farms to use the sidewalk to the north until the commercial piece was developed and the sidewalks extended south to the City's trail system leading to the City Park. Public Works received preliminary bids to construct the sidewalk along Dorset Manor for approximately \$15,000 to be tied into the Mission Rd. project.

G. Gordon Thomas, 10516 Mohawk Lane, spoke in opposition to the sidewalk. Mark Arensberg, 10300 Howe Lane in Dorset Manor, was also opposed. He said a protest petition was filed as evidence that all property owners from 103rd St. south to I-435, including the developers of Mission Farms, didn't want the sidewalk. He remembered the Mission Road improvement project; it wasn't an oversight to not include a sidewalk on the east side; the final plans for the widening of Mission Road approved by the City after a long process didn't have a sidewalk on the east side of Mission, and during the approval process, residents were assured numerous times that the City wouldn't install a sidewalk on the east side. Minutes of the June 7, 1993 Council meeting confirmed no sidewalks were planned for the east side. Why waste money and remove more green space for a sidewalk that no one wants or needs. The sidewalk project with a lot of concrete wouldn't be aesthetically pleasing; there was already enough concrete in the area.

Councilmember Rasmussen moved that staff be directed not to proceed with sidewalks on the east side of Mission Rd. from 103rd St. to I-435. The motion died for lack of a second. The Mayor noted that a sidewalk along Mission Rd. was a stipulation of approval for the Mission Farms development, so if the developer didn't want the sidewalk, he would have to return to the Council to change a condition of approval for his project.

9. OLD BUSINESS.

A. Staff report regarding code compliance in the vicinity of 103rd and State Line Rd. Councilmember Rasmussen moved to accept the staff report, seconded by Gill. The Mayor asked about the City's Public Works Facility which wasn't included in the report. Jeff Cantrell said that because the area was very congested, some public works equipment had to be stored outside, and that alone constituted an ordinance violation; he couldn't suggest a remedy for that. A 40-yard dumpster used on a daily basis and overflow parking on 104th St. would also make the violations list.

Mr. Rasmussen was concerned about the statement in the report that staff was unable to recover stipulations of development (records) for many of the existing older buildings; it was hard for him to understand how the stipulations could disappear. Mr. Cantrell said it was possible that the City had them, but that staff wasn't able to recover them, and many that were located only went back to the early 1980s, perhaps late 1970s, on some of the structures. He suspected that some of the structures were built in the 1940s, 1950s, and those were the ones that weren't recovered. Mr. Rasmussen said it was disturbing because as time passed by, stipulations made tended to be ignored, and ignorance became acceptance, and then a City would have to deal with a real problem.

Motion to accept the report carried unanimously.

Mr. Rasmussen moved to direct the City Administrator to enforce City ordinances in light of the acceptance of the report, seconded by Gill. The Mayor wanted some discussion of "grandfathering" because she felt that some of the property owners would find it impossible to completely abide by current City standards. Mr. Cantrell didn't think too many of them would suffer from that; certainly some would be impacted, but didn't think it would be impossible, and he didn't put anything on his punch list that he considered to be even remotely close to being grandfathered. Councilmember Gill felt that common sense should be mixed with an overall plan to bring things up to standard, and if there were exceptions, deal with them on an exception basis rather than ignoring a large population of obvious violations. There was discussion that appeals could be made to the Council similar to those with the smoking ordinance. Mr. Rasmussen's motion carried unanimously.

B. Update on recommendation to revise Code related to detached structures. Jeff Cantrell felt it would be extremely difficult to modify the existing ordinance; the City would have to come up with a means of segregating an attractive structure from an offensive one and he didn't know how that would be done, and modifications would open up the issue City-wide, not for just a small percentage of residents. He asked for initiation of a modification within the zoning ordinance which more clearly defined the absolutes of playhouse structures. Councilmember Rasmussen moved to direct the City Administrator to return to the Council (say in approximately 3-4 months) with a recommendation as to the definition of a playhouse that the Council could approve and incorporate into City ordinance, seconded by Taylor. Mr. Gill recommended that it be defined both in terms of size and intended functional use. Motion carried unanimously.

C. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the stormwater improvement project located at 84th and State Line Rd. (SMAC Project DB-04-015). Tabled to the September 5th Council meeting.

D. Authorizing and approving execution of a Letter Agreement with Hoefer Wysocki Architects for a Leawood Courts Study to provide options to improve the operation of the Municipal Court within the lower level of City Hall. The fee for programming and schematic design was \$5,700; there would be another fee for implementation of a desired solution. Councilmember Taylor felt that the proposal was outside the realm of what he thought was to be done. – taking the work stations presently used by court staff down to a space in the lower level, having an arrangement of the work stations done by a space planner, supplying additional stations if necessary, and providing the proper communications and electrical systems, etc. to support the staff. He estimated that a space planner's fee would be \$5,000.

Councilmember Bussing preferred to have Judge Gurney go down to the lower level and decide what she wanted done with the court system and make it happen rather than spending money on a space planner or architect. City Administrator Garofano said that the matter wasn't that simple; there were several complicated concerns involved, and he wouldn't recommend proceeding without having an architectural review to insure that the City could provide the security and safety of City employees and the general public and that the City could in fact adhere to all required regulations given the type of operation that the court had.

Councilmember Gill moved to authorize an expenditure of up to \$5,000 and to have Councilmember Taylor meet with the City Administrator, Judge, and the architects to lay out the scope of work, seconded by Rasmussen. Motion carried unanimously.

10. NEW BUSINESS.

A. Approval of Appropriation Ordinance No. 896. On motion of Gill, seconded by Rasmussen, Council unanimously passed the ordinance on roll call vote.

Approval of Appropriation Ordinance No. 897. On motion of Bussing, seconded by Rawlings, Council unanimously passed the ordinance on roll call vote.

B. Schedule work session for September 5, 2000, to discuss pay plan revisions with consultant, Burgess and Assoc. Removed from the agenda.

C. Schedule work session (for Monday, September 11, 2000) to discuss park plans for South Park and Nall Park. To be scheduled at a later date.

D. Assignment to the Public Works Committee to study traffic concerns at the intersection of Lee Boulevard and Somerset Drive. On motion of Taylor, seconded by Gill, Council referred the matter to the Public Works Committee; Rasmussen opposed; Bussing, Rawlings, Gill, Taylor in favor. Mr. Rasmussen said that historically, the City had spent a great deal of time, study, and money on that intersection; referral would be a waste of time and effort.

E. Approve bid for Lee Boulevard pedestrian bridge over Indian Creek. On motion of Rasmussen, seconded by Taylor, Council unanimously approved the low bid of Wiedenmann & Godfrey in the amount of \$108,454.00.

F. Approve and authorize execution of landscape design agreement with Theis Doolittle Associates in the amount of \$5,720.00 for landscaping plan preparation for

SMAC Project DB-04-015, 84th and State Line Rd. On motion of Rasmussen, seconded by Taylor, Council unanimously approved the agreement.

G. Ordinance No. 1871 adopting the Codification of Ordinances of the City of Leawood, Kansas, providing for the repeal of certain other ordinances not included therein, excepting certain ordinances from repeal and saving certain accrued rights and liabilities. Councilmember Gill wanted to see a draft of the Code before voting. Councilmember Bussing wanted an opportunity in the future to review in advance these types of monumental efforts/studies presented to Council for approval. After lengthy discussion about the codification process, Mr. Gill moved to take the matter into executive session under attorney-client privilege before taking action, seconded by Taylor and carried unanimously.

I. Schedule work session for August 21st, 6:00 P.M., to discuss Lee Boulevard improvements, 103rd to I-435. On motion of Bussing, seconded by Taylor, Council unanimously approved the session.

11. OTHER BUSINESS.

A. Discussion regarding active use of South Park. Councilmember Rasmussen said he had heard from a resident who was told when he purchased his property next to the Park that the Park would be passive. He said he was told the same thing later by some City employees. Mr. Rasmussen said that City Council minutes clearly stated that the Park would be active; Council made every effort to inform people that the Park would be an active Park. Mr. Rasmussen didn't want the City's needs to all of a sudden become captive by someone who was told otherwise by a developer or anyone else.

B. Discussion of wood rot. Councilmember Gill said that an alarming number of homes 5-12 years old in south Leawood were experiencing wood rot. He asked that staff, time permitting, look into the situation, to see if things needed to be done like tightening up City ordinances and/or enforcement for homes to be built in the future. City Administrator said that the matter was being addressed by the Plan Commission.

12. EXECUTIVE SESSION. 11:08 P.M. On motion of Bussing, seconded by Taylor, Council voted unanimously to convene in executive session for a period not to exceed 40 minutes to discuss 3 attorney-client privilege matters and pending litigation.

11:45 P.M. Council returned to regular session. On motion of Gill, seconded by Bussing, Council voted unanimously to continue agenda Item 10.G. (ordinance adopting the Codification of Ordinances) to the August 21st Council meeting.

ADJOURN. There being no further business before the Council, the meeting was adjourned.

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