

**Minutes**

Audio Tape Nos. 567

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 2, 2002. Mayor Peggy J. Dunn presided.

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

**Councilmembers absent:** Shelby Story.

**Staff present:**

Scott M. Lambers, City Administrator  
Kathy Rogers, Finance Director  
Marsha Lewis, Accounting Mgr.  
Theresa Lodde, Senior Accountant  
Ben C. Florance, Fire Chief  
Deputy Fire Chief, Randy Hill  
Beccy Craig, Fire Dept. Exec. Secretary  
Colleen Browne, Human Resources Dir.  
Emily Watson, Deputy City Clerk  
Deb Harper, City Clerk

Patricia A. Bennett, City Attorney  
Lisa Wetzler, Assistant City Attorney  
Sid Mitchell, Police Chief  
Major Craig Hill, Police Dept  
Diane Binckley, Planning & Dev. Director  
Mark Andrasik, IS Director  
Chris Claxton, Parks & Recreation Director  
Joe Johnson, Public Works Director  
Sam Maupin, Building Official

147 **1. PLEDGE OF ALLEGIANCE**

219 **2. APPROVAL OF AGENDA**

Agenda Item # 7.B., [minutes of the November 18, 2002, Governing Body meeting] was pulled for clarification and continued to the December 16, 2002, Governing Body meeting. A motion was entered by Councilmember Gulledge, seconded by Councilmember Rawlings to approve the agenda as amended. The motion was carried by a unanimous vote.

219 **3. CITIZEN COMMENTS**

Mr. Stan Parsons, Home Builders Association [HBA] Governmental Affairs Division, 600 E. 103 Street, Kansas City, Missouri, stated his concerns regarding the increase in building permit fees, reflected in the Fee Schedule [Agenda Item # 7A.A.] Leawood's proposed fee is substantially higher when compared to Overland Park, Lenexa, Olathe, and Shawnee.

Mayor Dunn stated Agenda Item 7 A.A., will be pulled from the consent agenda, and this item would be discussed further.

Ms. Megan Toal, United Community Services of Johnson County, which supports the Drug and Alcohol Council, [DAC] stated she would be available to answer any questions regarding Agenda Item 7.W. The City of Leawood's support over the years has been tremendously appreciated.

G. Gordon Thomas, 10516 Mohawk Lane, declined any comment.

**4. PROCLAMATIONS - None**

- 419 **5. PRESENTATIONS/RECOGNITIONS**
- \* **2001 Life Safety Achievement Award**
  - \* **GFOA Certificate of Achievement for Excellence in Financial Reporting**
  - \* **Recognition of 2002 Employee of the Year, Deputy Fire Chief, Randy Hill**
  - \* **Recognition of Police Major Craig Hill; 30 years of service**

**2001 Life Safety Achievement Award**

Fire Chief Ben Florance introduced Fire Marshall, Gale Haag, who presented the 2001 Life Safety Achievement Award to the Fire Department. The City of Leawood has been fortunate in not having a fire death in the last 20 years, which is an exemplary record.

**GFOA Certificate of Achievement for Excellence in Financial Reporting**

Kathy Rogers, Finance Director, stated the City had received the Government Finance Officers Association [GFOA] Award for the 6<sup>th</sup> straight year, and recognized Marsha Lewis, Accounting Manager, and Theresa Lodde, Senior Accountant.

**2002 Employee of the Year, Deputy Fire Chief, Randy Hill**

Mayor Dunn stated Randy Hill was recognized as the 2002 Employee of the Year at the annual Employee Recognition Luncheon on November 15, 2002.

**Police Major Craig Hill; 30 years of service**

Chief Sid Mitchell recognized Major Hill for his years of service with the Police Department.

869 **6. SPECIAL BUSINESS**

- A. Ordinance No. 1970, granting to and authorizing to Everest Midwest Licensee LLC, a Franchise Agreement authorizing the right to construct, operate, and maintain a communications system using the rights-of-way in the City [Roll Call Vote]

A motion was made by Councilmember Gill, seconded by Councilmember Gulledge to pass the franchise ordinance.

Mr. Drew Fleming, Everest Midwest, stated Everest and the City entered into a franchise agreement approximately one year ago. There was pending legislation at that time addressing certain franchising issues, and this proposed agreement reflects those changes. This franchise agreement covers only the telecommunication [telephone] portion. Services such as cable TV, high-speed Internet, and long distance would be covered under the cable portion.

Councilmember Taylor asked when Everest would be able to provide cable service to the southern part of Leawood. Mr. Fleming advised they are working towards that end and hopefully would be available sometime in 2003.

The ordinance was passed by a unanimous roll call vote.

1060 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. Approval of Appropriation Ordinance No. 960
- B. Minutes of the November 18, 2002, Governing Body meeting
- C. Minutes of the November 18, 2002, Governing Body Special Call Work Session
- D. Minutes of the November 1, 2002, Stormwater Management Committee meeting
- E. Minutes of the October 24, 2002, IRONHORSE Golf Course Committee meeting
- F. Minutes of the October 22, 2002, Arts Council meeting
- G. Minutes of the October 15, 2002, Historic Commission meeting
- H. Appointment of Emily Watson as Deputy City Clerk
- I. Renewal of Cereal Malt Beverage [CMB] License for Cosentino's Price Chopper # 500, located at 3700 West 95<sup>th</sup> Street
- J. Renewal of Cereal Malt Beverage [CMB] License for Osco Drug # 5161, located at 11729 Roe Avenue
- K. Approve 2<sup>nd</sup> & Final Payment in the amount of \$4,175.00, to Kaw Valley Engineering Company, pertaining to the City Wide Survey for 2003 Street Rehabilitation Program
- L. Approve purchase in the amount of \$30,000.00, from Shawnee Steel & Welding Company, pertaining to the Public Works Maintenance Facility Project
- M. Resolution No. 1836, approving and authorizing the execution of an Agreement in the amount of \$8,240.95, between the City and Marblelife of Kansas, W. Missouri & Nebraska, pertaining to improvements to the marble at City Hall entrance
- N. Approve purchase in the amount of \$7,209.00, to Mity-Life, for Community Center tables and carts
- O. Approve purchase in the amount of \$7,500.00, to Pinnacle Air, pertaining to the purchase of a HVAC unit for the Leawood Police Department
- P. Approve purchase in the amount of \$11,874.00, to various vendors, pertaining to the purchase of police vehicle equipment

- Q. Approve quote in the amount of \$342,491.00, from St. Paul Fire & Marine Company, pertaining to the 2003 property and casualty insurance renewal
- R. Approve Change Order No. 1, in the amount of \$25,735.00, to Reno Construction Company, pertaining to the 2002 Arterial Street Improvement Program
- S. Approve Change Order No. 2, in the amount of \$6,958.90, to Seal-O-Matic Paving Inc., pertaining to the 2002 Street Reconstruction Program
- T. Approve Change Order No. 6, in the amount of \$7,484.50, to Amino Brothers, pertaining to the 133rd Street Benefit District Project from State Line Road to Mission [CIP # 178]
- U. Approve Change Order No. 6, in the amount of \$9,007.98, to Amino Brothers, pertaining to the 133rd Street Benefit District Project from Mission Road to Roe Avenue [CIP # 179]
- V. Approve Change Order No. 6, in the amount of \$34,898.00, to Vanum Construction pertaining to road stabilization for the Ironwoods Park Improvement Project [CIP# 116]
- W. Resolution No 1843, approving Johnson County Drug & Alcoholism Council [DAC] recommendation for allocations of the 2003 Alcohol Tax Fund, for an amount not to exceed \$41,600.00
- X. Resolution No. 1844, approving and authorizing the Mayor to execute a Letter of Understanding between the City and Johnson County Department of Human Services & Aging to provide City funding for an amount not to exceed \$1,550.00, for the 2003 Minor Home Repair Program
- Y. Resolution No. 1845, approving and authorizing the Mayor to execute an Agreement in the amount of \$28,000.00, between the City and Patton Properties and House Moving, pertaining to the stabilization and moving of the Oxford Schoolhouse from 135<sup>th</sup> & Mission Road to the Ironwoods Park, 14701 Mission Road
- Z. Resolution No. 1846, authorizing the Parks & Recreation Director to regulate the use of athletic fields in all City Parks, pursuant to § 12-216, of the Code of the City of Leawood, 2000
- AA. Resolution No. 1847, establishing the 2003 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 No. 1653
- BB. Resolution No. 1848, accepting a Deed of Dedication from Ronald E. Nelson, Trustee of the Ronald E. Nelson Living Trust, pertaining to the construction of Pawnee Lane, located at the southwest corner of 135<sup>th</sup> Street & Pawnee, located within the Tuscany Reserve subdivision
- CC. Resolution No. 1849, accepting a Deed of Dedication from Ronald E. Nelson, Trustee of the Ronald E. Nelson Living Trust, pertaining to the construction of Pawnee Lane, located at the southeast corner of 135<sup>th</sup> Street & Pawnee, located within the Tuscany Reserve subdivision
- DD. Acceptance of Report of Internal Controls Changes resulting from the 2001 Management Comments, reported by Cochran Head, Company
- EE. Declaration of surplus property; 1992 Ford F-250 Pickup; last 6 VIN/A69434, to be auctioned by Nationwide Auctions

Mayor Dunn stated Item 7.B., will be pulled and placed on the December 2, 2002, Governing Body agenda. Item 7.A.A., will be pulled for discussion and Councilmember Taylor asked that Item 7.Y., be pulled. A motion was entered by Councilmember Gulledge, seconded by Councilmember Dunn to approve the remainder of the Agenda. The motion carried by a unanimous vote.

- Y. Resolution No. 1845, approving and authorizing the Mayor to execute an Agreement in the amount of \$28,000.00, between the City and Patton Properties and House Moving, pertaining to the stabilization and moving of the Oxford Schoolhouse from 135<sup>th</sup> & Mission Road to the Ironwoods Park, 14701 Mission Road

Councilmember Taylor stated he was under the impression that \$35,000 was allocated for the reconstruction of Oxford School, with matching funds from the Historic Commission, and asked Chris Claxton to clarify the amount of the bid. Ms. Claxton stated the bid for renovation has not been let yet. The proposed agreement in the amount of \$28,000, is for the moving of the schoolhouse. Councilmember Taylor asked Ms. Claxton to provide him with a history of the funds allocated for this project, along with any donations and grants.

A motion was made by Councilmember Taylor, seconded by Councilmember Dunn to approve the execution of the agreement. The motion was approved by a unanimous vote.

- AA. Resolution No. 1847, establishing the 2003 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 No. 1653

Sam Maupin, Building Official, distributed information reflecting the City's fee history as it relates to building permits. The fee change is based primarily on an increase of the regional modifier. The current regional modifier for Kansas is 0.74 and is being increased to 0.87. This increase is the standard recommended by the International Conference of Building Officials. [ICBO]. Comparisons have been conducted with area cities and Leawood's is slightly higher, however, construction and inspections of a home in Leawood are more complicated and essentially more expensive than in area cities.

Mr. Sam Maupin stated this increase is based upon recommendation from the ICBO. The rate of the regional modifier is being increased and is the cause for the increase in the fees.

Scott Lambers, City Administrator, stated the amount couldn't be forecasted in any given year that the fees will cover the cost of providing the service. These fee amounts are charged in an attempt to recoup the City's cost, but the entire amount cannot be recouped. Additionally, referring to the memo distributed by Mr. Maupin, the State of Kansas, grouped in the 'Central U.S.' has a low modifier and feels this is an attempt by the ICBO to allow Kansas to catch-up with the other centrally located states that have higher modifiers. A motion was entered by Councilmember Taylor, seconded by Councilmember Dunn to approve the resolution. The motion carried by a unanimous vote.

Deb Harper, City Clerk, introduced the City's newly hired Deputy City Clerk, Emily Watson. Ms. Watson's appointment is effective today.

- 1620 8. **MAYOR'S REPORT**
- A. Attended a Legislative Forecast Breakfast hosted by Lathrop & Gage and Leawood Senators, David Atkins and John Vratil
  - B. Reminder of the Johnson & Wyandotte Counties Council of Mayors Dinner on December 10, 2002; RSVP's are due by Tuesday, December 3, 2002
  - C. The Leawood Garden Club presently has items on display until the end of the month in the case located in the City Hall lobby
  - D. Reminder of the Holiday Lighting Ceremony at City Hall at 6:30 P.M., on Tuesday, December 3, 2002

9. **COUNCILMEMBERS' REPORT - None**

10. **STAFF REPORT - None**

***COMMITTEE RECOMMENDATIONS***

- 1721 11. **IRONHORSE GOLF COURSE COMMITTEE**  
*[from October 24, 2002, Golf Course meeting]*
- A. Resolution No. 1850, approving and authorizing the execution of an Agreement between the City and Leawood Land Company, L.C., pertaining to the construction of an access road from 151<sup>st</sup> Street to the City's property line along the IRONHORSE Golf Course, located at 15400 Mission Road

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gulledge to approve the resolution. The motion was approved by a unanimous vote.

- 1747 12. **PLANNING COMMISSION**  
*[from October 29, 2002, & November 26, 2002, Planning Commission meeting]*
- A. Resolution No. 1851, approving a preliminary plat for Steeplechase, 5<sup>th</sup> Plat, located at 145<sup>th</sup> and Chadwick

A motion was made by Councilmember Rasmussen, seconded by Councilmember Taylor to approve the Resolution.

Marty Arling, 14700 W. 114<sup>th</sup> Terrace, Lenexa, Kaw Valley Engineering, stated this would clear up an error when the preliminary plat for Steeplechase was done. This 5<sup>th</sup> plat will extend the property line to the north by 25 feet.

The motion was approved by a unanimous vote.

- 1801 B. Resolution No. 1852, approving a preliminary site plan for Plaza Pointe Lot 7, an office building, located at 135<sup>th</sup> and Roe, located within the Plaza Pointe development

A motion was made by Councilmember Rasmussen, seconded by Councilmember Gulledge to approve the Resolution.

Mayor Dunn recognized Mr. Suttle's memo dated November 21, 2002, regarding the compliance to the 135<sup>th</sup> Street Corridor Goals.

David Suttle, Suttle Mindlin Architects, gave a brief presentation of Lot 7, located on the corner of 137<sup>th</sup> and Roe. This would be a one-story, 11,200 square foot commercial office and retail building. The concept of the building reinforces the overall concept of the development.

Councilmember Bussing complimented Mr. Suttle's effort regarding the blending effect of the adjacent Carpet Corner building and the courtyard feature.

The motion was approved by the following vote: Yea: Councilmembers Gulledge, Rawlings, Dunn, Gill, Rasmussen; Nay: Councilmember Bussing. Mr. Bussing stated his reason for his negative vote has been stated on the record on previous occasions.

***[from October 29, 2002, Planning Commission meeting]***

- 2153 C. Resolution No. 1853, approving the Final Sit Plan for Town Center Plaza, Lot 10, regarding the redevelopment of the former Jacobsen's Department Store, located at 5100 West 119<sup>th</sup> Street

A motion was entered by Councilmember Gill, seconded by Councilmember Taylor to approve the resolution.

Councilmember Rasmussen's asked what the intent of the Council was for this area. Prior councils have had concerns regarding the 'big box' stores and what a city's options are when they go out of business, and was inquiring the Council's future plan regarding this dilemma.

Councilmember Gill stated big box tenants do pose a very high risk for cities when the business go out of business and can have a ripple effect that can be detrimental to remaining tenants.

Mayor Dunn recognizes these concerns, however, the City does not own this property. The City reaps the benefit from this building being occupied and it serves no benefit to the City to have this building remain vacant.

Councilmember Gulledge asked what type of marketing had been conducted to attract a large department store, such as Marshall Fields or a Lord & Taylor store to this site.

Councilmember Taylor stated the applicant is an architect and not in the marketing field and would not be qualified to address these marketing concerns. Further, he felt someone representing the ownership of this center should be present to answer these types of questions.

Councilmember Rasmussen stated the designer/architect duty is to segment out the existing property, which is different than addressing marketing concerns.

Henry Klover, Klover Architects, made comments and a presentation. Department stores are not the strongest elements of a shopping center. Shopping centers that are currently being built around the country do not have anchor department stores. They are redeveloping these centers and naming them 'life-style' centers, instead of shopping centers. This proposed plan would have no negative impact on life safety, the police or fire departments, as all building and fire codes have been adequately met. There has been an interest from high-end retailers that have looked at this location. It will cost approximately \$3-4 Million to remodel this building. High end retailers' profit are greater than the department stores when you have a one-story retailer and office space on the second floor, and this will benefit the City. It is difficult to convince retailers to do a 2-story retail in the current market arena.

Councilmember Taylor stated he would like to see information or verification from the developer that the revenue from the proposed smaller retailer would equal that of the previous store that was located here.

Mr. Klover stated he was not qualified to address that question, but could state there is a direct relationship between what tenants pay and what landowners can ask and what the anticipated profit would be.

Councilmember Taylor stated he would prefer to hear more information from the owners to further explain this plan. Mr. Klover stated he feels certain the owners would have appeared had they known the Council was seeking this type of information.

Councilmember Gill voiced his concerns regarding the number of signs and the size of the signs for all of these businesses that will be located in this plan.

Diane Binckley, Planning & Development Director, stated the signs would have to be conducive with what was approved for this development. The number of signs is based upon the number of tenants. Some areas have a smaller, longer or wider frontage area and the proposed number of signs will probably be the maximum number of signs. Ms. Binckley stated the signage requirements for the maximum size are based upon the square foot of each tenant. There are no restrictions on color.

Councilmember Gill asked if the tenants would be willing to agree to smaller signs. Mr. Klover stated this developer will be spending approximately \$4 Million on this project and doesn't feel it is fair or reasonable to ask these tenants to have a smaller sign when they are investing a large amount of money to redevelop this area, or ask them to have a smaller sign that what the current tenants are allowed to have. This is the criteria that have been established for the shopping center.

Following discussion, the motion was approved by the following vote: Yea: Councilmembers Gulledge, Bussing, Rawlings, Dunn, Gill; Nay: Councilmembers Rasmussen and Taylor. Mr. Taylor stated he felt the ownership of the shopping center should be in attendance to present their plan and provide financial information on the proposed development of the first floor retail and 2<sup>nd</sup> floor office space plan. Mr. Rasmussen stated the first floor retail has not been defined

on the final site plan and it is unknown what the density would be and has concerns regarding parking based upon the density of the center.

**13. OLD BUSINESS**

- 3593 A. Approve Item # 1, as described in Change Order No. 5, with Vanum Construction in an amount not to exceed \$58,237.00, pertaining to the construction of I-Lan Park located at 12601 Nall Avenue [CIP# 111] *[Continued from the October 21, 2002, Governing Body Meeting]*

*Staff Comment: Staff is recommending this item be continued to the December 16, 2002, Governing Body meeting*

**14. NEW BUSINESS**

- 3605 A. Approve Change Order No. 1, in the amount of \$47,447.36, to Pyramid Contractors, pertaining to the SMAC IC-39 Stormwater Project; Indian Creek Bank Stabilization Project

Councilmember Bussing left the Chambers. A motion was made by Councilmember Dunn, seconded by Councilmember Gulledge to approve the Change Order. The motion was approved by a unanimous vote.

- 3623 B. Approve installation of street lights in the amount of \$7,450.00, pertaining to the installation of street lights located at 12201 & 12208 Fairway Road

A motion was made by Councilmember Dunn, seconded by Councilmember Taylor to approve the installation. The motion was approved following a unanimous vote.

- 3638 C. Ordinance No. 1971, amending § 1-410, of the Code of the City of Leawood, 2000, pertaining to the duties of the Planning & Development Director [Roll Call Vote]

A motion was made by Councilmember Dunn, seconded by Councilmember Taylor to pass the ordinance. The motion was approved following a unanimous roll call vote.

- 3661 D. Ordinance No. 1972, repealing § 1-408, of the Code of the City of Leawood, 2000, pertaining to the duties of the Assistant City Attorney [Roll Call Vote]

Councilmember Bussing returned to the Chambers.

A motion was made by Councilmember Dunn, seconded by Councilmember Gill to approve the ordinance. The motion was passed following a unanimous roll call vote.

- 3678 E. Ordinance No. 1973, amending § 15-526; 15-534; 15-539-540; 15-544-545; and 15-548, pertaining to Stormwater Management enforcement provisions [Roll Call Vote]

A motion was made by Councilmember Dunn, seconded by Councilmember Gill to approve the ordinance. The motion was passed following a unanimous roll call vote.

There being no further business, the meeting was adjourned at 9:31 P.M.

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Debra Harper, City Clerk