

**Minutes**

Audio Tape No. 539

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, February 4, 2002. Mayor Peggy J. Dunn presided.

**Councilmembers present:** Scott E. Gulledge, Gary L. Bussing, Jim Rawlings, \* Patrick L. Dunn (arrived 7:35 P.M.), Mike Gill, Louis Rasmussen, and James E. Taylor, Sr. **Councilmembers absent:** Shelby Story.

**Staff present:**

Scott M. Lambers, City Administrator  
Patricia A. Bennett, City Attorney  
Ben C. Florance, Fire Chief  
Sid Mitchell, Chief of Police  
Chris Claxton, Parks & Recreation Dir.  
Karl Weinfurter, Info. Systems Specialist

Kathy Rogers, Finance Director  
Joe Johnson, Public Works Director  
Cindy Pitts, Human Resources Specialist  
Jeff Cantrell, Neighborhood Serv. Admin.  
Deb Harper, Deputy City Clerk  
Martha Heizer, City Clerk

**1. PLEDGE OF ALLEGIANCE**

240 **2. APPROVAL OF AGENDA**

The Mayor noted that Item 10.A. would be continued to the February 19, 2002, Governing Body meeting. The following items were added to the agenda – 1) 14.A., a discussion about referring some new information regarding a traffic signal at Tomahawk Creek Parkway and Roe Avenue to the Public Works Committee for their review; 2) 14.B., a discussion about the February 11, 2002, Governing Body work session; and 3) 14.C., a discussion about the Governing Body’s 2002 goals and objectives. On motion of Bussing, seconded by Gill, Council unanimously approved the agenda as amended.

**3. PROCLAMATIONS – None.**

**4. PRESENTATIONS/RECOGNITIONS – None.**

345 5. **SPECIAL BUSINESS**

- A. **Third & Final Reading: Ordinance No. 1942 granting to and authorizing to Sprint Communications Company, L.P., a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City**

Councilmember Taylor moved to pass the ordinance, seconded by Rawlings. G. Gordon Thomas, 10516 Mohawk Lane, didn't think the City should open up its rights-of-way to more than one cable company. He felt that residents were satisfied with Time Warner cable, and they didn't want the right-of-way and their yards torn up for more companies. To have more companies should be put to a public vote, and Council's vote on Sprint should be held up until that public vote.

\* 7:35 P.M. Councilmember Dunn arrived.

In response to Councilmember Gill, City Attorney Bennett explained that there were both state and federal mandates, primarily federal, that required rights-of-way grants like the Sprint application before the Council for both cable and telecom. Councilmember Rasmussen talked about the Council's great efforts in developing a draft ordinance to regulate the use of the City's right-of-way, and they passed such an ordinance, not to reduce the City's debt as Mr. Thomas eluded to, but to get fair compensation for the costs of right-of-way.

Council unanimously passed the ordinance on roll call vote.

- 1250 B. **Approving and authorizing the execution of a Public Lands Use Agreement between Sprint Communications Company, L.P., and the City of Leawood, Kansas, to install and maintain communications fiber optic cable within existing conduit**

On motion of Taylor, seconded by Dunn, Council unanimously approved the Agreement.

- 1285 C. **Second of Three Readings: An ordinance granting to and authorizing to XO Kansas, Inc., a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City**

Councilmember Gill was concerned about a poor XO stock report and felt that between now and the next Governing Body meeting, staff needed to watch XO's financial situation very closely. He had concerns about the possibility of 2 valuable conduits being occupied and blocked by a bankrupt entity.

6. **CITIZEN COMMENTS** – None.

1520 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 Nos. 935C and 938
- B. Minutes of the January 22, 2002, Governing Body meeting
- C. 2001 Goals & Objectives – 4<sup>th</sup> Quarter
- D. **Resolution No. 1664** approving and authorizing the execution of a Master Lease-Purchase Agreement in the amount of \$93,074.00 between the City and Gold Bank for the lease/purchase of IRONHORSE Golf Course equipment
- E. **Resolution No. 1665** approving and authorizing the execution of a Right-of-Way [ROW] Agreement between the City and Johnson County Unified Wastewater District [JCUWD] for managing use and occupancy of public right-of-way
- F. Acceptance of \$6,000.00 from Acuff Homes, Inc., pertaining to the desiltation of a ditch adjacent to #11 green at IRONHORSE Golf Course
- G. Low bid in the amount of \$4,999.24 from Hollman, Inc., for the purchase of 24 dorm room lockers, in conjunction with the construction of Fire Station No. 3 located at 148<sup>th</sup> Street & Mission Road [*These furnishings were approved by the Governing Body in the budget process*]
- H. Certificate for payment #7 in the amount of \$216,357.74 to Merit General Contractors, Inc., for the construction of Fire Station No. 3 located at 148<sup>th</sup> Street and Mission Road
- I. 8<sup>th</sup> and Final Pay Request in the amount of \$73,232.25 to Seal-O-Matic Paving Company for the 2001 Street Improvement Program
- J. 2<sup>nd</sup> and Final Pay Request in the amount of \$5,000.00 to Schmitz, King & Associates for the 2002 Street Improvement Program Boundary Survey
- K. Purchase of a 2003 Harley Davidson police motorcycle and related equipment in the amount of \$15,000.00 from Worth-Harley Davidson [*This item was approved by the Governing Body in the budget process*]
- L. Purchase of Kansas City Wizard soccer tickets in the amount of \$20,000.00 for the Parks & Recreation Soccer Program
- M. Schedule for 2003 Budget and Capital Improvement Projects [C.I.P.]
- N. Replacement of totaled Fire Department Incident Command Vehicle # 305 with a 2002 Tahoe, insurance coverage as fund source.

Items 7.F. and 7.H. were removed for discussion. On motion of Rasmussen, seconded by Gill, Council unanimously approved the remainder of the Consent Agenda.

- 7.F. Councilmember Bussing noted that Acuff Homes had asked to be relieved of any future obligations for cleaning out the ditch. Parks & Recreation Director Claxton said staff was comfortable that the golf course wouldn't be exposed to any further risk from silt off the development of Hampton Place. She said Acuff Homes had taken additional steps to detain silt remaining on the development of the property, and she felt that the City was obligated to do some annual maintenance that should help the continued reduction of risk of silt. On motion of Bussing, seconded by Dunn, Council unanimously accepted the payment to the City.
- 7.H. Councilmember Taylor congratulated architect Bill Scott and Fire Chief Florance on their work to get Fire Station No. 3 in operation and in maintaining the budget for the new facility. On motion of Taylor, seconded by Rasmussen, Council unanimously approved the certificate for payment.

1765 **8. MAYOR'S REPORT**

- A. Thanked staff for their work during the City emergency caused by the January 29, 2002, ice storm
- B. Attended a Shughart, Thomson & Kilroy 2002 symposium regarding the Citistates Report
- C. February 13, 2002, Chinese New Year Celebration hosted by Sister City I-Lan, Taiwan, at Fortune Star Restaurant, 6:00 P.M.
- D. February 19, 2002, Spotlight on Leawood, 6:00 P.M., at AMC Theaters, co-sponsored by the Leawood Chamber of Commerce and Leawood Arts Council.

**9. COUNCILMEMBERS' REPORTS** – None.

***COMMITTEE RECOMMENDATIONS***

2050 **10. PLANNING COMMISSION**

*[from November 27, 2001, Planning Commission meeting]*

- A. **Resolution approving preliminary plat, preliminary plan, and Special Use Permit [SUP] for United Methodist Church of the Resurrection, located south of 137<sup>th</sup> Street and east of Nall Avenue *[Continued from January 7, 2002, Governing Body meeting] – TO BE CONTINUED TO THE FEBURARY 19, 2002, GOVERNING BODY MEETING***

Councilmember Taylor recused himself to avoid the appearance of a conflict of interest. On motion of Gill, seconded by Gullede, Council voted unanimously to continue the matter to the February 19, 2002, Governing Body meeting.

2115 **11. PUBLIC WORKS COMMITTEE**

*[from January 23, 2002, Public Works Committee meeting]*

**A. Traffic concerns at Lee Boulevard and Somerset intersection**

The Public Works Committee recommended that an additional signal pole be installed where southbound traffic from Somerset merged with westbound Somerset to improve the safety of the intersection and reduce the potential for accidents. The cost to add an additional pole and modify the signal heads was approximately \$106.99 more per month on the current lease with Kansas City Power & Light; the cost would be shared with Prairie Village. On motion of Dunn, seconded by Gill, Council unanimously accepted the Committee's recommendation.

**12. OLD BUSINESS – None.**

2275 **13. NEW BUSINESS**

**A. Approve Change Order No. 4 in the amount of \$3,521.00 from Merit General Contractors, Inc., for electrical relays and installation of dorm room lockers, in conjunction with the construction of Fire Station No. 3 located at 148<sup>th</sup> Street & Mission Road**

On motion of Rasmussen, seconded by Taylor, Council unanimously approved the change order.

**B. Approve Change Order No. 1 in the amount of \$138,769.83 from Reno Construction Company, in conjunction with the 119<sup>th</sup> Street Improvement Project between Roe Avenue and State Line Road**

On motion of Gullede, seconded by Bussing, Council unanimously approved the change order.

**C. Ordinance No. 1943C amending Chapter 7, Article 2, of the Code of the City of Leawood 2000, adopting the International Fire Code 2000, and repealing existing Article 2**

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

2395 **14. OTHER BUSINESS**

**A. Referral of information regarding a traffic signal at Tomahawk Creek Parkway and Roe Avenue to the Public Works Committee for review**

City Administrator Lambers said that the City of Overland Park had proposed that they share the cost of the signal with Leawood 50/50. He requested that the Public Works Committee review a revised proposal of 60 (OP)/40(Leawood). Councilmember Taylor didn't believe the signal was Leawood's responsibility; three corners of the intersection were in Overland Park, and he preferred to wait until there was some development of the vacant land at 119<sup>th</sup> Street in the vicinity of the Phillips Petroleum service station before enacting any type of signalization and would ask that any signalization improvement be taken into consideration by the developer. And before Committee discussion, there needed to be a traffic count made at the intersection.

Councilmember Gill said that 3 of the 4 corners of the intersection were in Overland Park, the need was in Overland Park, and he would be looking for a 75/25 split when the matter was returned to the Council. The Mayor reminded Council about the spirit of cooperation; there had been many instances in the past where one city had benefited more than the other, but there was cooperation.

On motion of Dunn, seconded by Gullede, Council voted unanimously to refer the matter to the Public Works Committee. Mr. Dunn asked that staff provide information regarding past cost sharing with Overland Park.

2895 **B. Discussion of February 11, 2002, work session**

The work session was supposed to be about the recreational vehicle ordinance, but the R.V. sub-committee had not been able to meet. On motion of Taylor, seconded by Dunn, Council voted unanimously to rescind the previous motion to have the R.V. work session on February 11, 2002. On motion of Taylor, seconded by Gill, Council voted unanimously to continue consideration of the the R.V. ordinance to the March 4, 2002, Governing Body meeting for tracking purposes since a Planning Commission recommendation was involved.

On motion of Gullede, seconded by Taylor, Council voted unanimously to have a work session on February 11, 2002, at 5:30 P.M., to discuss the Governing Body's 2002 goals and objectives.

3245 **C. Discussion about the Governing Body's 2002 Goals and Objectives**

City Administrator Lambers explained the distribution made to the Council regarding goals and objectives that they had identified earlier. He needed Councilmembers' responses no later than Thursday, February 7<sup>th</sup>, in order to compile them for the February 11<sup>th</sup> work session.

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**ADJOURN**

There being no further business before the Council, the meeting was adjourned at 8:30 P.M.

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Martha Heizer, City Clerk