Special Call Meeting

THE LEAWOOD CITY COUNCIL

March 17, 2003

MINUTES

Audio Tape No. 580

The Governing Body of the City of Leawood, Kansas, met for a Work Session at City Hall, 4800 Town Center Drive, at 7:00 P.M. on Monday, March 17, 2003. Mayor Peggy Dunn presided.

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

Councilmembers absent: Louis Rasmussen.

Staff present:	Scott Lambers, City Administrator
	Kathy Rogers, Director, Finance
	Patty Bennett, City Attorney
	Deb Harper, City Clerk
	Emily Watson, Deputy City Clerk
Also present:	Dave Arteberry, George K. Baum Co.
	Roger Edgar, George K. Baum Co.

91 Mayor Dunn called the meeting to order at 7:00 P.M., to discuss the Special Benefit District [SBD] Financing Request. Scott Lambers stated that in regards to the SBD the City was currently near the standard of 20% of the net service to total expenditures in the Capital Improvement Program. With the Cornerstone agreement for approximately $6.5 million over a 15-year period, the City exceeded the 20% threshold. Mr. Lambers stated he had been approached by a developer to have a benefit district created for him for a project that would exceed the 20% threshold. With the inclusion of this benefit district, the City could not expect to go back below the 20% threshold until after 2011. He asked to be guided by the Council as to similar requests for this type of financing that would put the City over the threshold, and to establish a procedure for which these applications would be reviewed.

Mr. Lambers stated it was his opinion that the request that was forthcoming was reasonable for the City to consider despite going over the threshold. It was also his opinion that between Cornerstone and this proposed project, the City would have a significant amount of commercial and retail development that would need to be absorbed over the next couple of years. Mr. Lambers needed a commitment from the City for the developer so he could proceed with the project. The developer was willing to “sunset” the ability to use this financing for a limited period of time.

236 Councilmember Bussing asked what the total amount of benefit district financing could be requested using the Master Plan as a guide. Mr. Lambers replied that while this could be estimated, it had not been looked at. He stated the basic public infrastructure improvements could be identified and using that number, the upper threshold could be set.

264 Councilmember Taylor asked if the bonding capacity was based on the percentage of appraised value. Ms. Rogers stated there were several measurement ratios that could be used to determine where the City's debt was fitting in from a policy standpoint. The City had a lot of capacity for debt but it would not want to use it all unless the mill was raised accordingly. The bonding capacity measurement was how much debt the City had to pay as compared to what it would pay for operating expenses. The developer would have a letter of credit of only 35% of the total amount of debt. The developer would build up the area and then divide the parcels up for sale. The new owners would then pay for their own building.

383 Mr. Lambers stated that currently, developing was on a first-come, first-serve basis. It was apparent that the City would be exceeding the standard. He asked if the Council wanted a different process in place where the merits of the projects would come forward and the Council could then decide whether to provide any SBD funding to each individual project. If the City continued in its current trend and the Council set the threshold at 20%, expenditures would increase to the point where the debt service droped out and there would be no more SBD financing for the City.

403 Ms. Rogers stated another option would be to limit the SBD funding for only certain projects that would be considered public improvement. Examples of how SBD funding was used in the past were streets, burying of the power lines, and storm retention issues. Councilmember Taylor questioned why the City was not requiring more than 35% coverage by the developer. Mr. Lambers said there would be more complaints from the developers who would not be able to come up with the money.

491 Roger Edgar stated there was not one right answer as to how to allot funds or choose projects. Mr. Edgar pointed out that debt in Johnson County was higher than Moody's would suggest is acceptable, but there are things that offset it such as the county's wealth and growth. If the level set by a Council was overstepped, there must be overriding reasons and offsetting items that could explain the overture. He stated the issue to discuss would be how to deal with the pressures of growth while staying within the budget policy.

600 Councilmember Gill asked if the transportation district financing which involves sales tax would count against the 20% ceiling. Mr. Edgar stated that strictly on the basis of the way the statute is written, it would not. Some of the projects may not have enough credit strength to be financially feasible and the City would be asked to back them up with some sort of assessment to make it more marketable. Councilmember Gill stated he was in favor of front-end financing of SBD. He said it was his belief Leawood had first lien on the land, so that if a developer didn't pay the assessments, the City would get the land back with whatever improvements had been made on it. Mr. Edgar stated it was not the ultimate ability to foreclose, but the short-term liquidity that would be difficult if a developer could not pay. Councilmember Gill stated he would vote for a policy that would not allow the City to defer the current annual payments, as it puts a lug on the cash flow. He felt that the letters of credit for the 35% gave him a high level of comfort.

683 Councilmember Gulledge stated he was for the Cornerstone Project and not against the 20% level. He asked how raising the threshold from 20% to a higher amount was perceived by Moody's, and also, what would happen if a developer filed for bankruptcy. Mr. Edgar stated the lien on the land was similar to a tax lien, in that the lender would foreclose on the property but the lender would be forced with having to make the tax payments or have the property sold on the courthouse steps. He felt that Leawood's policies were consistent with other highly rated, more sophisticated cities in Johnson County with those policies being stronger than what generally exist. If Leawood was to raise the percentage, there would be the necessity to go back to the rating agencies and explain in some detail the reasoning behind it.

766 Mr. Lambers stated that with Cornerstone, the City had reached the 20% limit. He stated the new project would carry the City over the 20% that Cornerstone was doing. It was his recommendation that there be a Work Session on March 31, 2002 at 6:30 PM, to let the applicant present his proposal and allow the Council to see what he wants to finance. It would be a chance for the Council to resolve the question of whether the applicant would be eligible for SBD for a certain period of time, so he could then go through the planning process. If that was a process the Council was comfortable with, Mr. Lambers said it would be his recommendation that future requests that would put the City over the threshold be processed in the same manner. Requests would be handled in a case-by-case manner.

815 Councilmember Story asked Mr. Edgar what was better in his opinion: to have a policy that says 20% and then make a decision that allows the Council to go to 21% or 22%; or change the policy, and state the new policy was 25% and not allow anything to go over that. Mr. Edgar stated that if the City was likely to have several more projects that were approved and they would push the threshold to 25%, it would be his advice to change the policy. If the plan was to try to hold the line at 20%, then exceeding 20% in and of itself was not bad. Councilmember Story stated that once the City reached the threshold, it would stay there with each new project that came in. If the Council approved both Cornerstone and the new project, no new projects could be started until 2011.

873 Ms. Rogers stated that before any policies were changed, it would be important to look at the budgetary long-term plans in terms of the mill levy increase, as the problems might take care of themselves.

891 Councilmember Bussing confirmed with Mr. Lambers that future work sessions would be held prior to a Planning Commission meeting. Councilmember Bussing said he was comfortable with allowing Staff to manage the debt level, but to have a developer come in and meet with the Governing Body would undermine the Planning Commission. Mr. Lambers stated it would be clearly stated that any consideration of the SBD had no implications for Council consideration of the Plan itself. Allowing the developers in would guarantee them the money from Council, so that they could justify spending it. Councilmember Taylor noted that this procedure was followed previously for the hotel, so that it was not something that had not been done before. Councilmember Rawlings stated that Lowe's had also come before the Council.

976 There being no further business the meeting, Mayor Dunn adjourned the meeting at 7:35 P.M.

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Emily Watson, Deputy City Clerk