

Minutes

Audio Tape No. 496

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, October 2, 2000. Mayor Peggy J. Dunn presided.

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

Staff present:

Richard J. Garofano, City Administrator

Shahram Pourazari, City Engineer

Randy Wiler, Exec. Police Planning Officer

Sid Mitchell, Chief of Police

Chris Claxton, Director of Parks & Recreation

Diane Binckley, Planning Services Admin.

Kathy Rogers, Finance Director

Ben C. Florance, Fire Chief

Patricia A. Bennett, City Attorney

Mark Andrasik, Information Services
Director

Jeff Cantrell, Neighborhood Services

Administrator

Deb Harper, Paralegal

1. PLEDGE OF ALLEGIANCE.

2. APPROVAL OF AGENDA. Approved unanimously on motion of Taylor, seconded by Story, after 1) Item 8.A. regarding code compliance in the vicinity of 103rd & State Line Rd. was moved to follow Item 5 (Consent Agenda), 2) the addition of Item 10.B. regarding the eastern terminus of the reverse frontage road 133rd Street as it abutted Greenbriar subdivision and extended through the old airport property to State Line Rd., and 3) Items 8.B. and 8.C. regarding condemnation for SMAC Project DB-04-015 at 84th & State Line Rd. and Price Chopper fence issue respectively were continued to the October 16, 2000, Council meeting,

3. PROCLAMATIONS. The Mayor proclaimed 1) October 8-14, 2000, as "Fire Prevention Week" and presented the proclamation to Fire Chief Florance; 2) October 2000 as "Lupus Awareness Month"; and 3) October 2000 as "Visual Arts Month."

4. CITIZEN COMMENTS. Dave King, 2135 W. 116th St., spoke about noise from 2 large fans on the eleventh green of the Hallbrook Country Club golf course. The Club told him the fans would be on May-September. Mr. King filed a complaint with the City against the Club. He requested help from the City Council in resolving the matter to the satisfaction of both parties, the problem having gone on since May. Councilmember Rasmussen asked the City Attorney if the sound level of the fans indicated

a violation of City ordinances. Ms. Bennett said the City Prosecutor was in the process of doing some legal research with regard to the interpretation of City Code to be sure it was legally sound before proceeding. She also understood that the fans were off at the present time, so an immediate prosecution wouldn't stop the fans. The Prosecutor was working with Hallbrook and hopefully could arrive at a solution before the fans were turned on again next May. Mr. Rasmussen moved to ask the City Prosecutor whether or not the operation of the fans violated City ordinances, seconded by Gullledge and carried unanimously.

5. CONSENT AGENDA.

- A. Minutes of the September 18, 2000 Council meeting
- B. Minutes of the September 11, 2000 Technology Review Committee meeting
- C. Minutes of the August 8, 2000 Parks & Recreation Advisory Board meeting
- D. 2000 Goals & Objectives report – tabled to the October 16, 2000 Council Meeting
- E. Cereal Malt Beverage (CMB) License renewal for Pat's Blue Rib'n Barbeque at 12256 State Line Rd.
- F. First & Final Pay Request of \$125,702.85 to Musselman & Hall Contractors for the 2000 Slurry Seal Program
- G. Approve \$7,200 proposal from Schmitz, King & Associates, Inc., to do a survey for the 2001 Street Improvement Program

On motion of Taylor, seconded by Rawlings, Council unanimously approved the Consent Agenda.

8.A. FOLLOW-UP REGARDING CODE COMPLIANCE IN THE VICINITY OF 103RD & STATE LINE ROAD – refrigerated trailer at Fritz's Meats. Jeff Cantrell didn't find anything in City Council meeting minutes from 1983 to 1985 regarding Council approval of the trailer nor did he find approval in other records. Councilmember Rasmussen moved to accept Mr. Cantrell's recommendation that the trailer be removed from the property within 2 years regardless of ownership or improvements to the facility, seconded by Dunn. Motion carried unanimously.

6. PLAN COMMISSION.

A. Request for a Special Use Permit (SUP) for a temporary parking lot located at Church of the Resurrection, 13720 Roe Avenue. Councilmember Taylor recused himself to avoid the appearance of a conflict of interest. The Mayor asked that wording be added at the end of stipulation of approval #4 regarding stormwater to say that "...and incorporate recommendations in the September 28, 2000 memo from the City Engineer." The applicant, Gene Ramsey of the Church, agreed to the additional wording. Councilmember Bussing moved to approve the permit limited to 3 years from the date of Governing Body approval, seconded by Gullledge. Motion carried unanimously, except for Mr. Taylor who recused himself.

B. Resolution No. 1567 approving a Special Use Permit (SUP) and preliminary site plan for a drive thru bank facility (Columbian Bank) on the southwest corner of College

Boulevard and Roe Avenue (4701 College Blvd.). John Peterson of Polsinelli, Shalton & Welty, appearing as the applicant on behalf of McCaffree Financial Corp., advised that they did a series of traffic studies in terms of the external street network and internal circulation patterns, and found that in terms of the external street system, any impact was negligible, and that the street system operated well with the use proposed, understanding the constraints on the use pursuant to the special use permit, the size and hours of operation. As far as the internal circulation of the site, some suggested modifications were made to the site plan. They also studied the situation at 112th St., the main entrance into Leawood Country Manor. They met with the area residents to discuss buffering, landscaping, lighting, signage, and entered into a written, binding agreement with them which addressed the issues item by item.

The Plan Commission stipulated in stipulation #1 that a right lane, deceleration lane be constructed on the southbound side of Roe Ave. into the property. Mr. Peterson said they didn't feel it was necessary with the minor amount of traffic that their traffic report indicated would utilize the drive, focusing on the P.M. peak, and wouldn't justify the necessity of the additional construction and cost which included expensive move of utilities from the right-of-way. He described an alternative proposal of a 1-year waiting period in which to determine the need for the deceleration lane. If they were required to construct the lane, he requested that they pay the cost of construction to the City, and that the City at its timing preference would construct the lane. That would cause the utility companies to move their utilities from the right-of-way at their expense.

Councilmember Bussing moved to adopt the resolution with a change to stipulation # 1 that would allow the applicant a 1-year waiting period after which time an assessment be made of any impact as Mr. Peterson suggested to include a traffic study if staff required it to be paid for by the applicant, seconded by Taylor. It was noted that if the resolution was adopted with the change, it would be an override of the Plan Commission's recommendation, and therefore, would require a super majority vote (6). There was discussion about the immediate need for the deceleration lane as recommended by the Plan Commission and staff. There was discussion about how the utility companies would view the City's construction of the lane. Mr. Peterson agreed that if staff directed the construction of the deceleration lane be done at the end of the 1-year period, the applicant would construct the lane regardless of the cost. Mr. Bussing's motion failed; Bussing, Gullledge, Rawlings, Story, Taylor in favor; Gill, Dunn, Rasmussen opposed.

Councilmember Gill moved to adopt the resolution changing stipulation #1 so that the City would construct the lane and would be reimbursed by the applicant for the costs of doing so, seconded by Rasmussen. Motion carried unanimously.

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

- a. Her trip to Pittsburgh, Kansas, with the State Water Committee Task Force
- b. Her attendance at the September 23rd Kids Day America/International event at the State Line Chiropractic Center
- c. Her attendance at a reception honoring retiring State Senators Dick Bond and Audrey Langworthy for their many years of service to the community
- d. Her tours of 5 fire stations
- e. The itinerary for the I-Lan, Taiwan delegation to arrive October 8th

- f. Lions Club pancake breakfast on October 20th & 21st
- g. Staff would no longer poll Councilmembers for their attendance at Council meetings; they would receive a reminder about work sessions
- h. No members of the Governing Body or staff would attend the Annual Congress of Cities in Boston December 5-9

8. OLD BUSINESS.

A. Follow-up regarding code compliance in the vicinity of 103rd & State Line Road
– moved up to follow Item 5, Consent Agenda.

B. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the stormwater improvement project located at 84th Street and State Line Road, SMAC Project DB-04-015. Tabled to the October 16, 2000, Council meeting.

C. Discussion of transfer of ownership of real property to specific abutting property owners and placement and installation of a fence pertaining to the Market Square Development (Price Chopper) located at 133rd & Mission Rd. Tabled to the October 16, 2000, Council meeting.

D. Discuss current City permit policy. At the September 5, 2000, Council meeting, staff was directed to look at the question of whether the City should use as a criteria before issuing a building permit requiring a resident to produce proof from their homes association that whatever project they were doing was alright within their deed restrictions. If it was up to each homes association to interpret their deed restrictions, City Attorney Bennett wondered if every homeowner would have an active enough homes association that they could produce a letter of proof within 30 days; if they didn't, would the City be left back in the position of having to interpret the homes association restrictions or enforce them. She said that if there were important things the City needed to do to City codes to be sure the City was protected City-wide, then the City should do them City-wide as opposed to neighborhood by neighborhood. It wasn't real practical for the City or residents to be in the position of trying to get sometimes inactive homes associations active again so that within 30 days they could turn around a verification that whatever project they were doing was approved. Staff recommended against that criteria. City Administrator Garofano said that part of the building permit process required homeowners (or their contractors taking all obligations and responsibility for the jobs) to sign a statement that they were in compliance with the deed restrictions or other requirements of their homes associations. That kept the City away from the issue of the enforcement of deed restrictions.

Dick Horn, 10304 Belinder, said that the Leawood Estates Homes Association was asking for some communication with the City so that they knew what was going on within their Association so they could deal with questions of a nature where the City might approve something and the Association reject it. It could be a change in ordinance or a faxed copy of the statement signed by the homeowner.

That could help to avoid some very unhappy situations; one had already occurred involving a law suit. Councilmember Dunn suggested mailing a copy of the building permit application to the appropriate homes association. Jeff Cantrell, Neighborhood Services Administrator, said that could be cumbersome in lieu of the many types of building permits issued. Councilmember Gulledge said that as a member of his own homes association, he would find it very difficult, if not impossible, based on some of their meeting times, to approve some issues, not to mention the fact that the people involved in making those decisions might not be qualified to do so. Councilmember Story suggested eventually putting information on the City's web site where homes associations could check periodically on permits authorized by the City, or something like that that was passive and placed the responsibility on the associations to seek that information on a regular basis. Mr. Garofano reminded everyone that building permits were public information and homes associations could go to City Hall to review them; that would place the onus on those associations that wanted to be actively involved and vigilant, relieving the City of the responsibility of saying that it would notify associations of every building permit or form that was signed.

On motion of Rasmussen, seconded by Gill, Council unanimously appointed Councilmembers Dunn and Rawlings to review the matter further with staff.

9. NEW BUSINESS.

A. Approval of Appropriation Ordinance No. 901. On motion of Dunn, seconded by Story, Council unanimously passed the ordinance on roll call vote.

B. Schedule work session related to Telecommunications. On motion of Gulledge, seconded by Story, Council voted unanimously to hold the session on November 6, 2000, at 6:00 P.M.

C. Resolution No. 1568 authorizing the sale of \$8,310,000 General Obligation Bonds of the City to provide funds to pay the costs of certain public improvements within said City; approving the form of notice of bond sale and preliminary official statement to be used in connection therewith; and authorizing and directing the City to advertise such sale in the manner prescribed by law. Adopted unanimously on motion of Rasmussen, seconded by Taylor.

D. Resolution No. 1569 approving and authorizing the Mayor to execute a personal service agreement between the City and Orion Management Solutions, Inc., to manage and operate the Ironhorse Golf Club. Adopted unanimously on motion of Gill, seconded by Dunn.

10. OTHER BUSINESS.

A. Discuss current County SMAC policy. Councilmember Dunn reported on the results of a special meeting of the Johnson County Stormwater Management Advisory Council which affected Leawood's pending project DB-24. SMAC considered what they should do with projects they had approved for funding that were originally estimated "on the back of an envelope" but which had become much more expensive, what to do when a project ran over their budgeted amount. SMAC

decided to recommend to the County Commissioners for their approval a 5-option program for cities with those types of projects. Leawood's option would be to proceed with DB-24; the additional monies required would remain as a project on a list for approval in subsequent years, considered under the same criteria as every other project on the list. If a project was under construction, it would be given more points than other projects on the list. SMAC didn't consider reducing the percentage that the County would pay toward a project.

B. Discussion regarding 133rd Street reverse frontage road improvements. The eastern terminus of the road which ran through the old airport property was proposed to turn north to run along behind a number of homes in Greenbrier subdivision then turn east again to intersect at Blue Ridge Extension at State Line Road. Councilmember Bussing said the homeowners had a number of concerns. On motion of Bussing, seconded by Gill, Council voted unanimously to direct the Public Works Director to meet with the homeowners and address their concerns.

ADJOURN. 10:05 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk