

Minutes

Audio Tape No. 498

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, November 6, 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

Joe Johnson, Public Works Director

Scott Barton, Police Captain

Sid Mitchell, Chief of Police

Chris Claxton, Director of Parks & Recreation Administrator

Diane Binckley, Planning Services Admin.

Kathy Rogers, Finance Director

Julie Hakan, Human Resources Director

Patricia A. Bennett, City Attorney

Ben C. Florance, Fire Chief

Mark Andrasik, Information Services Dir.

Jeff Cantrell, Neighborhood Services

Sarah Hilton, Admin. Services Mgr.

Martha Heizer, City Clerk

1. PLEDGE OF ALLEGIANCE.

2. APPROVAL OF AGENDA. Approved unanimously on motion of Dunn, seconded by Story, after 1) the order of Items 9A, B, C, & D was changed to 9C, D, A, & B, 2) the addition of Item 5.N. for approval of the 2001 employee benefit renewal of the 125 Cafeteria Plan, and 3) the addition of Item 10.A. for an update on the 86th & Overbrook street improvement project.

3. PROCLAMATIONS. The Mayor proclaimed November 15, 2000, as "America Recycles Day," and November 2000 as "Lung Cancer Awareness Month." Barbara Bell, 12837 Cambridge Road, thanked everyone for the proclamation.

4. CITIZEN COMMENTS. Margie Mellody, 2008 W. 84th St., part of the 84th & State Line Rd. stormwater improvement project, didn't understand how the Council could consider monetary assistance for her neighbors, the Sheeks, at the last Council meeting, but couldn't do so for her; both she and the Sheeks had serious problems and they weren't any more deserving of assistance than she was.

5. CONSENT AGENDA.

- A. Minutes of the October 4, 2000 Special Call meeting
- C. Minutes of the August 22, 2000 Arts Council meeting
- D. Minutes of the September 26, 2000 Arts Council meeting
- E. Minutes of the October 24, 2000 Arts Council meeting
- F. Minutes of the September 12, 2000 Historic Commission meeting
- H. Minutes of the September 11, 2000 Technology Review Committee meeting
- I. Minutes of the October 26, 2000 Technology Review Committee meeting
- K. Approval of 2001 Employee Benefits renewal (United Health Care, Delta Dental, Fortis, and New Directions as providers)
- L. Approval of request to use septic tank on Lot 16, Merry Lea Farms subdivision
- M. Appointment of Kay Hamilton, 12605 Granada Road, as Leawood's representative on the Drug and Alcoholism Council of Johnson County (DAC), to serve a 3-year term beginning January 1, 2001

5B, G, J, and N were removed for discussion. On motion of Rasmussen, seconded by Gill, the remainder of the Consent Agenda was approved unanimously.

- B. Minutes of the October 16, 2000 Council meeting. The Mayor asked that the words "executed" and "execution" in 7.A. be changed to "dedicated" and "dedication." Councilmember Gullede referred to 8.B. and his statement about maintenance and the Wilshire Homes Association. He requested rewording to reflect that he would review maintenance as an option and discuss it with Wilshire Homes Association as a potential solution. On motion of Gullede, seconded by Gill, Council unanimously approved the minutes with the corrections.
- G. Minutes of the September 28, 2000 Golf Course Committee meeting. On the last page, second paragraph, needed to change "Kathy Roberts" to "Kathy Rogers." On motion of Rasmussen, seconded by Gullede, Council unanimously approved the minutes with the correction.
- J. 2000 Goals & Objectives report. On motion of Taylor, seconded by Rasmussen, Council unanimously requested that the City Administrator provide a more detailed activity report as of November 1st on the Governing Body's short-term and long-term objectives on pages 3 and 4 and on Administration's on page 5. The report would be presented at the November 20th Council meeting.
- N. Approval of the 2001 Employee Benefit renewal of the 125 Cafeteria Plan with United Missouri Bank as provider to administer the program. Councilmember Rawlings recused himself. On motion of Bussing, seconded by Rasmussen, Council approved the renewal, all Councilmembers except Rawlings in favor.

6. PLAN COMMISSION.

A. Ordinance No. 1875 amending Sections 3-1, 3-2, 3-3, 3-4, 3-13, and 3-16 of the Leawood Development Ordinance pertaining to approved roofing products – to add Malarkey roofing material, modified asphalt shingle (weathered wood color only), to the City’s list of approved roofing materials. Councilmember Gill moved to pass the ordinance, seconded by Story. The applicant, Michael Benham, 2700 W. 120th Terr., described the product. In response to Councilmember Rasmussen, Mrs. Binckley said that no new housing developments in Leawood were using asphalt shingles, just tile and wood shake. Council passed the ordinance on roll call vote; Gullede, Bussing, Rawlings, Dunn, Story, Gill, Taylor in favor; Rasmussen opposed.

7. MAYOR’S REPORT.

- a. Meeting with staff, County Administrator, and County Wastewater staff to discuss treated effluent usage for Ironhorse golf course greens
- b. Recent Lions Club pancake breakfast in the Community Center at City Hall
- c. Kansas Vision 21st Century Task Force Water Committee meeting at City Hall on October 24th; Committee recommendations to go to the Governor in November
- d. American Royal Parade; Johnson/Wyandotte County Council of Mayors float
- e. “Remember the Children” traveling exhibit (holocaust memorial) at Union Station until March 2001
- f. Congratulated staff on the City’s Aa1 rating from Moody’s Investors Service for upcoming General Obligation Improvement Bonds, Series 2000-A
- g. Congratulated Fire Chief Florance and his Department on the City’s fire insurance protection classification upgrade to Class 4 which would result in a decrease in property insurance calculations for many insured properties
- h. November 27th holiday lighting ceremony at City Hall
- i. December 12th – Johnson/Wyandotte County Council of Mayors and elected officials annual December social
- j. November 16th at Rockhurst High School – Environmental Artist Stan Herd lecture and slide show sponsored by Leawood Arts Council

8. OLD BUSINESS.

A. Committee report regarding value engineering on Fire Station No. 3. (Discussed at the October 16th Council meeting.) Councilmember Story reviewed the Committee’s further refinement of their recommendations. Councilmember Rasmussen moved to accept the Committee’s value engineering report, seconded by Dunn. Kevin Jeffries, 2919 W. 124th Terrace, spoke about the importance of the materials used in constructing the exterior of the new fire station, that they should be consistent with the high quality of construction historically used with all of Leawood’s public buildings. He asked that the Council deliberate carefully before making decisions to cut costs on the exterior of the fire station that could serve to cheapen its appearance and compatibility with the surrounding area. Mr. Rasmussen’s motion carried unanimously.

9. NEW BUSINESS.

C. Ordinance No. 1876 authorizing the issuance and delivery of \$8,310,000 principal amount of General Obligation Improvement Bonds, Series 2000-A, of the City of Leawood; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest of the bonds as they become due; and making certain covenants with respect thereto. On motion of Rasmussen, seconded by Gill, Council unanimously passed the ordinance on roll call vote.

D. Resolution No. 1571 prescribing the form and details of and authorizing the delivery of \$8,310,000 principal amount of General Obligation Improvement Bonds, Series 2000-A, of the City of Leawood, Kansas; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith. On motion of Rasmussen, seconded by Gill, Council unanimously adopted the resolution.

A. Approval of Appropriation Ordinance No. 903. Councilmember Rasmussen moved to pass the ordinance, seconded by Taylor. There were questions about check number 77538 in the amount of \$10,946.56 to Avaya, Inc. The vote was delayed until the end of the meeting so staff could check on what the amount covered.

B. Approve and authorize the execution of an Interim Rights-of-Way Construction Agreement between the City and Axon Telecom, L.L.C., to allow Axon's fiber cable to be placed through Axon's existing conduit. Councilmember Rasmussen moved for approval with the conditions that 1) there be assurance from Axon that they were complying with the condition of their existing franchise that they charged a fairly priced rate and made a reasonable attempt to negotiate an appropriate agreement with other providers, and 2) there be full restoration of any damage done by Axon during their initial conduit construction. Motion seconded by Gill.

Bill Ludwig, President of Axon Telecom, said that they were almost sold out of the interduct. He assured the Council that they hadn't discriminated against any particular company, had been consistent in dealing with companies throughout the negotiation process of selling off portions of the duct to different companies. There was discussion about Digital Access that had informed the City that Axon had priced its conduit too high for Digital to locate its fiber within Axon's existing facilities.

Regarding the motion, Mr. Gill said he was satisfied that Axon had provided the assurance that they charged a fairly priced rate, specifically to Digital Access, and he understood that restoration was a condition to the interim agreement, so the motion was simply to approve the interim agreement as written. Mr. Rasmussen asked Mr. Ludwig for a per foot cost along College Boulevard; Mr. Ludwig said he would call Mr. Rasmussen with that information. The motion carried unanimously.

E. Ordinance No. 1877C amending Section 1-306 of the Code of the City of Leawood, 2000, pertaining to the duties of the City Administrator – to allow the City Administrator to sign Ironhorse golf course checks without the \$5,000 purchase authority limit. On motion of Rasmussen, seconded by Gill, Council unanimously passed the ordinance on roll call vote.

F. Request Public Works Committee review the Public Works' inspection fee schedule. On motion of Taylor, seconded by Gullede, Council voted unanimously to assign the review to the Committee, their recommendation to be considered by Council by the December 18th Council meeting.

G. Discussion regarding Code Sections 11-204 and 11-205 pertaining to Nuisances and Disturbing the Peace. Councilmember Gill moved to refer to the City Attorney a review within 60 days of Code Sections 11-205, Disturbing the Peace, and 11-204, Nuisances, in particular as they pertained to sound, to examine whether or not it would be appropriate to have more objective standards (since sound was measurable) than presently existed, perhaps to consider whether the sections should be worded in a manner that recognized that uses the City had approved, be they residential, commercial, recreational, had certain inherent uses associated with them and should there be some protections in the sections to clarify that when the City approved a use, certain inherent aspects of that use conducted in a reasonable manner consistent with the approved use were not going to run afoul of the noise ordinance. Motion seconded by Gullede.

In response to Councilmember Rasmussen regarding the operation of fans on the Hallbrook golf course, City Attorney Bennett said that the City Prosecutor felt there was probable cause to believe there were violations of the City ordinances as written.

Jeff Alholm, 11701 High Drive, said his concern was that there be a negotiation that said how to operate the fans at Hallbrook or change the fans so they didn't disturb the peace for him and his neighbors. Dave King, 2135 W. 116th St., also spoke about the fans, as he had done previously.

Mr. Gill's motion carried unanimously.

Mike Glazier, 13009 Falmouth, a member of the greens committee at Hallbrook Country Club, said that the fans issue was not a non-negotiable matter. The fans themselves would be non-negotiable since they were necessary for the maintenance of the golf course greens. Jim Lorah, General Manager of Hallbrook, wanted an objective standard, and when the City had that, Hallbrook wouldn't want to be in violation of a City ordinance.

Mr. Gill moved for a moratorium to suspend enforcement pursuant to Section 11-205(d) (prima facie violation) until the City Attorney's review was available and acted upon. Motion seconded by Taylor. Motion carried unanimously.

10. OTHER BUSINESS.

A. Update on 86th Street & Overbrook cul-de-sac street improvement project. (From the October 16th Council meeting.) Councilmember Story said that Public Works Director Johnson confirmed that the City's policy was to try to do improvements at the same time on a street to reduce the inconvenience to residents. Mr. Johnson reviewed funding and was able to resolve the issue within the City's existing programs, so the issue was taken care of to the satisfaction of Mr. Johnson, the City, and the residents.

9.A. VOTE ON APPROPRIATION ORDINANCE. Mark Andrasik explained the money was for City Hall phone system upgrade and a monthly management contract. Council unanimously passed the ordinance on roll call vote.

ADJOURN. 9:50 P.M. There being no further business before the Council, the meeting was adjourned.

Martha Heizer, City Clerk