

Minutes

Audio Tape Nos. 521 & 522

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, August 6, 2001. Mayor Peggy J. Dunn presided.

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

Staff present:

Patricia A. Bennett, City Attorney
Diane Binckley, Planning/Develop. Dir.
Julie Hakan, Human Resources Director
Sid Mitchell, Police Chief
Chris Claxton, Parks & Recreation Director
Martha Heizer, City Clerk

Kathy Rogers, Finance Director
Ben C. Florance, Fire Chief
Bob Sadler, Internet Specialist
Jeff Cantrell, Neighborhood Serv. Admin.
Joe Johnson, Public Works Director
Deb Harper, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

250 **2. APPROVAL OF AGENDA**

Item 11.S. was added to discuss referral to the Plan Commission for a reevaluation of signage conditions of the settlement agreement between the City and AWG (Price Chopper development at 135th and Mission Road). On motion of Taylor, seconded by Gill, Council unanimously approved the agenda as amended.

340 **3. RECOGNITIONS**

The Mayor and Fire Chief Florance presented plaques to Firefighter II Edward M. Cosgrove on his retirement in honor of his service to the City from October 15, 1974, to September 6, 2001.

640 The Mayor thanked Dick Reicher, Chairman of the Sister City Committee, for his work as the chief volunteer for planning and coordinating the activities of the recent I-Lan, Taiwan cultural and educational exchange, and presented a poster to him that had been signed by student musicians from I-Lan.

800 **4. PROCLAMATIONS**

The Mayor proclaimed September 17-23, 2001, as "Constitution Week." She also proclaimed September 2001 as "Payroll Week in Leawood" and presented the proclamation to Marsha Lewis and Judy Hansel of the Finance Department.

965 **5. CITIZEN COMMENTS**

G. Gordon Thomas, 10516 Mohawk Lane, commended the Fire Department for their help over the years, and suggested a location for a parking lot for residents' trailers, boats, etc., an issue to be discussed under agenda Item 11.R.

1195 **6. 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 Nos. 923 & 924
- B. Minutes of the July 16, 2001, Governing Body meeting
- C. Minutes of the July 20, 2001, Governing Body special call meeting
- D. Minutes of the July 21, 2001, Governing Body special call meeting
- E. Minutes of the July 28, 2001, Governing Body special call meeting
- F. Minutes of the June 28, 2001, Golf Course Committee meeting
- G. Minutes of the July 17, 2001, Strategic Spending Committee meeting
- H. Resolution No. 1622 adopting the Fiscal Year 2002 Annual Budget
- I. Assignment to the Public Works Committee to recommend an inventory policy for City-owned stormwater structures
- J. Declaration of surplus property ["Bomag" Asphalt Roller, Asset No. 87] no longer used by the Public Works Department
- K. Second and Final Pay Request in the amount of \$1,000 from Phelps Engineering for Indian Creek Pedestrian Bridge Improvement Project (City Park)
- L. Fifth and Final Pay Request in the amount of \$1,052.92 from Theis Doolittle Associates for landscape architectural services for SMAC Project DB-04-15, 84th & State Line Rd.
- M. Purchase of work surfaces from John Marshall Co. in the amount of \$2,400.16 to complete Court/Parks work stations
- N. Purchase of 7 sets of replacement firefighter bunker gear from Danko Emergency Equipment Co. in the amount of \$6,014.05
- O. Low bid in the amount of \$726,768 from Pyramid Contractors, Inc., for the 104th & State Line SMAC Project IC-04-039 to stabilize the north bank of Indian Creek in the vicinity of the Public Works Facility
- P. Low bid in the amount of \$15,104 from Shawnee Parkway Flooring for new floor covering at the Police Department, 9617 Lee Blvd.

- Q. Approve and authorize the execution of an agreement between the City and James and Brenda Hess regarding SMAC Project DB-17, 86th & Overhill Rd.
- R. Approve and authorize execution of an agreement between the City and Blue Valley School District regarding the School Resource Officer [SRO]

Items 6.I. and 6.R. were removed for discussion. On motion of Taylor, seconded by Rasmussen, Council unanimously approved the remainder of the Consent Agenda.

6.I. Councilmember Rasmussen said the basis for the request for the assignment to the Public Works Committee was not just to obtain a recommendation for an inventory policy, but to determine how to address natural failure of City-owned property on easements on private property. He moved to approve the assignment, seconded by Taylor; motion carried unanimously.

6.R. Councilmember Bussing said that Police Chief Mitchell recommended that the City continue to provide 2 SROs – 1 the school district would pay for and 1 the City would provide at no charge to the district. Mr. Bussing said he favored the SRO program, however, didn't feel the City should give its resources away for free, so he would vote against the agreement on that basis. Chief Mitchell stated his position, that continuing to provide 1 SRO at no charge was a valuable use of manpower for preventive measures, and he would continue to work with the Blue Valley School District towards a better partnership program with the City. Councilmember Rasmussen agreed with Mr. Bussing; he felt that Police staffing levels were still somewhat inadequate and to have an officer assigned to a school at no cost conveyed a wrong message – that something the school district received for free indicated to him that there wasn't any value attached to it. Councilmember Story moved to approve the agreement (for 2 SROs), seconded by Gill. Motion carried; Rawlings, Story, Gill in favor; Bussing, Rasmussen, Taylor opposed; Mayor in favor.

2295 **7. SPECIAL BUSINESS**

- A. **Third and Final Reading & Passage: Ordinance No. 1901 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.**

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

- B. **Approving and authorizing the execution of a Public Land Use Agreement between American Fiber Systems and the City to install and maintain communications fiber optic cable within existing conduit.**

On motion of Bussing, seconded by Rasmussen, Council unanimously approved the agreement.

- 2465 **8. MAYOR'S REPORT**
- ?? Annual report on American Revolution Tercentennial (CD) Fund; balance as of July 9, 2001, \$6,277.71
 - ?? Reassignment of Aa1 rating for the City's General Obligation Improvement Bonds, Series 2001-A, by Moody's Investors Service, reflecting the City's high wealth levels, healthy tax base growth, well-managed financial operations and manageable debt burden
 - ?? Art show on August 3rd at Gold Bank in Leawood featuring artist Jim Hamil
 - ?? Dream Weavers' celebration sponsored by the Northeast Johnson County NAACP branch; 3 residents were recognized by their respective city mayors; Mayor Dunn recognized Paul Brown and his late wife, Esther, for their work in civil rights in the late 1940s with a Key to the City of Leawood
 - ?? Leawood's sponsorship of a table at the Blue Valley Education Foundation's 10th Anniversary Annual Breakfast on September 5th, 7:30 a.m., at the Overland Park Marriott
 - ?? Expressed condolences to Police Officer Chris Vaughn on the loss of his wife
 - ?? Congratulated Public Works employee David Ley, the City's new City Engineer

COMMITTEE RECOMMENDATIONS

- 2890 **9. PLAN COMMISSION – [from June 26, 2001, Plan Commission meeting]**
- A. Resolution approving Conditional Use Permit and Preliminary Plan for a ZIPZ Convenience Store & Retail Center located at Plaza Pointe, south of 135th Street, west of Roe. [Applicant: Jack Beal & Jerry Colovich, ZIPZ, L.L.C.] – Tabled from July 16, 2001, Governing Body meeting**
- Councilmember Taylor recused himself to avoid the appearance of a conflict of interest and left his Council seat. Architect David Suttle gave a presentation which included information about signage that would be simpler and somewhat less stylish than their usual signage.
- 3585 ZIPZ requested a monument sign along 135th Street to identify their gasoline pricing. Councilmember Gill wasn't in favor of any monument signs in addition to the one monument sign identifying the overall Plaza Pointe development, no additional stand-alone pad site monument signs. He felt that the 135th Street Corridor guidelines would back him up on that.

Councilmember Gill moved to continue the matter to the August 20th Governing Body meeting; one representative of Ward 4, Mr. Gullede, was absent, and the other, Mr. Taylor, had recused himself, and Mr. Gill wanted to hear from Mr. Gullede, particularly on the signage issue. In the next 2

weeks, Mr. Gill requested that ZIPZ try to find an alternative to a monument sign to display a gas price. Motion seconded by Story and carried unanimously.

Councilmember Taylor returned to his Council seat.

5150 **10. OLD BUSINESS**

- A. Approve and authorize execution of a design engineering contract between the City and Schlager & Associates in the amount of \$77,000 for design of 135th Street and Roe Avenue along the Plaza Pointe Development. Tabled from July 16, 2001, Governing Body meeting.**

Councilmember Taylor recused himself. On motion of Rasmussen, seconded by Bussing, Council unanimously approved the contract.

5410 **11. NEW BUSINESS**

- A. Discussion and referral to Planning Department and Plan Commission regarding street connection to Hills of IronHorse, located at approximately 153rd & Mission Rd.**

Concern was expressed about the proposed connection of Blackthorne Estates subdivision in Overland Park to Hills of IronHorse in Leawood via Cherokee Street. It was felt that the proposed connection would have a tremendous negative impact on the latter, a very family-oriented subdivision, with a great increase in traffic flow. Leawood residents wanted the connection eliminated. Roger Miller, 15405 Aberdeen, President of the Hills of IronHorse Homes Association, said residents never envisioned that the developer of Blackthorne Estates, who had increased the number of homes in his development, would have only one access point to that subdivision – that being through Hills of IronHorse. Councilmember Taylor moved to refer the matter to the Plan Commission and to the Planning staff to try to find a solution, to give Overland Park and Blackthorne developer an opportunity to come up with a reconfiguration, and to have staff report on progress at the September 4th Governing Body meeting. Motion seconded by Gill and carried unanimously.

Councilmember Taylor left his Council seat.

- 6750 **B. Ordinance No. 1902 authorizing the issuance and delivery of \$9,300,000 principal amount of General Obligation Improvement Bonds, Series 2001-A, of the City of Leawood, Kansas; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the bonds as they become due; and making certain covenants with respect thereto.**

On motion of Rasmussen, seconded by Gill, Council passed the ordinance on roll call vote; Bussing, Rawlings, Story, Gill, Rasmussen in favor; none opposed (Taylor not seated for the vote).

- 6842 **C. Resolution No. 1624 prescribing the form and details of and authorizing the**

delivery of \$9,300,000 principal amount of General Obligation Improvement Bonds, Series 2001-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.

Adopted on motion of Rasmussen, seconded by Gill; Bussing, Rawlings, Story, Gill, Rasmussen in favor; none opposed (Taylor not seated for the vote).

Councilmember Taylor returned to his Council seat.

- D. Ordinance No. 1903 authorizing the issuance and delivery of temporary notes of the City of Leawood in the principal amount of \$3,700,000 to provide temporary financing of the cost of certain public improvement projects within the City of Leawood, Kansas.**

On motion of Gill, seconded by Rasmussen, Council passed the ordinance on roll call vote; Bussing, Rawlings, Story, Gill, Rasmussen in favor; Taylor voted nay because he didn't understand the motion.

- E. Resolution No. 1625 authorizing and providing for the issuance and delivery of temporary notes for I-Lan Park Improvement Project #111 in the principal amount of \$100,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Rawlings, seconded by Rasmussen.

- F. Resolution No. 1626 authorizing and providing for the issuance and delivery of temporary notes for the Public Works Complex Construction Project #156 in the principal amount of \$600,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Taylor, seconded by Rasmussen.

- G. Resolution No. 1627 authorizing and providing for the issuance and delivery of temporary notes for the 119th Street and Mission Road Intersection Improvement Project #159 in the principal amount of \$200,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Taylor, seconded by Gill.

- H. Resolution No. 1628 authorizing and providing for the issuance and delivery of temporary notes for the 151st Street, Mission Road to Nall Avenue, Improvement Project #167 in the principal amount of \$800,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Taylor, seconded by Rawlings.

- I. Resolution No. 1629 authorizing and providing for the issuance and delivery of temporary notes for the Roe Avenue, 135th Street to 137th Street, Intersection Improvement Project #174 in the principal amount of \$1,000,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Taylor, seconded by Story.

- J. Resolution No. 1630 authorizing and providing for the issuance and delivery of temporary notes for the 133rd Street, Mission Road to State Line Road, Improvement Project #178 in the principal amount of \$1,000,000 to provide temporary financing of the cost of improvement.**

Adopted unanimously on motion of Taylor, seconded by Story.

7330

- K. Ordinance No. 1904C amending Sections 11-101 through 11-108 of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating public offenses within the corporate limits of the City of Leawood, Kansas; incorporating by reference the "Uniform Public Offense Code for Kansas Cities," 2001 Edition, such incorporation being authorized by K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302; and repealing existing Sections 11-101 through 11-108, and other sections in conflict herewith.**

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

- L. Ordinance No. 1905C amending Section 11-201 of the Code of the City of Leawood, Kansas, 2000, pertaining to local provisions within the corporate limits of the City of Leawood, Kansas; and repealing existing Section 11-201, and other sections in conflict herewith.**

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

- M. Ordinance No. 1906C amending Sections 11-301, 11-304, 11-306, and 11-309 of the Code of the City of Leawood, Kansas, 2000, pertaining to Nuisance Alarm Systems; and repealing existing Sections 11-301, 11-304, 11-306, and 11-309, and other sections in conflict herewith.**

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

- N. Ordinance No. 1907C amending Section 11-606 of the Code of the City of Leawood, Kansas, 2000, pertaining to Penalties; and repealing existing Section 11-606 and other sections in conflict herewith.**

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

- O. Ordinance No. 1908C amending Sections 14-101 through 14-108 of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating traffic within the corporate limits of the City of Leawood, Kansas; incorporating by reference "The Standard Traffic Ordinance for Kansas Cities," 2001 Edition, such incorporation being authorized by K.S.A. 12-3009 through 12-3012 and K.S.A.**

12-3301 and 12-3302; repealing existing Sections 14-101 through 14-108, Ordinance No. 1896C, and other sections in conflict herewith.

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

- P. Ordinance No. 1909C amending Sections 14-201, 14-205, and 14-206 of the Code of the City of Leawood, Kansas, 2000, pertaining to local traffic regulations within the corporate limits of the City of Leawood, Kansas; repealing existing Sections 14-201, 14-205, 14-206, and other sections in conflict herewith.**

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

- Q. Ordinance No. 1910C amending Section 14-303 of the Code of the City of Leawood, Kansas, 2000, pertaining to parking regulations within the corporate limits of the City of Leawood, Kansas; and repealing existing Section 14-303 and other sections in conflict herewith.**

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

- 8620 **R. Consider referral to Plan Commission and Planning Department regarding amendment to Section 4-4.6 of the Leawood Development Ordinance pertaining to the parking and storing of vehicles in residentially-zoned districts.**

Councilmember Taylor moved to refer the matter, seconded by Story.

8965 **END OF TAPE NO. 521
NEW TAPE NO. 522**

City Attorney Bennett said that portions of the ordinance needed to be updated, more precise. Mr. Taylor's motion carried unanimously.

- S. Consider referral to Plan Commission and Planning Department for a reevaluation of signage conditions for Price Chopper development at 135th and Mission Rd. as stipulated in the settlement agreement between the City and Associated Wholesale Grocers.**

128 Councilmember Taylor said the developer needed to be able to use signs indicating that pad sites and retail spaces were available for lease. The City should support that type of advertising. He felt that the conditions in the settlement agreement which completely prohibited "for lease" signage on the property should be overruled. Planning Director Binckley said she would notify residents and homes associations as she would for an interact meeting. Mr. Taylor moved to refer the matter, seconded by Story and carried unanimously.

425 **12. EXECUTIVE SESSION**

A. Discuss matters subject to attorney-client privilege.

9:50 P.M. On motion of Story, seconded by Bussing, Council voted unanimously to convene in executive session for a period not to exceed 30 minutes to discuss matters of attorney-client privilege.

485 Council returned to regular session at 10:20 P.M. Councilmember Story moved to accept a Change Order No. 1 with Merit Construction Company regarding the sanitary sewer design for Fire Station No. 3 for an amount not to exceed \$75,000, seconded by Rasmussen. Motion carried unanimously.

532 **13. OTHER BUSINESS**

A. Acceptance of Add Alternate #4 with Merit Construction Company in the amount of \$27,000 regarding construction [concrete paving on all parking and driving surfaces] of Fire Station No. 3.

Councilmember Taylor moved to accept Add Alternate #4, seconded by Gill. The Mayor requested that the desire that the concrete have a 20-year life expectancy be expressed to the contractor. Motion carried unanimously.

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

Martha Heizer, City Clerk