

**Minutes**

Audio Tape No. 518

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., on Monday, July 2, 2001. Mayor Peggy J. Dunn presided.

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

**Staff present:**

Patricia A. Bennett, City Attorney	Ben C. Florance, Fire Chief
Diane Binckley, Planning/Develop. Dir.	Joe Johnson, Public Works Director
Julie Hakan, Human Resources Director	Mark Andrasik, Dir. of Info. Services
Sid Mitchell, Police Chief	Jeff Cantrell, Neighborhood Serv. Admin.
Chris Claxton, Parks & Recreation Director	Deb Harper, Deputy City Clerk
Martha Heizer, City Clerk	

**1. PLEDGE OF ALLEGIANCE**

220 **2. APPROVAL OF AGENDA**

The Mayor noted that Items 7.A. and 10.A. had been tabled to the July 16, 2001, Governing Body meeting. Item 11.C. to schedule an executive session was added. On motion of Story, seconded by Gill, Council unanimously approved the agenda as amended.

270 **3. PRESENTATIONS TO POLICE OFFICERS CARL VINEYARD AND JEFF CULBERTSON ON THEIR RETIREMENTS**

Officer Culbertson was unable to attend the meeting. Police Chief Mitchell presented background on Officer Carl Vineyard. The Mayor presented a plaque to Officer Vineyard in honor of his service to the City, July 28, 1980 to January 4, 2001.

485 **4. CITIZEN COMMENTS**

Jerry Malone, 13108 Pembroke, formally requested that the Governing Body consider stopping the construction of 133<sup>rd</sup> Street at Pawnee until it was more clear how the development of the property near the corner of State Line and 135<sup>th</sup> Street would progress. The matter would be discussed at the July 16, 2001, Governing Body meeting.

Jeff Nessel, 12012 Ensley Lane, thanked the Public Works Department for quick response to his questions about street repair.

G. Gordon Thomas, 10516 Mohawk Lane, made comments about flooding, sewer and other problems at his neighbor's home at 2409 W. 104<sup>th</sup> St.

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**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. 921
- B. Minutes of the June 18, 2001, Governing Body meeting
- C. Acceptance of General Warranty Deed for the conveyance of real property located at 135<sup>th</sup> and Mission Road, in conjunction with the Settlement Agreement dated April 26, 2001, and Amendment to Settlement Agreement dated May 7, 2001, between the City and Supermarket Developers, Inc., [SMD] for the construction of the Price Chopper store.

Item 5.C. was removed for discussion. On motion of Dunn, seconded by Rawlings, Council unanimously approved the remainder of the Consent Agenda.

5.C. Councilmember Gill said the deed was subject to easements, restrictions, reservations and other matters of record. He asked if there was anything out of the ordinary that would fall under the matters of record. City Attorney Bennett said there was no title insurance policy on the property; she wasn't aware of any special provisions placed on the property. Councilmember Taylor moved to instruct staff to have a title search done on the property, seconded by Gill and carried unanimously. The matter would be considered again at the July 16, 2001, Governing Body meeting.

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**6. SPECIAL BUSINESS**

- A. **Second of Three Readings: An ordinance granting to and authorizing to Everest Connections Corporation a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City.**
- B. **First of Three Readings: An ordinance granting to and authorizing to American Fiber Systems a Franchise Agreement authorizing the right to construct, operate and maintain a communications system using the rights-of-way in the City.**

**7. APPEAL**

- A. Appeal of denied animal permit to allow seven [7] canines at 3005 W. 89<sup>th</sup> Terrace. [Appellant: Mark and Janet Ewing] – TABLED TO JULY 16, 2001, GOVERNING BODY MEETING**

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**8. MAYOR'S REPORT**

- ?? Thanked staff, Budget & Finance Committee, and Strategic Spending Committee for their work on the 2002 Budget and revamp of the budget process
- ?? The Leawood Garden Club presented a \$250 donation to Parks & Recreation for flower pots for the lower level of City Hall
- ?? Thanked staff for their work preparing for the July 4<sup>th</sup> celebration
- ?? The Leawood Stage Company's musical production at City Hall to take place July 12-15 at 8:00 p.m. with youth players performing in the City Hall courtyard at 7:00 p.m. each night

**COMMITTEE RECOMMENDATIONS**

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**9. PUBLIC WORKS COMMITTEE**

- A. Authorize the Public Works Committee to select a consultant for design of Roe Avenue improvements between 124<sup>th</sup> Street and 135<sup>th</sup> Street.**

On motion of Gill, seconded by Rawlings, Council voted unanimously to assign the selection to the Public Works Committee.

**10. OLD BUSINESS**

- A. Ordinance amending Section 11-205 of the Code of the City of Leawood, Kansas, 2000, pertaining to Disturbing the Peace – [continued from May 7, 2001, Governing Body meeting] – TABLED TO JULY 16, 2001, GOVERNING BODY MEETING.**
- B. Discussion regarding landscaping and irrigation issues pertaining to 133<sup>rd</sup> Street between Roe Avenue and Mission Road as it relates to the Wilshire subdivision, pertaining to the 133<sup>rd</sup> Street benefit district project [Tabled from May 7, 2001, Governing Body meeting].**

Joseph Cates, 13213 El Monte, was disappointed that the landscaping plan indicated that many shrubs would be removed, probably a cost savings issue, but said he could probably supplement to the point of replacing the shrubs that the City or the benefit district was unwilling to put forth. As far as the stormwater flooding and drainage issue in the area was concerned, he said he expected the plan to be effective once it was in place. He was concerned about the flood potential during construction of the road when the retention basin/berms were removed. Who was responsible if his home flooded and

what measures did the City have in mind to try to prevent flooding from occurring? Councilmember Taylor suggested that a solution be part of the engineering design contract documents so a contractor could take it into consideration when bidding on the construction.

Cathleen Panowicz, 13232 Granada Drive, agreed with Dr. Cates, and Ron Browne, 13217 El Monte, wanted assurance that if flooding occurred during construction, the City and/or the contractor were liable.

1925 Councilmember Gullede explained that the shrubs had to come out of the landscaping plan in order to have as much of a maintenance-free plan as possible. He moved to come to a resolution of the Roe to Mission landscaping on the north side of 133<sup>rd</sup> Street and accept the plans and issues surrounding them, seconded by Taylor. Public Works Director Johnson explained that the trees and buffering hadn't changed, that only the small shrubs had been eliminated. The Mayor said that the plan was for the homeowners to maintain the landscaping to the best of their ability and when the Jameson tract was developed, the Jameson Trust would maintain the landscaping in perpetuity. When the property was developed, the Trust would have to revisit the whole situation of the area. Mr. Johnson said the City would do as little maintenance as possible, but certainly wouldn't stand by and let trees and shrubs die. There was discussion about irrigation being incompatible with a maintenance-free plan. Mr. Gullede's motion carried unanimously.

3380 **C. Approve Change Order No. 1 with Bruner Contracting Co., LLC, in the amount of \$152,822.08, regarding the Public Works Maintenance Facility [CIP #156].**

There was discussion that change order items for the project should be reviewed by Public Works Committee members who had spent a great deal of time on the project, and that the project consultant should attend Council meetings at which the project was to be discussed. Councilmember Taylor wanted to table the change order to allow for further justifications of the change order items before Council approved it. Councilmember Dunn moved to continue the change order to the July 16, 2001, Governing Body meeting, and that the change order and any further change orders on the project be reviewed by the sub-committee of the Public Works Committee appointed for the contract review, seconded by Bussing. Motion carried unanimously.

3935 **11. NEW BUSINESS**

**A. Ordinance No. 1897C amending the Code of the City of Leawood, Kansas, 2000, repealing existing Chapter XV, Article I, pertaining to the Leawood Sanitary Sewer System.**

On motion of Gill, seconded by Dunn, Council unanimously passed the ordinance on roll call vote.

**B. Discussion regarding traffic signalization at the intersection of 92<sup>nd</sup> and State Line Road.**

The City Council voted to cancel the project on August 21, 2000, because of an increase in cost for the City. Councilmember Dunn said that Kansas City, Missouri, advised that they found more funding which would reduce Leawood's share of the cost back to approximately the original estimate of Leawood's share. Mr. Dunn moved that the project be considered for a CIP project at the Council's August 6, 2001, CIP work session, seconded by Gill.

Councilmember Taylor said he wouldn't vote in favor of the motion. He opposed the project in the past and still felt the same way. He felt the cost of \$180,000-190,000 reflected an expenditure of approximately \$10,000-12,000 for each of the 17 homes from State Line to High Drive for the signalization, and in the past, he didn't hear any support from the Police Department or an outcry from residents when Council cancelled the project. Mr. Dunn said a study was done in 1989 that indicated the signal was necessary. He said there were about 75 homes in the area, and if the project was necessary and beneficial to the City as a whole, he didn't see how the number of homes should be the deciding factor; the Council had approved larger expenditures for stormwater and other projects that affected fewer residents. And it was definitely a safety issue.

Mr. Dunn's motion carried; Gulledge, Bussing, Rawlings, Dunn, Story, Gill in favor; Taylor opposed.

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**C. Schedule executive session.**

8:55 p.m. On motion of Gill, seconded by Dunn, Council voted unanimously to convene in executive session at the end of the meeting for a period not to exceed 30 minutes to discuss a matter under attorney-client privilege.

**12. OTHER BUSINESS – None.**

**ADJOURN.** Council reconvened into regular session at 9:25 p.m. No action was taken. There being no further business, the meeting was adjourned.

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Martha Heizer, City Clerk