

Minutes

Audio Tape No. 534

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, December 3, 2001. Councilmember Gary L. Bussing presided in the absence of Mayor Peggy J. Dunn.

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

Staff present:

Scott M. Lambers, City Administrator	Kathy Rogers, Finance Director
Patricia A. Bennett, City Attorney	Mark Klein, Planner
Diane Binckley, Planning/Development Dir.	Ben C. Florance, Fire Chief
Sid Mitchell, Chief of Police	Jeff Cantrell, Neighborhood Serv. Admin.
Chris Claxton, Parks & Recreation Dir.	Joe Johnson, Public Works Director
Mark Andrasik, Dir. of Information Services	Cindy Pitts, Human Resources Specialist
Martha Heizer, City Clerk	Deb Harper, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

153 **2. APPROVAL OF AGENDA**

Item 7.B. was deferred to the December 17, 2001, Governing Body meeting in order to clarify the intent of the motion made specifically regarding the roundabout and traffic calming devices for Mission Farms Commercial development at 105th & Mission Rd. Two presentations were added to recognize Police Officer Jeff Culbertson on his retirement, and Shirlea Caplan for her purchase of body armor for Police canine Falco. On motion of Gill, seconded by Story, Council unanimously approved the agenda as amended.

3. PROCLAMATIONS – None.

4. PRESENTATIONS/RECOGNITIONS

Fire Chief Florance presented a plaque to Volunteer Fire Captain William D. Basore in honor of his 25 years of dedicated volunteer service to the City, May 11, 1976 to May 11, 2001. Councilmember Bussing presented a plaque to Police Officer Jeff Culbertson on his retirement for his service to the City

from August 7, 1989 to June 1, 2001. Police Chief Mitchell presented a plaque to Shirlea Caplan to recognize her purchase of body armor for Police canine Falco.

5. CITIZEN COMMENTS

G. Gordon Thomas, 10516 Mohawk Lane, reiterated his opposition to the Mission Farms Commercial development at 105th and Mission Rd., and to the City's "loan" to the Ironhorse Golf Course approved at the last Governing Body meeting.

6. SPECIAL BUSINESS – None.

1200

7. 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. 932
- B. Minutes of the November 19, 2001, Governing Body meeting [*Continued to the December 17, 2001, Governing Body meeting; see Approval of Agenda*]
- C. Minutes of the October 9, 2001, Historic Commission meeting
- D. Minutes of the October 18, 2001, Parks & Recreation Advisory Board meeting
- E. Minutes of the July 28, 2001, Arts Council meeting
- F. Minutes of the August 28, 2001, Arts Council meeting
- G. Minutes of the September 25, 2001, Arts Council meeting
- H. Minutes of the October 23, 2001, Arts Council meeting
- I. Approve and authorize execution of a Supplemental Engagement Letter between the City and Cochran, Head & Co., P.A., for an amount not to exceed \$11,400.00, pertaining to GASB 34 compliance
- J. Approve and authorize execution of a Retainer Service Agreement between the City and Public Finance Consultants, Inc., in the amount of \$1,200.00 per month, for consulting services for the 2003 budget
- K. Resolution No. 1653 establishing the 2002 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood 2000, in accordance with the Open Records Act, K.S.A. § 45-215, et seq., and rescinding Resolution Nos. 1583 and 1591
- L. Resolution No. 1654 describing the corporate limits and boundary lines of the City of Leawood, Kansas, in accordance with K.S.A. § 12-517 et seq., and amendments thereto; repealing the existing Resolution No. 1486 and any previously approved resolutions relative to the corporate limits and boundary lines of the City of Leawood, Kansas

On motion of Rasmussen, seconded by Gill, Council unanimously approved the Consent Agenda.

- 1220 **8. MAYOR'S REPORT** – by Councilmember Bussing for the Mayor.
- ?? Thanked Parks & Recreation Director Claxton and her staff for the holiday lighting ceremony at City Hall on November 28th.
 - ?? Reminder – Johnson & Wyandotte Counties Council of Mayors annual social dinner on December 19th, 6:30 P.M.
 - ?? Reminder – dedication of Lee Boulevard improvements south of 103rd St. on December 5th, 6:00 P.M., at approximately 104th St. & Lee Blvd.
 - ?? Reminder – Council work session on December 10th, 5:30 P.M., to discuss Police needs and issues.
 - ?? Reminder – meeting regarding the proposed Recreational Vehicle Ordinance on December 5th, 9:30 A.M., at City Hall.

1405 **9. COUNCILMEMBER'S REPORT**
A. Technology Review Committee Report.

Councilmember Gullede, Co-Chairman of the Committee, explained that the Committee's goals were to purchase and implement software and hardware for an integrated finance and human resource computer system, and to recommend a consultant for needs analysis and software selection. They were in the process of finalizing the deliverables, terms and conditions of the contract, and would meet in early January to review the proposed contract. Once completed, a short Council work session would be scheduled, after which the Committee would take the contract for consulting services to the Council for approval in late January or early February.

1515 **10. PLANNING COMMISSION RECOMMENDATIONS**
[from October 23, 2001, Planning Commission meeting]
A. Resolution approving the final plat of Wilshire Place, 2nd Plat, located at approximately 132nd & High Drive. [Continued from November 19, 2001, Governing Body meeting]

Councilmember Gill moved to continue the matter to the December 17, 2001, Governing Body meeting, seconded by Taylor. The applicant requested continuances the last two meetings, and both times, Mr. Gill requested advance notice and information about the reasons for the requests; the basis for the requests was now forthcoming, and it raised a number of questions. Had Greenbriar Homes Association been consulted? Had there been a change in stipulation to have an open stormwater culvert or was it just a change of mind by the Public Works Director? When the preliminary plan was approved, there was discussion about stormwater issues in particular; the materials given to the

Governing Body didn't reflect what those discussions were, and it would be helpful if the Governing Body had that information. Based upon the material they did have, it appeared to Mr. Gill that there was a potentially dangerous open concrete channel that would take stormwater coming off of not just existing property, but property that was scheduled for commercial development, raising additional runoff issues. He felt that a third continuance requested by the Governing Body wasn't unreasonable given the fact that the developer had delayed the matter twice on his own accord, and it would give the Governing Body an opportunity to get caught up and be sure Greenbriar was informed. Mr. Gill wanted information before the next Council meeting.

Brick Owens, Director of Design for the Landscape, Architecture and Urban Design Department of HNTB, addressed the Governing Body. He said they had provided City staff a very lengthy and detailed stormwater study done by Schlager & Associates engineers. Mr. Gill was concerned about whether or not there should be an open concrete channel or enclosed storm system as the City had almost everywhere else on new projects. Mr. Gill thought that because of cost considerations, the development group preferred an open concrete channel over a covered, closed system. Mr. Owens said the developer wasn't adding to the water in the channel; there was no more commercial, residential development that was going to occur upstream of the channel; the only question was whether the developer should put a railing around the open channel. Mr. Gill didn't believe that a railing was better protection than a closed stormwater system with grated protected entries. Mr. Owens said the City's engineering staff felt water would be contained in the open channel, and there were typically swales provided above enclosed pipes that would carry overflow if the pipes filled, just as the open channel would. Mr. Owens said the developer was willing to put up railings, that the developer had worked with the president of Greenbriar Homes Association who was satisfied with the plan; there had been no voiced concerns since the developer had made a very thorough and complete application of documents and worked with City staff and had received their approval. If staff requested an enclosed system, the developer would be happy to build that.

2305 Councilmember Taylor asked if HNTB engineers would be willing to verify the stormwater study by Schlager. Mr. Owens said HNTB could do so, but his client would have to request it since Schlager & Associates was part of the development team. Public Works Director Johnson said that staff originally felt that an enclosed system would be the only way to go, however, with the landscaping buffer that was between the street and the channel, it looked like they could put a sidewalk in and leave 95% of the landscaping; that seemed to be what Greenbriar and consultants wanted, so staff felt that if they could accommodate that, maintain the landscaping that had been there for the last 10 or 12 years, that would be in the best interest of the City. Councilmember Rasmussen felt there had to be sound reasons to have an open channel, not just the economics of it.

2817 Mr. Bussing reiterated 5 items of information that Council requested: 1) be sure that Greenbriar Homes Association was notified of the change issues with regard to the plat; 2) clarification as to whether the open channel was a change in the stipulation or a change in thinking about how to proceed with the particular stormwater issue; 3) copies of Council minutes of the original discussion about the plat related

to stormwater; 4) some discussion about the safety of the open channel and open channels in general; 5) information about or pictures of the location where a Sycamore tree and sidewalk were related. Review of Schlagel's stormwater study would be left up to Mr. Owens and his client. Mr. Gill's motion to continue carried unanimously.

- 2955 **B. Resolution approving the final plat of Wilshire Place, 3rd Plat, located at approximately 132nd & High Drive. [Continued from November 19, 2001, Governing Body meeting]**

On motion of Gill, seconded by Rasmussen, Council voted unanimously to continue the matter to the December 17, 2001, Governing Body meeting for the same reasons as Item 10.A.

- 3000 **C. Request for Special Use Permit [SUP] for a temporary parking lot for new vehicles to be located at approximately 104th and State Line Road. [Applicant: Molle Toyota]**

On motion of Taylor, seconded by Gullede, Council unanimously approved renewal of the SUP for a period of 2 years from the date of Council approval.

- 3212 **D. Resolution approving a preliminary site plan for an office building to be located south of 127th Street and west of State Line Road. [Applicant: Madden McFarland Interiors]**

Architect Bruce Wendlandt gave a presentation. He said the office building was for staff interior designers and show room, not for retail operation per se. There was discussion about the legality of having a retailer in an office building; was there an ordinance that would allow Madden McFarland to have an office building to operate the way they operated, or should there be a different type of zoning to accommodate such a quality project. Planner Mark Klein said that when the zoning went through, it was anticipated that Madden McFarland's type of business was more of a service-oriented type use rather than retail. Councilmember Taylor was concerned that someone in the future might lodge a legal complaint that Mr. Madden wasn't operating in accordance with City ordinance. Planning Director Binckley said that one of the listings under the CP-0 zoning category was personal services and personal services in the ordinance included interior decorating services. She said that CP-0 also allowed a minimal amount of retail activity as an accessory use. Councilmember Gill wanted to be sure that the Leawood South Homes Association had taken a position on the project; Mr. Wendlandt didn't know for sure if the Homes Association leadership had been notified of the interact meeting.

City Attorney Bennett said she was completely comfortable with the proposed use in the CP-0 zoning district. There was discussion about the percentage of gross receipts that was attributable to the sale of tangible property – furnishings, wall coverings, etc. Bernie Madden explained that design service fees were extremely minute, so most of the gross receipts was attributable to the sale of tangible property.

- 4425 Councilmember Gullede moved to continue the matter to the December 17, 2001, Governing Body meeting in order to have Council's questions answered (City Attorney's concurrence that the zoning

was appropriate) and to check on Leawood South Homes Association notification. Motion seconded by Gill and carried unanimously. City Administrator Lambers suggested that in the future, staff be sure that homes associations were notified of interact meetings in addition to individual residents.

11. OLD BUSINESS – None.

12. NEW BUSINESS

- 4650 **A. Resolution No. 1655 approving and authorizing the Mayor to execute a Master Lease/Purchase Agreement between the City and Information Leasing Corporation (a branch of Pierce Manufacturing), in the amount of \$570,256.00, for the 7-year lease/purchase of a Ladder Fire Truck.**

Adopted unanimously on motion of Rasmussen, seconded by Gill.

- 4735 **B. Approve and authorize execution of a Third and Supplemental Engineering Agreement in the amount of \$299,000, between the City and Shafer, Kline & Warren, P.A., to provide construction staking and inspection services for the 133rd Street Improvement Project between State Line Road and Mission Road [CIP #178] and between Mission Road and Roe Avenue [CIP #179].**

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

- 4795 **C. Approve Change Order No. 1 with Merit General Contractors, Inc., in the amount of \$103,876,00, for the sanitary sewer system (extension) in conjunction with the construction of Fire Station No. 3 located at 148th and Mission Road.**

Fire Chief Florance said the contractor had signed the change order. Councilmember Taylor said it was standard procedure for a contractor to sign a change order before it was presented to the “owner” for consideration, and the copy of the change order in the Council packets didn’t have Merit’s signature, so technically, he didn’t feel the Council had an official change order before them. Mr. Taylor wanted architect Bill Scott to explain the increase in the change order from approximately \$77,000 that had already been authorized by Council to \$103,876.00, after which he wanted consideration of the change order continued to allow for proper execution of the change order.

Mr. Scott said the increase was mostly due to the extent of rock that occurred over the approximate 1,500 lineal feet of sanitary extension. Aaron Young of Walter P. Moore Engineers agreed; there was unexpected rock excavation. Councilmember Taylor moved to continue the matter to the December 17, 2001, Governing Body meeting in order to obtain the appropriate signatures on the change order. Motion failed for lack of a second.

On motion of Dunn, seconded by Gill, Council approved the change order; Gullede, Bussing, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor opposed (the change order distributed in Council packets hadn’t been signed by the contractor).

5850

D. Reconfirmation and commitment of funds for the moving of the abandoned historic stone railroad bridge onto Ironhorse golf course property for use as a walking bridge.

Parks & Recreation Director Claxton said funds were previously approved by the Council in an amount not to exceed \$5,000, On motion of Dunn, seconded by Gulledge, Council unanimously reconfirmed and committed funds in an amount not to exceed \$7,000 as requested by City Administrator Lambers since initial cost estimates indicated it would cost \$5,000-\$7,000 to remove, relocate, and restore the bridge and Mr. Lambers only had spending authority up to \$5,000. It was noted that Mrs. Claxton would pursue grant funds.

13. OTHER BUSINESS – None.

6000

ADJOURN. There being no further business, the meeting was adjourned at 9:00 P.M.

Martha Heizer, City Clerk