

Minutes

Audio Tape No. 585

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, May 5, 2003. Mayor Peggy Dunn presided.

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

Councilmembers absent: None

Staff present:

Scott Lambers, City Administrator
Ben C. Florance, Fire Chief
Joe Johnson, Public Works Director
Colleen Browne, H.R. Director
Diane Binckley, Planning & Develop Dir.
Kathy Rogers, Finance Director

Patricia A. Bennett, City Attorney
Craig Hill, Major, Police Dept.
Chris Claxton, Parks & Rec. Dir.
Jeff Cantrell, Neighborhood Serv. Adm.
Deb Harper, City Clerk
Mark Andrasik, Info. Systems Dir.

78 **1. PLEDGE OF ALLEGIANCE**

127 **2. APPROVAL OF AGENDA**

Mayor Dunn stated item 7O had been removed from the Agenda and item 7Q had an additional handout. An additional item, the hiring of two police officers, was added under #14, Other Business.

Councilmember Dunn moved to approve the Agenda, seconded by Councilmember Story. The motion was approved unanimously.

160 **3. CITIZEN COMMENTS**

G. Gordon Thomas, 10516 Mohawk Lane, spoke on the non-agenda item of allowing no more than two terms per Council member. He asked that elected officials pay for their own election costs, or a proportional amount as would be decided. Mr. Thomas also asked that citizens be given the right to remove a Consent Agenda item for further discussion.

259 **4. PROCLAMATIONS**

Mayor Dunn declared May 18-24, 2003, as **National Emergency Medical Services Week**; May 18-24, 2003, as **National Public Works Week**; May 9, 2003, as **Child Care Provider Appreciation Day**; and May, 2003, as **Lyme Disease Awareness Month**.

386 **5. PRESENTATIONS/RECOGNITIONS – None**

389 **6. SPECIAL BUSINESS - None**

391 **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. 972
- B. Minutes of the April 21, 2003 Governing Body meeting
- C. Minutes of the April 21, 2003, Public Building Commission meeting
- D. Minutes of the April 9, 2003, Public Works Committee meeting
- E. Mayoral Appointments for Committees, Commissions and Boards
- F. Authorize Staff to draft and submit Revised Ward Boundary Ordinance
- G. CMB License Renewal for Hallbrook Country Club, located at 11300 Overbrook
- H. Approve purchase for an amount not to exceed \$4,641.00, to Hasty Awards pertaining to the purchase of Soccer Medallions
- I. Approve purchase in the amount of \$14,774.70, to B & C, Inc., for the Summer Park & Recreation Program Guide
- J. Approve bid in the amount of \$6,150.00, to Drake-Scruggs for the purchase of a truck bed for IRONHORSE Golf Course
- K. **Resolution No. 1945** approving and authorizing the Mayor to execute Addendum No. 1 to the Professional Architectural Services Agreement between the City and DeGasperi & Associates, Inc., in the amount of \$3,710.00, pertaining to the Fire Station No. 2 Remodeling Project, located at 12701 Mission Road [CIP # 150]
- L. **Resolution No. 1946** approving and authorizing the Mayor to execute a Construction Agreement between the City and Benchmark Construction in the amount of \$12,100, pertaining to the Lion's Memorial Fountain to be located at City Park, 10601 Lee Boulevard
- M. **Resolution No. 1947** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$500, with Frank C. Anecchini, pertaining to the Leawood Stage Company's production on June 26-29, 2003
- N. **Resolution No. 1948** approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$400.00, with Craig A. Combs pertaining to the June 26-29 Leawood Stage Company Production
- P. **Resolution No. 1949** approving a Final Site Plan for 8700 Building, Exterior Generator, located at 8700 State Line Road [*from April 22, 2003, Planning Commission meeting*]
- Q. **Resolution No. 1950** approving a Final Site Plan for Albers Medical building, located on the southwest corner of 143rd Street and Overbrook Road, within Bi-State Business Park [*from April 22, 2003, Planning Commission meeting*]

A motion was made by Councilmember Taylor, seconded by Councilmember Dunn to approve the remainder of the Consent Agenda. The motion carried following a unanimous vote.

Councilmember Gulledge asked that item 7F be pulled for discussion. He asked Scott Lambers if the Council had the ability to create another ward. Mr. Lambers stated that the Governing Body had the authority to create a fifth ward.

Councilmember Gulledge moved to approve 7F.. Councilmember Dunn seconded the motion. The motion was approved unanimously.

460 **8. MAYOR'S REPORT**

- A. Extended condolences to everyone affected by the tornado activity in the area the previous day
- B. Attended the dedication of St. Michael the Archangel grand opening celebration.
- C. Attended services for the National Day of Prayer May 1st at the Church of the Nativity
- D. Attended the United Community Services Annual Board Meeting where various programs that Leawood supports were discussed
- E. Participated on a panel sponsored by Business and Professional Women
- F. Reminded the Council of the Israeli delegation that will be visiting May 18-21, 2003
- G. Discussed the handout from Mr. Lambers concerning the low mill levy in Leawood
- H. Attended a race relations issue forum with Councilmember Dunn and Mr. Lambers on April 24. Mr. Dunn gave a brief overview of the meeting.

639 **9. COUNCILMEMBERS' REPORT - None**

641 **10. STAFF REPORT – None**

COMMITTEE RECOMMENDATIONS

644 **11. PLANNING COMMISSION**

[from April 8, 2003, Planning Commission meeting]

- A. **Ordinance No. 1987 approving a Special Use Permit [SUP] for a temporary sales trailer, at Villas of Chapel Green, located at 141st Street and Nall Avenue [Roll Call Vote]**

Councilmember Gill asked if this trailer was the same one that was discussed previously. Mayor Dunn stated it was a different one, but that the same wording as to the appearance of the trailer was included in this ordinance.

The motion to accept the ordinance was made by Councilmember Taylor, and seconded by Councilmember Rasmussen. A roll call vote was taken with all Councilmembers approving unanimously.

B. Ordinance No. 1988 approving preliminary site plan and preliminary plat and rezoning from SD(O) [formerly known as CP(O)] Planned Office to MXD Mixed Use District, for Park Place, located on the northwest corner of 117th Street and Nall Avenue [Roll Call Vote]

Mayor Dunn stated this ordinance was being placed before the Governing Body for the first time and it was not anticipated that there would be action on it tonight. The applicant was present and would give a presentation on Park Place, and at the conclusion, public comment and Governing Body questions would be taken.

Jeffrey Alpert, 2912 W. 113th Street, of Park Place Partners, LLC, gave a brief overview of the proposed project. He stated it would be an urban-style, mixed use community, located at Town Center Drive and Nall Avenue. Mr. Alpert introduced Richard Heaps of Street Works, developers/consultants, who explained the concept behind the project.

Mr. Heaps, of Philamont, Virginia, discussed the planning of the Park Place project. Of main importance was the distribution of uses on site, between residential and commercial, taking into consideration the accessibility of Town Center Square and the proximity of Sprint. Currently it is proposed to have “for sale” only residences, with a choice between single-family homes, condos and townhouses within four neighborhoods. At the center would be an open park area or “village green.” A shopping area would be included in the town square, with small shops and restaurants, and three large format store locations. Above the street would be two levels of professional offices. A Class “A” office facility and a small boutique hotel would be located in one of the neighborhoods. Parking would be located in three parking structures within the project, with the residential parking underground.

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John Peterson of Polsinelli & White, discussed the MSD Code and how the Park Place project fit into its confines. Specifically, the Code allows a 40’ building setback with a 10’ deviation, to a 30’ setback. The floor area ratio (FAR) would allow a .85 for this project. The height of all buildings meet the maximum allowed, with the exception of the hotel and office building, which both exceed the maximum. A deviation of an additional 10’ will be asked from the height restriction. One important stipulation that Mr. Peterson mentioned for the record was that of the park impact fee in which the original owners (Douthat family) of the land believed it had been waived when they dedicated the land to Leawood.

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Bob Barton, 11516 Juniper, stated that the Park Place presentation was similar to the one presented last year, with the exception of the scope of it, being bigger, higher, wider and more dense. The original plan was charming; the current Park Place plan includes structures bigger than Sprint and denser than is the norm in Leawood.

- 2092 Al Cinelli, 11509 Juniper, stated he represented all of the residents of Edgewood Homes Association and asked to give a Powerpoint presentation opposing the Park Place project. The four reasons for opposition were 1) the density of construction and height of buildings are not consistent to the character of the neighborhood; 2) the project will have a material adverse effect on their property values; 3) the congestion would diminish the living quality in Edgewood; and 4) there would be serious problems with stormwater runoff. Mr. Cinelli pointed out the Edgewood residents were not opposed to developing the land, but the current plan would set a precedent, and allow the character of Leawood to deteriorate.
- 2692 Jerry Miller, 5205 W. 116th Street, confirmed that the statements made by Mr. Cinelli were the sentiments of all the residents in Edgewood Homes, and that all of the residents had agreed to sign a petition proposed by Mr. Cinelli, asking for reconsideration of the design of Park Place.
- 2754 George Bock, 5309 W. 116th Street, discussed the problems that would ensue with the construction of office and condo buildings that were much higher than the ordinance allows in Leawood.
- 2955 Chug Tuttle, 5109 W. 111th Terrace, asked if the Park Place plan was remanded back to the Planning Commission and then to the Governing Body, would the public hearings start over again. Mayor Dunn stated the comments heard tonight are public comments, however, it is not officially a public hearing. Following this plan being presented to the Planning Commission, the Governing Body would hear new information brought forward from the public at that time.
- 3000 Ken Bush, 5187 W. 114th Place, read a letter from the residents of Leawood Country Manor on the proposed Park Place plan. It stated the residents were disappointed that the Planning Commission had approved the Park Place plan despite the many variances that the applicant requested. The approval of the variances went against 16-6-4.3 of the Code.
- 3170 Mayor Dunn asked Diane Binckley where the extra acreage had come from. Ms. Binckley replied that in the original application the applicant had not included the right-of-way area or the portion of Town Center Drive that the applicant does own.
- 3198 Mayor Dunn stated that HNTB had been hired to do an indepth study on the stormwater problem. Mr. Peterson commented that his firm had concluded that not only was water retention not an issue, but that to include retention would cause a negative effect on the site, and overall area.

- 3268 Councilmember Gill commented on the height of the project, and encouraged the developers to rethink some of the stories. He stated he was skeptical of a plan that did not include stormwater retention. Mr. Gill said he would not like to see a replication of the parking garages at Sprint, and would like to see detailed plans of the proposed Park Place garages. He also asked for an alternative plan should the hotel not be built and what that impact would have on the overall project.
- 3533 Councilmember Dunn stated that while he like the idea of the development, he felt the project was too dense and too tall.
- 3567 Councilmember Bussing said the Park Place concept was great, but shared Councilmember Dunn's concerns about height and density. He stated he would need additional information as to why FAR .84 would be good density for this particular location in Leawood.
- 3608 Councilmember Gulledge stated the issues he saw were the setbacks, the density and the deviation of the master plan. He asked that staff acknowledge what the deviations were from the master plan. Ms. Binckley said in the late 1980's, Leawood Country Manor was single-family, low density residential. An area which later became Edgewood in 1993, was then a medium density residential buffer area. Residents in Leawood Country Manor opposed having a street (115th Street) cut behind their homes and Edgewood, so the street was relocated to the 117th Street area with the angle that Town Center Drive now follows, leaving the Edgewood area a medium density residential location and buffer area. Looking at the comprehensive plan, Edgewood is still shown as medium density residential and it's zoned as RP4. What appears as an attractive residential transitional area is not zoned in the usual manner. While everything is in place in the comprehensive plan, the area does not have apartment complexes or townhomes which are generally thought of as transitions.
- 3703 Councilmember Taylor gave his support to the design and concept of Park Place, but stated he had concerns. He asked about a time schedule as to the execution of the plan. Mr. Taylor mentioned the Midwest had a history of one- and two-story structures, and felt height was an issue. Density was another issue, and he mentioned that in the past the Governing Body has turned down other projects that would have brought higher density to Leawood.

- 3829 Councilmember Rasmussen asked Ms. Binckley why the applicant was utilizing a city street as a basis for calculating the FAR ratio. Ms. Binckley replied Town Center Drive was a city street although it is not on city property. She stated developers were allowed to use any of the properties that they are donating as the right-of-way with the development as part of their density calculation. Mr. Rasmussen asked what incentive the developer would have to work with the city staff as to the building height as directed by the Planning Commission and Governing Body when they have already been given the right to have a maximum of .84 FAR. Ms. Binckley stated the maximum did not have to be given. Mr. Rasmussen questioned the deviation of height of up to 100 feet. He asked if that was another example of changing the FAR ratio. Ms. Binckley replied the .84 would include the 100 feet. Mr. Rasmussen also confirmed with Ms. Binckley that the same comment would be applicable to the 30-foot setback. Mr. Rasmussen asked Ms. Binckley if during her tenure as a city planner she had ever not found an engineering consulting firm who had not challenged Leawood's stormwater ordinance. She stated she had not. Mr. Rasmussen stated Leawood had worked very hard to have an (stormwater) ordinance applicable to all of Leawood and not one particular lot. He said he would not vote for any project in the second ward of Leawood that would dump more water into Tomahawk Creek.
- 3993 Councilmember Rawlings acknowledged he had concerns about the density, the height, the setback requirements, stormwater, and the time frame of the project.
- 4021 Councilmember Story said his hesitations were the same as the other Councilmembers, and that he was also concerned about the transition from one side of Town Center Drive to the eight story building on the other side. Mr. Story stated he thought the office building was in the wrong location in the plan.
- 4067 Councilmember Rasmussen asked Ms. Binckley about pedestrian safety. Ms. Binckley stated the Planning Commission proposed an island in the plan along 117th Street across from the AMC project, but that was all that had been provided.
- 4140 Councilmember Gullede stated he felt the applicant should stay focused on the concepts seen in the Prairie Village and Brookside projects, and shrink some of the density issues.
- 4172 Councilmember Rawlings said he felt the overall concept of the plan was good and unique.
- 4213 Councilmember Gill stated he did some research on density, saying the bigger the number the bigger the impacts in general. The level of density on the prior project was .55. That did not include the proposed hotel, but it also did not have any residential associated with it. If residential was taken out of this project and the FAR calculation, the number would drop from .84 to .46.

4328 Mayor Dunn stated she was confident the stormwater issue would be resolved before the final plan was approved. Mr. Peterson said they would look at the issues raised. He pointed out that while density was a concern, 43% of the Park Place plan was green. He said that there were extensive improvements to the roads and that traffic was being looked at carefully. Mr. Peterson assured Mayor Dunn the height issue would also to be taken into consideration.

4495 Councilmember Bussing moved that the Park Place request for approval of rezoning be continued until the June 2, 2003, Governing Body meeting, seconded by Councilmember Dunn. The motion was approved unanimously.

4594 **12. OLD BUSINESS - None**

4596 **13. NEW BUSINESS**

- A. Approve Change Order No. 4, in the amount of \$2,500.00, to Bruner Construction Company [19th & Final Payment in the amount of \$45,922.35] pertaining to the Public Works Maintenance Facility located at 14303 Overbrook Road [CIP # 156]**

Councilmembers Taylor and Rasmussen left the Chambers. Motion to approve was made by Councilmember Gill, seconded by Councilmember Gullede. The motion passed unanimously with a vote of 6-0 of the Councilmembers present.

- B. Approve Change Order No. 2, in the amount of \$18,372.00, to Sailors Building Co., LLC, pertaining to the Plaza Pointe Benefit District 135th & Roe Intersection Improvement Project [CIP # 174]**

Councilmembers Taylor and Rasmussen returned to the Chambers. Motion to approve was made by Councilmember Bussing, seconded by Councilmember Gullede. The motion was passed unanimously with a vote of 8-0.

- C. Approve Change Order No. 6, in the amount of \$27,246.00, to Theis Doolittle & Associates, pertaining to the Oxford Schoolhouse Renovation Project, located at 14701 Mission Road**

Councilmember Taylor questioned the high amount of the 20% fee. Councilmember Gill concurred with Mr. Taylor, stating he would not look favorably should Theis Doolittle come back for more money.

Motion to approve was made by Councilmember Story, seconded by Councilmember Dunn. The motion was approved unanimously.

FIRST READING

- D. Charter Ordinance No. 35, exempting the City from K.S.A. § 41-719, regarding the possession and consumption of alcoholic liquor in certain public places located within the City of Leawood, Johnson County, Kansas**

FIRST READING

- E. Ordinance amending Chapter III, of the Code of the City of Leawood, 2000, pertaining to Cereal Malt Beverages and Alcoholic Liquor, and repealing all other Sections in conflict herewith**

Staff Comment: This will exempt Ironwoods Park from the Kansas statute of prohibiting the possession and/or consumption of alcoholic liquor.

The second and final reading of these two ordinances is scheduled on May 19, 2003.

- F. Ordinance amending Section 8-201 of the Code of the City of Leawood, 2000, pertaining to the definition of Health and Welfare nuisances [Roll Call Vote]**

Staff Comment: This amendment adds 'blockage of waterways' as a defined nuisance in accordance with the recently adopted stormwater policy.

Councilmember Dunn made the motion to approve, seconded by Councilmember Bussing.

Councilmember Gill questioned the definition of "nuisance perpetrator". Councilmember Dunn stated it was worded in the Code in such a manner that the city would not have to get involved. Mr. Gill said he read the Code as creating liability to adjacent property owners under penalty of prosecution. He stated he would like to review the Code more carefully. Patty Bennett stated prosecution under this ordinance would result in a fine of \$250 and up to 30 days in jail. Councilmember Bussing stated the sole purpose of the ordinance was to keep the waterways clear, and keep the nuisance ordinance consistent with the stormwater ordinance.

Scott Lambers stated that if the Governing Body wanted an alternative to what was being proposed, there would not be an enforcement mechanism. The city would then be funding expenditures that had not been budgeted. Councilmember Rasmussen pointed out that property owners sometimes used the creeks to dump their own refuse in which was a serious problem.

Councilmember Dunn withdrew his motion and Councilmember Bussing withdrew his second. Councilmember Dunn moved to continue discussion until the May 19, 2003, Governing Body meeting, seconded by Councilmember Bussing. The motion was approved unanimously.

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- G. Resolution No. 1951 approving and authorizing the Mayor to execute a Purchase and Service Agreement for an amount not to exceed \$470,800, between the City and Eden Systems for the purchase and installation of the Integrated Finance & HR Software System [Eden Project]**

Mayor Dunn complimented Mark Andrasik on the Eden Project book given to the Governing Body, as being thorough and very impressive.

Councilmember Gulledge gave an overview of the committee members who oversaw the project. Councilmember Gulledge made the motion to approve, seconded by Councilmember Bussing. The motion was approved unanimously.

After the vote, Councilmember Rawlings asked if the traditional costs of \$152,000, that was not being asked for at this time, included temporary staffing and overtime. Mr. Andrasik replied costs included back staffing, overtime, and undesignated program services from the vendor.

- H. Approve purchase in the amount of \$25,409.00, from Dell Computers for the purchase of computer servers pertaining to the Integrated Finance & HR Software System [Eden Project]**

Councilmember Gill made the motion to approve, seconded by Councilmember Taylor. The motion was approved unanimously.

- I. Approve purchase in the amount of \$25,784.80, from Software Spectrum, for the purchase of Microsoft & Veritas Software programs pertaining to the Integrated Finance & HR Software System [Eden Project]**

Councilmember Taylor made the motion to approve, seconded by Councilmember Gill. The motion was approved unanimously.

- J. Resolution No. 1952 approving and authorizing the Mayor to execute a Purchase and Service Agreement for an amount not to exceed \$46,585, between the City and George Butler Associates [GBA] for the Integrated Finance Software System [Eden Project] and GASB-34 requirements**

Councilmember Gill asked why George Butler, an engineering firm, was involved in this project. Scott Lambers replied that Eden was in partnership with GBA in order for the workmaster information to be pulled into the Eden system. Councilmember Gill stated he would prefer to increase Eden's scope of obligations and make it sub to GBA, to use a key strategy approved by the Governing Body to have one main vendor with which to negotiate. Mr. Lambers replied that the warranty holds Eden responsible.

Councilmember Rawlings made the motion to approve, seconded by Councilmember Story. The motion passed unanimously.

K. **Approve request to commence May 19, 2003, Governing Body meeting at 7:00 P.M.**

Mayor Dunn stated the reason for the change in time was to accommodate the visit of the delegation from the Gezer Regional Council of Israel. Councilmember Dunn made the motion to approve, seconded by Councilmember Gill. The motion passed unanimously.

5803 **14. OTHER BUSINESS**

***A. Request to hire 2 Police Officers**

Mr. Lambers stated the Police Department was asking for two police officer positions to be filled which had already been approved by the Governing Body for 2003. One current detective sergeant was called into active duty in the Gulf in January and his salary is now being paid by the military. In a recent hiring process, two candidates were identified as being available October 1st. With the money being saved from not paying the sergeant, these two positions could be initiated sooner than anticipated with a nominal impact on the budget.

Councilmember Rawlings asked about military recall/reinstatement rights. Mr. Lambers stated the sergeant's position was being held for him, and that the money being saved while he was in the military and not being paid by the city, would be the money used to hire the two new officers.

Councilmember Gill confirmed with Mr. Lambers that there would be no changes made at this time concerning the School Resource Officers.

Councilmember Rasmussen moved to approve the request, seconded by Councilmember Story. The motion passed unanimously.

5962 **15. ADJOURN**

There being no further business, the meeting was adjourned at 10:26 P.M.

Debra Harper, City Clerk

Emily Gleasure, Recording Deputy City Clerk

