

Minutes

Audio Tape No. 504

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., on Monday, February 5, 2001. Mayor Peggy J. Dunn presided.

Councilmembers present: Scott E. Gullede, Gary L. Bussing, Jim Rawlings, Patrick L. Dunn, Shelby Story, Mike Gill, Louis Rasmussen (left the meeting at 10:00 P.M.), and James E. Taylor, Sr.

Staff present:

Patricia A. Bennett, City Attorney
Kathy Rogers, Finance Director
Joe Johnson, Public Works Director
Sid Mitchell, Chief of Police
Julie Hakan, Human Resources Director
Chris Claxton, Parks & Recreation Director
Craig Hill, Police Major

Ben C. Florance, Fire Chief
Diane Binckley, Planning/Develop. Dir.
Jeff Cantrell, Neighborhood Serv. Admin.
Sarah Hilton, Admin. Services Manager
Scott Barton, Police Captain
Randy Hill, Fire Dept. Operations Chief
Martha Heizer, City Clerk
Deb Harper, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

100 **2. APPROVAL OF AGENDA**

Item 9. Other Business was moved ahead of Item 8.E., and Items 7.B. through 7.F. were continued to the February 20, 2001, Governing Body meeting at the request of the developer. The agenda as amended was approved unanimously on motion of Rasmussen, seconded by Gill.

3. RECOGNITION

A. Randy Hill, Fire Department Operations Chief, won Second Place in the Chiefs' Division of the National Firefighter Combat Challenge event.

B. Police Chief Sid Mitchell was selected Section II representative for the FBI National Academy Associates Board of Directors for a 4-year term, eventually becoming president of the organization in 2008.

577 **4. CITIZEN COMMENTS**

Shelley Gathright, 12831 Century, Overland Park, was concerned that juveniles were taken to Juvenile Intake and Assessment Center in Johnson County and questioned without their parents being present, that there was a push to have the authorities intervene first and that information on juveniles was placed in a central repository which could be shared with numerous governmental agencies. She was concerned about the use of tax dollars to help fund JIAC.

Regarding the ordinance on compensation for Councilmembers to be considered later in the meeting, Joe Borich, 4108 W. 110th St., George Richter, 12707 Pawnee Lane, and William Chiles, 12816 Cedar, spoke in favor of the proposed \$200/month expense allowance for Councilmembers. G. Gordon Thomas, 10516 Mohawk Lane, was opposed.

1138 **5. CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Appropriation Ordinance No. 908A for 2000 expenditures
- B. Appropriation Ordinance No. 910 for 2001 expenditures
- C. Minutes of the January 16, 2001, Governing Body meeting
- D. Minutes of the January 17, 2001, Public Works Committee meeting
- E. Minutes of the November 27, 2000, Arts Council meeting
- F. Cereal Malt Beverage License renewal for Leawood Hen House, 11721 Roe Ave.
- G. Cereal Malt Beverage License renewal for Phillips Petroleum, 11921 Roe Ave.
- I. Bid in the amount of \$28,295 from Roberts Auto Plaza for the purchase of an Incident Command Emergency Vehicle for the Fire Department
- J. Bid in the amount of \$35,170 from Raytown Dodge for the purchase of 2 Police vehicles
- K. Bid in the amount of \$5,216 from Senna Technology Systems for the purchase of a multimedia projector for the Police Department
- L. Bid in the amount of \$15,033 from Blue Valley Public Safety, Inc., for the purchase of an outdoor warning siren located at 83rd & Belinder, in accordance with the City's replacement plan
- M. Bid in the amount of \$38,990 from Dell Computers for the purchase of 35 desktop computers
- N. Bid in the amount of \$10,977.10 from Software Spectrum for the purchase of computer software, and a bid in the amount of \$21,517 from Midwest Technology Connection for the purchase of network software
- O. Bid in the amount of \$9,085 from Drexel Technologies for the purchase of a HP Design Jet 1055 Color Plotter for Public Works

- P. Bid in the amount of \$7,124.90 from Environmental Systems Research Institute, Inc., for the purchase of ARC/Information Package & Floating License (upgrade of GIS Program) for Public Works
- Q. Cooperative bids in the amounts of \$21,408 from Raytown Dodge for a Dodge Ram 2500 Extended Cab; \$20,294 from Olathe Ford for a Ford F-350; \$19,648 from Raytown Dodge for a Dodge Ram 3500 Cab & Chassis; and \$22,838 from Roberts Auto Plaza for a Chevy Blazer – for Public Works
- R. Approve and authorize execution of a Street Improvement Funds Agreement with McCaffree Financial Corporation for the construction of a deceleration lane for the Columbian Bank drive-thru facility located at 4701 College Blvd.
- S. Assignment to the Public Works Committee to prioritize CIP list of unimproved arterial streets available for future federal funding
- T. Cost alternates from Bruner Construction for the design/build project for the Leawood Public Works Facility located at 143rd & Overbrook
- U. Resolution No. 1587 approving and authorizing the Mayor to execute a Professional Services Agreement with CBG Communications, Inc. [f/k/a River Oaks Communications Corporation] to provide telecommunication and cable television consulting services.

Consent Agenda Item 5.H. was removed for discussion. On motion of Rasmussen, seconded by Gill, the remainder of the Consent Agenda was approved unanimously.

5.H. Approve and authorize execution of a Letter of Intent with Worth Harley Davidson for the purchase of (2) 2001 FLHTPI model motorcycles in the amount of \$4,600, in accordance with the Police Replacement Policy. Chief Mitchell clarified for Councilmember Taylor that additional motorcycle training wouldn't be required. On motion of Taylor, seconded by Rasmussen, Council unanimously approved the purchase.

1216 **6. MAYOR'S REPORT**

- ?? Successful Chinese New Year's dinner celebration on January 24th
- ?? Resident Barbara Holzmark's trip to Topeka on February 15th to testify before legislators on sensible gun laws, safe kids

1288 **7. COMMITTEE RECOMMENDATIONS
PLAN COMMISSION**

- A. Resolution No. 1588 approving the final site plan for Fire Station #3 located at 148th & Mission Rd.**

Councilmember Rasmussen moved to adopt the resolution, seconded by Gullede. Fire Chief Florance said that David Dehaemers who was building a home next to the proposed fire station was willing to pay a portion of the cost of extending the sanitary sewer line the required distance to allow him and the fire station to connect to the sanitary sewer rather than being on a septic system. Councilmember Taylor felt it was best to delay connection to the sanitary sewer because the final planning process for the South

Park hadn't been completed; there were topographical reconfigurations of the park and elevations of manholes to consider for a sanitary sewer.

Councilmember Story was unhappy with Plan Commission stipulation of approval #6; he asked the City Attorney if she could explain in the near future what "or must resubmit to the Planning Commission" actually meant and required of the Governing Body, and whether or not the Plan Commission thought that the Governing Body acted at the Plan Commission's will. He said that basically, in one move, the Plan Commission attempted to undo all of the work that the Governing Body did in committee and in mass to try to cut the cost of the fire station. He said that stipulation #7 basically said that all their debate was of useless value because the City was being required to go back to the base bid and build the building exactly as it was laid out in that base bid. City Attorney Bennett said that the Plan Commission was the planning phase; they looked at plans and said that was what they wanted the building to look like. On the building and contract letting, the Plan Commission couldn't prohibit the Council from bidding as many alternates as they wanted, and Council could send alternate(s) back to the Plan Commission for submission of an amended final plan. Mrs. Binckley felt that the Plan Commission, which held general developers to a certain standard, felt that by having the alternate with the dryvit, it was a substandard material that they were trying to get away from for any developer, and wanted to hold the City to that same level. They also noted that the other buildings the City owned were brick and that was a good standard. Councilmember Bussing said he shared Mr. Story's concerns with the Plan Commission's actions. Mr. Story reiterated that the Council wanted to leave themselves some alternates; the Plan Commission decided that the Council wouldn't have the alternative of all brick versus brick/dryvit allowable to them at the time construction began based on stipulation #6, and stipulation #7 would mean that the Council wouldn't have any alternatives allowable to them. He felt that stipulations 6 and 7 should be deleted.

2130 Councilmember Gulledge called for the question, seconded by Rasmussen. Motion carried unanimously. The main motion to adopt the resolution failed; all opposed. Mr. Story moved to adopt the resolution with the deletion of stipulations 6 and 7, seconded by Taylor.

2375 Mr. Gulledge called for the question, seconded by Rasmussen and carried unanimously. Mr. Story's motion carried unanimously.

B. Resolution approving preliminary site plan, preliminary plat, and rezoning request from RP-2 (Planned Two-Family Residential) and AG (Agricultural) to R-1, Single Family Residential; RP-3, Planned Apartment House Residential; and AG, Agricultural, for an apartment complex and single family dwellings located within Pine Lakes subdivision at 137th & Mission Road – continued to the February 20, 2001, Governing Body meeting.

C. Ordinance accepting rezoning from RP-2, Planned Two-Family Residential, to RP-3, Planned Apartment House Residential, for property located within Pine Lakes subdivision at the southeast corner of 137th & Mission Road – continued to the February 20, 2001, Governing Body meeting.

- D. **Ordinance accepting rezoning from AG, Agricultural, to RP-3, Planned Apartment House Residential, for property located within Pine Lakes subdivision at the southeast corner of 137th & Mission Road** – continued to the February 20, 2001, Governing Body meeting.
- E. **Ordinance accepting rezoning from RP-2, Planned Two-Family Residential, to AG, Agricultural, for property located within Pine Lakes subdivision at the southeast corner of 137th & Mission Road** – continued to the February 20, 2001, Governing Body meeting.
- F. **Ordinance accepting rezoning from AG, Agricultural, to R-1, Single Family Residential, for property located within Pine Lakes subdivision at the southeast corner of 137th & Mission Road** – continued to the February 20, 2001, Governing Body meeting.

2405 **8. OLD BUSINESS**

- A. **Approve Change Order to Shaughnessy, Fickel & Scott Architects, Inc., for architectural design services regarding Fire Station #3.**

On motion of Taylor, seconded by Story, Council unanimously approved the change order in the amount of \$11,000.

2455 **B. Ordinance No. 1883C amending Section 1-208 of the City of Leawood Code 2000, pertaining to compensation.**

Councilmember Taylor moved to pass the ordinance option which would initiate compensation for Councilmembers of \$200/month for communications expenses incurred, seconded by Rasmussen. Councilmember Bussing said he remained opposed to any increase in compensation; he knew there were already procedures for Councilmembers to be reimbursed for expenses and recommended continuance of that practice. Councilmember Gulledge offered a friendly amendment that the increase be initiated January 1, 2002. It was noted that Councilmembers would have the option to submit their own expense accounts or not submit them. There was discussion about amending a portion of Section 1-212 of the Code, “Reimbursement of Expenses of City Officials and Employees” and precluding any additional expense reimbursement requests from Councilmembers over the \$200/month. Councilmember Taylor reminded Councilmembers that the \$200/month was optional – they didn’t have to take it. Councilmember Dunn offered a second friendly amendment to the motion – that the \$200 would be the limit of a monthly expense reimbursement Council could request for mileage or communications-related technology. Councilmember Rasmussen wanted it understood that convention/meeting expenses weren’t included in the amendment. Councilmember Taylor’s motion with the 2 friendly amendments carried on roll call vote; Bussing, Story, Gill opposed; Gulledge, Rawlings, Dunn, Rasmussen, Taylor in favor.

3200 C. **Approve and refer recommendation to the Plan Commission regarding amendments to Section 4-2.2 of the Leawood Development Ordinance pertaining to detached structures.**

Councilmember Rasmussen moved to approve and refer staff's recommendation to the Plan Commission, seconded by Gullede. Jeff Cantrell, Neighborhood Services Administrator, said that the definition of "architecturally attached" would also have to be amended to be in keeping with the proposed amendment. Councilmember Gill wanted to know the bigger purpose for amending the Leawood Development Ordinance. Councilmember Dunn said that in the past, tool sheds had been built within an exception, built within the playhouse exception or another exception, and the only way the City maintained control was use of the architecturally attached structure that didn't require approval of the Board of Zoning Appeals or residents would have to go before the BZA if they wanted to do something different than that. It was clarified that pergolas were exempt structures and allowable under current ordinance. City Attorney Bennett said the matter was being referred to the Plan Commission for review, and Council could recommend that structures like pergolas be excluded. Mr. Dunn asked if Council could get a list of exempt structures for the February 20th Governing Body meeting. Motion and second were withdrawn. Mr. Rasmussen moved to continue the matter to the February 20, 2001, Governing Body meeting, seconded by Taylor. Mr. Dunn said that Council either needed a definition of "architecturally attached-detached structure" or leave it "architecturally attached structure" since they knew what that meant. Motion carried unanimously.

3900 D. **Reschedule a public hearing to consider a draft ordinance pertaining to communication and cable operations for the City of Leawood.**

Councilmember Dunn moved to reschedule the February 20th hearing to March 19, 2001, at 6:30 P.M., and to move the start time of the February 20th Governing Body meeting from 7:30 P.M. to 7:45 P.M. Motion seconded by Rawlings and carried unanimously.

9. OTHER BUSINESS

Councilmember Taylor was interested in making an assignment to the Public Works Committee to work with the architect for Fire Station #3 and staff to determine any changes, change in work, scope of work, additional expenditures – to monitor and direct the consulting architect in the administration duties for the fire station. Councilmember Dunn, Chairman of the Public Works Committee, knowing the work done by the fire station subcommittee, and feeling that fire station matters would be fully explored at the Council level, said he didn't know what the Council would be adding to the process by going to the Public Works Committee first. There was consensus that the alternates, etc., would be dealt with by the Council as a whole.

4580 **10. EXECUTIVE SESSION**

A. On motion of Dunn, seconded by Gill, Council voted unanimously to convene in executive session for a period of 30 minutes to discuss matters protected under Attorney/Client Privilege. Council convened at 10:00 P.M. Councilmember Rasmussen left the meeting. Council reconvened into regular session at 10:30 P.M. On motion of Dunn, seconded by Rawlings, Council voted unanimously to extend the executive session for 40 minutes. They reconvened into regular session at 11:10 P.M.

8. E. Worthington Agreement.

Councilmember Gill moved to authorize the Mayor to execute the settlement agreement with the following changes:

- (1) In the first full paragraph, 13th line, add “or hereafter” before “exist arising out of...”
- (2) In the last line of the first full paragraph, add the numeral (2) prior to “the Improvements described below”
- (3) On the third page, second full paragraph, 4th line, add “covenant not to sue” after “hereby” and delete “release and discharge”
- (4) On the third page, second full paragraph, 7th line, delete “relating to the” and add “with respect to any claims for contribution arising out of this Settlement Agreement and Release of all Claims in the”

Motion seconded by Story and carried; Bussing, Rawlings, Dunn, Story, Gill in favor; Gulledge, Taylor opposed.

At 11:15 P.M. Councilmember Bussing moved to reconvene in executive session for 10 minutes for attorney/client privilege, seconded by Rawlings and carried unanimously. Council reconvened in regular session at 11:25 P.M.

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

Martha Heizer, City Clerk