

Minutes

Audio Tape Nos. 556 & 557

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 19, 2002. Mayor Peggy J. Dunn presided.

Councilmembers present: Scott E. Gulledge, 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
Patricia A. Bennett, City Attorney
Diane Binckley, Planning & Development Dir.
Jeff Cantrell, Neighborhood Services Admin.
Sid Mitchell, Chief of Police

Karl Weinfurter, Info. Systems Specialist
Joe Johnson, Public Works Director
Chris Claxton, Parks & Recreation Director
Ben C. Florance, Fire Chief
Martha Heizer, City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

The Mayor noted that Item 10.A. had been withdrawn; Items 12.A. & 12.B. would be continued to the October 7, 2002, Governing Body meeting; and Items 12.C. and 13.A. would be continued to the November 4, 2002, Governing Body meeting. On motion of Gulledge, seconded by Story, Council unanimously approved the agenda.

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3. CITIZEN COMMENTS

Doug Carter, 2512 W. 88th St., spoke about preserving the integrity of the area known as the Leawood Country Club, 8901 Sagamore, as a recreational use area, and resisting any attempted zoning changes that would threaten the facility and its use that benefitted the neighborhood. He presented a petition to the City Clerk in opposition to the rezoning of the Leawood Country Club property from recreational to residential. He noted that the property was the only recreationally-zoned area, only open area of its nature, of any substance in the northern part of Leawood. Councilmember Gill asked about a demolition permit process; staff would prepare a memo to the Governing Body on the requirements. Councilmember Taylor said he was interested in knowing the financial history of the Club at a time in the future when a presentation might be given to the Governing Body; he understood that it was never very financially successful, even while under the guidance of Kroh Brothers in the early years.

G. Gordon Thomas, 10516 Mohawk Lane, spoke about saving the Leawood Country Club.

1085 **4. PROCLAMATIONS**

The Mayor designated the structure located at 9609 Lee Boulevard, Fire Station No. 1, a Leawood Historic Structure to be recorded in the Leawood Register of Historic Places. She also proclaimed September 2002 as “National Alcohol and Drug Addiction Recovery Month.”

5. PRESENTATIONS/RECOGNITIONS – None.

1290 **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 No. 952
- B. Minutes of the August 5, 2002, Governing Body meeting
- C. Minutes of the July 15, 2002, Governing Body meeting
- D. Minutes of the July 9, 2002, Parks & Recreation Advisory Board meeting
- E. Minutes of the June 27, 2002, IRONHORSE Golf Course Committee meeting
- F. Minutes of the July 24, 2002, Public Works Committee meeting *[continued to the September 3, 2002, Governing Body meeting for corrections]*
- G. Minutes of the June 26, 2002, Public Works Committee meeting
- H. Minutes of the June 25, 2002, Arts Council meeting
- I. Minutes of the June 11, 2002, Historic Commission meeting
- J. Appointment of an Audit Review Committee to assist in the selection of an auditor for the 2003 audit – Scott Lambers; Kathy Rogers; Councilmembers Gill and Rawlings; Greg Bussing, 4517 W. 140th St.; and Mark Meierhoffer, 11701 Mohawk Lane
- K. Mayoral Appointments of Citizens for Stormwater Management Committee (additional members) – Carol Bussing, 4517 W. 140th St.; William W. Chiles, 12816 Cedar; John M. Kahl, P.E., of Terra Technologies, Inc.; and Alec Weinberg, 13252 Delmar Court
- L. Application for Massage Establishment License for Mario Tricoci Salon and Day Spa located at 5234 W. 119th Street
- M. Change Order No. 1 in the amount of \$11,965.14 to Seal-O-Matic Paving Company pertaining to the 2002 Residential Street Reconstruction Project
- N. Purchase of 25 Personnel Accountability Safety Systems (life safety equipment) [PASS Devices] in the amount of \$11,278.27 from Orr Safety *[This item was approved by the Governing Body in the Fire Department budget process]*
- O. 1st and Final Pay Request in the amount of \$12,875.00 to Shawnee Mission Tree Service, for the removal of hanging tree limbs at IRONHORSE Golf Course related to the January 2002 winter ice storm

- P. 15th and Final Pay Request in the amount of \$6,375.00 to ACI Boland, Inc., for construction management services pertaining to the Public Works Maintenance Facility located at 14303 Overbrook [CIP # 156]
- Q. Low quote in the amount of \$63,500.00 from Central Salt, LLC, for the purchase of road salt for the 2002-2003 winter season
- R. 1st and Final Pay Request in the amount of \$13,700.00 to McCorkendale Construction for the installation of a back-up pump for emergency water supply at IRONHORSE Golf Course
- S. 1st and Final Pay Request in the amount of \$10,304.00 to JCI Industries for the replacement of the fountain pump at City Hall
- T. Resolution No. 1776 approving and authorizing the Mayor to execute an Engineering Agreement between the City and Continental Consulting Engineers in an amount not to exceed \$240,000, pertaining to the JB-04-008 SMAC Project [from 103rd to I-435 between Lee Blvd. & State Line Road] [*from July 24, 2002, Public Works Committee*]
- U. Resolution No. 1777 approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$550.00 between the City and Candace Evans, pertaining to the September 8, 2002, performance at the Leawood Amphitheater
- V. Resolution No. 1778 approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$400.00 between the City and Music Management Group, pertaining to the September 22, 2002, performance at the Leawood Amphitheater
- W. Resolution No. 1779 approving and authorizing the Mayor to execute an Independent Contractor Agreement for an amount not to exceed \$2,500.00 between the City and Karen Raymer as Race Director for the Labor Day Run
- X. Resolution No. 1780 consenting to the enlargement of Consolidated Main Sewer District [JCUWD] by the Board of County Commissioners of Johnson County, Kansas, [BOCC], pursuant to Johnson County Charter Resolution No. 29-92, to provide sanitary sewer service to property located at 14747 Mission Road [Dehaemers]
- Y. Resolution No. 1781 approving the conveyance of personal property to Howard T & Julie L. Levine; William K. & Doris E. Lauderdale; Edward B. & Amy Tranin; Eugene D. & Kay A. Verna; Scott E. & Mary Jo Holland; Quintin L. & Patricia A. Cokingtin; Perijo Maddox Revocable Trust; Laurette E. Reed Living Trust; pertaining to parkland property located at 133rd & Mission Road
- Z. Resolution No. 1782 approving and authorizing the Mayor to execute an Agreement between the City and Blue Valley Unified School District No. 229, pertaining to the assignment of a School Resource Officer [SRO]
- AA. Resolution No. 1783 approving a request to apply to the Johnson County Heritage Trust Fund for a \$12,000 grant to assist with the funding of improvements to the Oxford School located at 135th and Mission Road [interior furnishings]
- BB. Approve Declaration of surplus Fire Department property [To Be Auctioned]
- CC. Police Department Monthly Report for July 2002

- DD. Fire Department Monthly Report for July 2002
- EE. Municipal Court Monthly Report for July 2002

Items 6.F., P., Y., & Z., were removed for discussion. On motion of Taylor, seconded by Rasmussen, Council unanimously approved the remainder of the Consent Agenda.

- 6.F. Continued to the September 3, 2002, Governing Body meeting, in order to make corrections.
- 6.P. Councilmember Taylor congratulated ACI Boland on their design-build work. On motion of Rasmussen, seconded by Dunn, Council unanimously approved the pay request.
- 6.Y. After clarification that the property owners paid the City for the cost of surveying and platting, and on motion of Taylor, seconded by Dunn, Council unanimously adopted the resolution.
- 6.Z. Councilmember Rasmussen explained that he was opposed to expending City funds to essentially provide for a school district function – providing a second SRO at no charge to the school district. He opposed the issue in the past. On motion of Gill, seconded by Story, Council adopted the resolution; Gulledege, Bussing, Rawlings, Dunn, Story, Gill, Taylor in favor; Rasmussen opposed.

1690 7. **MAYOR'S REPORT**

- A. Thanked Public Works Director Johnson and his staff for the August 9th dedication of the new Public Works Maintenance Facility at 14303 Overbrook
- B. Attended a Leawood Chamber of Commerce breakfast last week; U.S. Congressman Dennis Moore was the speaker
- C. Annual Police and Fire open house would be held August 21st, 5:00 – 8:00 P.M., at the Police and Fire facilities at 96th & Lee Boulevard

8. **COUNCILMEMBERS' REPORTS** – None.

9. **STAFF REPORT** – None.

COMMITTEE /BOARD RECOMMENDATIONS

10. **PLANNING COMMISSION**

[from May 28, 2002, Planning Commission meeting]

- A. **Approve Special Use Permit [SUP] for a Sport Court located at 3613 W. 129th Street [Applicant: Gibson] [Continued from the June 17, 2002, Governing Body meeting] - WITHDRAWN**

[from May 28, 2002, Planning Commission meeting]

1840

- B. Ordinance No. 1952 amending § 3-1[RP-A]; 3-2[R-1]; 3-3[RP-1]; 3-4[RP-2]; 3-13[AG]; and 3-16[RP-A5] of the Leawood Development Ordinance [LDO], pertaining to roofing [Continued from the June 17, 2002, Governing Body meeting]**

Councilmember Taylor moved to pass the ordinance, seconded by Gill. Regarding the weight requirement for laminated composition shingles, staff recommended that a minimum weight remain in the ordinance, but that it drop from 330 pounds to 300 pounds, which would still provide residents with the same quality of roofing materials and provided more warranty than in the past, with 50 years as opposed to 40. G. Gordon Thomas, 10516 Mohawk Lane, asked that the matter be continued because homes associations were not aware of the new rewording and the proposed ordinance didn't agree with deed restrictions. Ginevera Moore, 9006 High Dr., Vice President of the Leawood Estates Homes Association, thanked City staff for reviewing the minimum weight requirement and for reinstating such requirement in the ordinance. She asked that in the future, staff not consider going below the minimum of 300 pounds or even removing the requirement. The motion to pass the ordinance carried unanimously on roll call vote.

[from July 23, 2002, Planning Commission meeting]

2545

- C. Resolution approving a preliminary site plan and preliminary plat for Christ Community Church, located north of 143rd Street and West of Kenneth Road [companion ordinance]**

Councilmember Gill moved to adopt the resolution, seconded by Gulledge. Mr. Gill asked if water would be retained on site or planned so the off-site flow wouldn't be increased beyond what was current. City Administrator Lambers explained the Council was considering phase 2 and detention was not necessary, that phase 3 was yet to be determined. Public Works Director Johnson explained that when the developer first came to the City with phase 1 which he assumed was the majority of the project, there wasn't any requirement for detention. Mr. Gill asked if Council could move forward with approval with a clear understanding from staff that stormwater detention meant, as the ordinance said, that the off-site flow would not be increased as a result of construction improvements. Mr. Johnson said that the City's stormwater ordinance said that there would be detention or a stormwater study that explained why detention wasn't necessary. Mr. Gill didn't agree and it was his expectation that the wording he understood was in the ordinance be followed. Mr. Gill's request would be, just like staff did with all other projects, that stormwater be designed to capture on the site enough water so that there was no increase in an already difficult situation by running more water off the site than was currently running off. Mr. Johnson, said that engineeringwise, that could be done.

City Administrator Lambers said that stormwater review by the City Engineer didn't assume that there was no additional runoff as a result of construction; if detention was going to be the standard, then there would have to be detention requirements for every project. That would

substantially change the Church plan and the plan for Ironhorse Centre (next agenda item), so to approve it and say to staff that the Council wanted detention so staff “take care of it,” wouldn’t be fair to the applicant. It would be better to have the matter continued and for the Council to see if, indeed, it was what they wanted for their policy. Regarding the policy that Mr. Gill raised, Mr. Lambers said everyone needed to be sure that Mr. Gill’s interpretation was the right one because planning applications didn’t currently reflect that. Mr. Gulledge said he didn’t want to hold up the applicant because of the situation at this time; he felt the applicant would return with a final plan for phase 2 and detention would be addressed at that time, and Public Works had addressed the issue.

Mr. Gill and Mr. Gulledge withdrew their motion and second. Mr. Gulledge moved to adopt the resolution, seconded by Dunn. Planning Director Binckley clarified that the preliminary site plan and plat were for the revised master plan of the overall church project for all phases; Council would see the final plat with all stipulations, but would not see the final plan. She said that the discussion about whether there would be or wouldn’t be detention as recommended by staff would be in the stipulations associated with the final plat. City Attorney Bennett said that the stormwater management ordinance was quite lengthy and suggested a continuance. Mr. Lambers said that staff reviewed the plan in conformance with the ordinance, and as part of the review, and phase 2 hasn’t been submitted, but the City Engineer reviewed the preliminary stormwater information by the applicant and indicated that detention was not required when phase 2 came forward.

Mr. Gulledge and Mr. Dunn withdrew their motion and second. On motion of Gulledge, seconded by Taylor, Council voted unanimously to continue the matter to the September 3, 2002, Governing Body meeting in order to review the stormwater ordinance and the Church’s application.

Mr. Lambers requested a work session be held August 26, 2002, on the issue. On motion of Dunn, seconded by Story, Council voted unanimously to hold the work session at 6:00 P.M.

D. Ordinance granting a Special Use Permit [SUP] for Christ Community Evangelical Free Church located at 14200 Kenneth Road

On motion of Gulledge, seconded by Taylor, Council voted unanimously to continue the matter to the September 3, 2002, Governing Body meeting.

4830 **E. Resolution approving a preliminary site plan and preliminary plat for Ironhorse Centre, a mixed use retail and office center, located at the southeast corner of 151st Street and Nall Avenue**

The same stormwater concern was an issue as it was with Christ Community Evangelical Free Church. On motion of Gill, seconded by Taylor, Council voted unanimously to continue the matter to the September 3, 2002, Governing Body meeting.

- 4990 **F. Resolution No. 1786 denying approval of a Third Amendment to that certain Development/Settlement Agreement dated April 26, 2000, between the City of Leewood and Supermarket Developers, Inc. [SMD] [a/k/a/ Price Chopper], pertaining to Market Square Development located on the northeast corner of 135th Street and Mission Road**

Peter Bohling of Super Market Developers, Inc., presented Price Chopper's request for an amendment to its plan to allow it to increase the height of the letters on its sign from 3 feet to 4 feet on the west side of the building. The Planning Commission recommended that the change be allowed. Councilmember Taylor wasn't in favor of the request; Price Chopper was very well identified on the south and west and he didn't see the need for the change. Councilmember Gill agreed with Mr. Taylor; he didn't want private signage to overwhelm and dominate the landscaping. Councilmember Dunn moved to approve the request. Motion died for lack of a second. On motion of Taylor, seconded by Rasmussen, Council voted to deny the request; Gulledge, Bussing, Rawlings, Story, Gill, Rasmussen, Taylor in favor; Dunn opposed (he felt that the request was a fair one).

- 5945 **11. PARK BOARD**
 A. Approve recommendation of the Parks & Recreation Advisory Board for amenities located at Ironwoods Park, 14701 Mission Road, and I-Lan Park, 12601 Nall Avenue

Councilmember Gill moved to approve the recommendation, seconded by Dunn. City Administrator Lambers didn't agree with the Board's recommendation, wanting to delay the construction of the maintenance facility (\$150,000) to 2003 using Special Park & Recreation Funds as programmed in the 2003 Budget and not utilizing park bond proceeds, in order to have a better understanding of any surplus funds that would be available closer to the end of park construction. Councilmember Story said he was in favor of spending all of the money that voters approved for park improvements and he felt the City would do that, but the more prudent approach was to do as Council chose to do in the budget process and wait until they got a better handle on the availability of funds and make decisions on how to spend them at that point. Mr. Lambers said that to use the 2003 Special Park & Recreation Funds would provide the City with the flexibility to get through 2003 with the 2 park projects and also the uncertainty of what would happen at the State budgetwise.

Steve Martens, Chairman of the Parks & Recreation Advisory Board, spoke in favor of building the maintenance facility, their number 1 priority item, with the other amenities.

- 7780 Councilmember Gulledge called for the question, seconded by Gill and carried unanimously. Mr. Gill's motion to approve the recommendation failed; Gill, Dunn, Rawlings, Taylor in favor; Rasmussen, Bussing, Gulledge, Story opposed; Mayor opposed.

Mr. Taylor moved to approve the list of amenities with the exception of the maintenance building and that that facility be constructed by 2003 Special Park & Recreation Funds, and that the timing of the structure be such that the review would come so that the park was not completed and that the construction could go forward in perhaps late spring, and that nothing would be undone that had been done, seconded by Rasmussen. It was clarified for Mr. Story that the Council was approving projects that added up to \$200,751 of \$368,000; he was opposed for the same reasons mentioned earlier.

8570 Dick Fuller, former Chairman of the Parks & Recreation Advisory Board, spoke in favor of building the maintenance facility with the other amenities; to take out the \$150,000 of the \$368,000, the Board wasn't waiting to see if they would have those funds, they were available, a hard number, and there was an additional \$250,000 in contingency.

8680 **END OF TAPE NO. 556**
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Mr. Fuller continued. P.J. Novick of Theis Doolittle talked about the maintenance building. From a cost standpoint, if the Council added the building to the parks contract and they got a bid from parks contractor Vanum Construction, he felt comfortable telling them that they would receive a lesser bid than if it was put out on the streets, if it was done now. Vanum already had heavy equipment on the site to build the other buildings. If the City waited until summer 2003, construction of the maintenance building could cause damage to the asphalt because of heavy construction equipment, and have an impact on residents' use of the park. Mr. Novick felt that a change order should be given to the contractor prior to winter setting in.

850 Mr. Taylor and Mr. Rasmussen withdrew their motion and second. Mr. Novick advised Mr. Rasmussen that he didn't have solid bids from the contractor in the amount of \$368,000, so Mr. Rasmussen said that he didn't have the firm number from the contractor that said that was what he was willing to hold to. City Administrator Lambers said that if the Council approved the \$150,000, he suggested a change in amenity priorities, change the priority of the rankings by taking #4 for the furnishings for the facility (\$100,000) and making that the last item, item #6, furnishings being more flexible than the other items, plus there was already \$100,000 in the budget for furnishings.

Mr. Taylor moved to accept the Advisory Board's recommendation with the ranking of their priorities, except that #4, furnishings, be ranked #6, seconded by Dunn. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Gill, Taylor, Rasmussen in favor; Story opposed. Mr. Story felt that the timing was contrary to the Governing Body's decision in the 2003 budget process.

1516 **B. Approve Change Order No. 4 in the amount of \$42,198.00 (and not to exceed that amount) to Theis Doolittle pertaining to design fees for amenities at Ironwoods Park, 14701 Mission Road, and I-Lan Park, 12601 Nall Avenue**

Councilmember Dunn moved to approve the change order, seconded by Taylor. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Rasmussen, Taylor in favor; Story opposed for reasons noted earlier; Gill not seated for the vote.

12. OLD BUSINESS

[from August 28, 2001, Planning Commission meeting & September 26, 2001 Board of Zoning Appeals meeting (BZA)]

- A. **Ordinance amending Code § 4-4 of the Leawood Development Ordinance pertaining to Off-Street Parking, Storage, Loading Regulations and Parking Lot Design Standards [Recreational Vehicles] *[Continued from June 17, 2002, Governing Body meeting]* [companion ordinance] – TO BE CONTINUED TO THE OCTOBER 7, 2002, GOVERNING BODY MEETING FOR FINAL ACTION**

- B. **Ordinance amending Chapter 14, Article 3, Sections 14-301, 14-302, and 14-304, of the Code of the City of Leawood 2000, pertaining to parking [Recreational Vehicles] *[Continued from June 17, 2002, Governing Body meeting]* [companion ordinance] – TO BE CONTINUED TO THE OCTOBER 7, 2002, GOVERNING BODY MEETING FOR FINAL ACTION**

- C. **Installation of gate to restrict traffic on IronHorse Drive/Circle located within the Estates of Iron Horse Subdivision located at approximately 157th Street east of Nall *[Continued from the May 20, 2002, Governing Body meeting]* – TO BE CONTINUED TO THE NOVEMBER 4, 2002, GOVERNING BODY MEETING**

13. NEW BUSINESS

- A. **Ordinance amending § 13-337 of the Code of the City of Leawood 2000, pertaining to the placement of gates on public streets *[from July 1, 2002, Governing Body Work Session]* [companion ordinance] – TO BE CONTINUED TO THE NOVEMBER 4, 2002, GOVERNING BODY MEETING**

- 1660 B. **Request Planning Commission consideration of amending Article 6 of the Leawood Development Ordinance [LDO], pertaining to the placement of gates on public streets *[from July 1, 2002, Governing Body Work Session]* [companion ordinance]**

Councilmember Dunn moved to refer the matter to the Planning Commission, seconded by Rasmussen. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Story, Rasmussen in favor; Gill and Taylor not seated for the vote.

Councilmember Gill returned to his Council seat.

1710 **C. Appointment of Human Resources Director**

Councilmember Rasmussen moved to approve the City Administrator's appointment of Colleen Brown as Human Resources Director, seconded by Rawlings. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor not seated for the vote.

D. Resolution No. 1784 adopting the Fiscal Year 2003 Annual Budget for the City of Leawood

Councilmember Rasmussen moved to adopt the resolution, seconded by Gill. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor not seated for the vote.

E. Resolution No. 1785 attesting to an increase in tax revenues for the 2003 Budget Year for the City of Leawood, Johnson County, Kansas

Councilmember Rasmussen moved to adopt the resolution, seconded by Gill. Motion carried; Gulledge, Bussing, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor not seated for the vote.

1800 **F. Authorize staff to proceed with Tuscany Reserve request for Special Benefit District for Pawnee Street between 135th and 137th Streets and 137th Street between Pawnee and Chadwick**

Councilmember Gill moved to authorize staff to proceed with the clarification that staff would work with Tuscany Reserve, the exact details of what the benefit district would be were not necessarily as outlined in the August 12, 2002, letter from Attorney F. Chase Simmons, and that Council would have a chance to review the final deal and approve it at a later date. Motion seconded by Dunn and carried; Gulledge, Bussing, Rawlings, Dunn, Story, Gill, Rasmussen in favor; Taylor not seated for the vote.

Councilmember Taylor returned to his Council seat.

1865 **G. Approve revisions to the City's standard construction contract**

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

H. Recommendation on the moving of the Oxford Schoolhouse to Ironwoods Park, 14701 Mission Road

On motion of Story, seconded by Dunn, Council unanimously approved staff's recommendation for the progression of the project.

- 1955 **I. Accept Bid Alternate No. 7 from Vanum Construction Co., Inc., in the amount of \$34,200, pertaining to the moving of the Oxford Schoolhouse**

On motion of Dunn, seconded by Story, Council unanimously approved the bid alternate.

- J. Approve Change Order No. 2 to Vanum Construction Co., Inc., in the amount of \$34,200.00, pertaining to the moving of the Oxford Schoolhouse to Ironwoods Park, 14701 Mission Road**

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

- 14. OTHER BUSINESS – None.**

ADJOURN

- 2080 There being no further business before the Council, the meeting was adjourned at 10:05 P.M.

Martha Heizer, City Clerk