

Minutes

Audio Tape No. 598

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:38 P.M., on Monday, August 4, 2003. Mayor Peggy Dunn presided.

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

Councilmembers absent: Scott E. Gullledge

Staff present:

Scott Lambers, City Administrator
Ben Florance, Fire Chief
Joe Johnson, Public Works Director
Colleen Browne, Human Resources Dir.
Diane Binckley, Planning & Develop. Dir.
Jeff Cantrell, Neighborhood Services Adm.
Mark Andrasik, Info Systems Director

Patricia A. Bennett, City Attorney
Sid Mitchell, Chief, Police Dept.
Chris Claxton, Parks & Rec. Dir.
Kathy Rogers, Finance Director
Deb Harper, City Clerk
Emily Gleasure, Deputy City Clerk

75 **1. PLEDGE OF ALLEGIANCE**

106 **2. APPROVAL OF AGENDA**

Mayor Dunn noted that Item No. 12A had been withdrawn and that Item No. 8D was pulled for clarification and was continued to the August 18, 2003, Governing Body Meeting for clarification. Councilmember Bussing made a motion to approve the remaining Agenda, seconded by Councilmember Rawlings. The motion was passed unanimously, 7-0-0.

137 **3. CITIZEN COMMENTS**

Robert Sjolin, 3217 W. 82nd Terrace, spoke on the Church of the Resurrection and Plaza Pointe developments, and their portions of street and stormwater costs. Mr. Sjolin also had concerns about the RV ordinance.

Steve Hentzen, 2007 W. 86th Street, spoke on how the RV ordinance had personally affected him.

317 **4. PROCLAMATIONS - None**

318 **5. PRESENTATIONS/RECOGNITIONS - None**

321 **6. PUBLIC HEARING**

A. Consider the 2004 Fiscal Budget for the City of Leawood

Mayor Dunn declared the public hearing open and asked if anyone was present to make comments. There being none, Councilmember Rasmussen made the motion to close the public hearing. The motion was seconded by Councilmember Taylor, and the motion was approved unanimously, 7-0-0.

B. Consider the 2004-2008 Capital Improvement Program [C.I.P.] [companion resolution]

Mayor Dunn declared the public hearing open and asked if anyone was present to make comments. There being none, Councilmember Rasmussen made the motion to close the public hearing. The motion was seconded by Councilmember Taylor, and the motion was approved unanimously, 7-0-0.

C. Consider the vacation of a street right-of-way [ROW] located at approximately 136th Street and Kenneth Parkway [State Line Station] [companion ordinance]

Mayor Dunn declared the public hearing open and asked if anyone was present to make comments. Aaron March, attorney with the White Goss law firm, 4510 Belleview, Kansas City, MO, asked that the 3000 square foot driveway apron on State Line and 136th Street be vacated. Councilmember Gill confirmed with Diane Binckley that the land was not currently being used or considered for Leawood usage. Ms. Binckley admitted to Councilmember Taylor that the southern part of the land had been considered for usage years ago as a detention pond. Councilmember Rasmussen confirmed with Ms. Binckley and Mr. March that once the land was vacated, ownership would remand to the underlying property owner, an affiliate of the applicant, State Line Developers, from Missouri.

Councilmember Taylor made the motion to close the public hearing. The motion was seconded by Councilmember Rasmussen, and the motion was approved unanimously, 7-0-0.

512 **7. SPECIAL BUSINESS**

A. Resolution No. 2008 adopting the 2004-2008 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas

Mayor Dunn stated that much discussion had taken place prior to the evening's meeting, so as to convey to the citizens present the basis for lack of discussion tonight. Councilmember Rasmussen made a motion to approve the 2004-2008 CIP Program. Councilmember Dunn seconded the motion. The motion passed unanimously, 7-0-0.

B. Ordinance No. 2012 vacating a street right-of-way [ROW] or a portion thereof located at approximately 136th and Kenneth Parkway, within the City of Leawood, Johnson County, Kansas [Roll Call]

Councilmember Taylor made a motion to approve the ROW vacation. Councilmember Rasmussen seconded the motion. The ordinance passed unanimously, with the Roll Call vote 7-0-0.

560 **8. 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. 979
- B. Minutes of July 21, 2003, Governing Body meeting
- C. Minutes of the June 24, 2003, Arts Council meeting
- D. Minutes of the June 10, 2003, Parks and Recreation Advisory Board meeting [pulled]
- E. Minutes of the February 21, 2003, Stormwater Management Committee meeting
- F. Approve quote in the amount of \$25.40@ ton from Central Salt, LLC, pertaining to the purchase of road salt
- G. **Resolution No. 2009** declaring it necessary to appropriate private property for the use of the City of Leawood, Kansas, for the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- H. **Resolution No. 2010** accepting a Permanent Storm Sewer Easement located at 12615 Cedar, from Steven M. Culp, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- I. **Resolution No. 2011** accepting a Permanent Storm Sewer Easement and Temporary Construction Easement located at 4648 W. 127th Terrace, from Don L. and Phyllis A. Ranum, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- J. **Resolution No. 2012** accepting a Temporary Construction Easement located at 12631 Cedar, from Sanford M. and Katherine D. Cohen, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- K. **Resolution No. 2013** accepting a Temporary Construction Easement located at 13020 Linden, from Richard L. and Nedra L. Carney, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- L. **Resolution No. 2014** accepting a Temporary Construction Easement located at 12752 Granada, from Janice K. Dillon, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- M. **Resolution No. 2015** accepting a Temporary Construction Easement located at 12444 Granada, from Robert L. and Marilyn W. Andes, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- N. **Resolution No. 2016** accepting a Temporary Construction Easement located at 13108 Granada, from Gloria J. Lefton Halloran, Trustee, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]

- O. **Resolution No. 2017** accepting a Temporary Construction Easement located at 12852 Granada, from G. Robert and Bonnie M. Tumino, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- P. **Resolution No. 2018** accepting a Temporary Construction Easement located at 13216 Granada, from Wayne E. & Susan E. Smith, Jr., pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- Q. **Resolution No. 2019** accepting a Temporary Construction Easement located at 13212 Granada, from James E. and Anne P. Schultz, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- R. **Resolution No. 2020** accepting a Temporary Construction Easement located at 4604 W. 126th Street, from Roger G. Newth and Lynn M. Fairbanks, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- S. **Resolution No. 2021** accepting a Temporary Construction Easement located at 13120 Granada, from Spencer V. Jones and Maria M. Rodriguez, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- T. **Resolution No. 2022** accepting a Temporary Construction Easement located at 12635 Cedar, from Eugene M. and Babette Y. White, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- U. **Resolution No. 2023** accepting a Temporary Construction Easement located at 12608 Granada, from Wesley L. and Ellen M. Gates, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- V. **Resolution No. 2024** accepting a Temporary Construction Easement located at 12818 Linden, from Brent L. and Lisa Grams, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- W. **Resolution No. 2025** accepting a Permanent Storm Sewer Easement and Temporary Construction Easement located at 12748 Granada, from Rickey L. Morris, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- X. **Resolution No. 2026** accepting a Temporary Construction Easement located at 13220 Granada, from Richard D. and Connie M. Fey, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- Y. **Resolution No. 2027** accepting a Temporary Construction Easement located at 13116 Granada, from Ronald L. and Linda S. Huscher, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- Z. **Resolution No. 2028** accepting a Temporary Construction Easement located at 4649 W 127th Terrace, from Pauline Devlin, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- AA. **Resolution No. 2029** accepting a Temporary Construction Easement on the west side of Roe, north of 126th Street, located within Patrician Woods Subdivision, from Patrician Woods Development Corporation and Allen Development Company, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]

- BB. **Resolution No. 2030** accepting a Temporary Construction Easement on the west side of Roe, north of 126th Street, located within Patrician Woods Subdivision, from Patrician Woods Town Association, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- CC. **Resolution No. 2031** accepting a Temporary Construction Easement located at 12334 Granada, from Dennis J. and Helen Dennihan, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- DD. **Resolution No. 2032** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and E-105.1 FM, LLC, pertaining to the sponsorship of the 2003 Labor Day Run
- EE. **Resolution No. 2033** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Costco Wholesale, pertaining to the sponsorship of the 2003 Labor Day Run
- FF. **Resolution No. 2034** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and The Headache & Pain Center, PA, pertaining to the sponsorship of the 2003 Labor Day Run
- GG. **Resolution No. 2035** approving and authorizing the Mayor to execute an Independent Contractor Agreement for an amount not to exceed \$2,025.00, between the City and Karen Raymer, pertaining to the 2003 Labor Day Run
- HH. **Resolution No. 2036** approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Dicks Sporting Goods, pertaining to the sponsorship of various Parks & Recreation programs
- II. **Resolution No. 2037** approving and authorizing the Mayor to execute a Letter of Engagement Agreement between the City and Cochran, Head & Company, P.C., pertaining to the 2003 audit
- JJ. **Resolution No. 2038** approving a Final Site Plan for Plaza Pointe, Lot 2, Rayl Investment Office Building, located at the Plaza Pointe Development, at 135th and Roe Avenue [*from the July 22, 2003, Planning Commission meeting*]
- KK. **Resolution No. 2039** approving a Final Site Plan for Camden Woods Center, located on the southwest corner of 143rd Street and Kenneth Road [*from the July 22, 2003, Planning Commission meeting*]
- LL. Declaration of [5] vehicles as surplus property; 1993 Chevy S-10 Blazer [VIN/..2163973]; 1993 Ford Pick-up [VIN/..CA94517]; 1991 Olds Van [VIN/..T300556]; 1996 Ford F-250 [VIN/..EB59857]; and 1992 Ford Pick-up [VIN/..CA69434]; and other miscellaneous equipment

Mayor Dunn stated Item No. KK would be pulled for discussion. Mayor Dunn also commented that Items No. FF and HH were obtained in part by Amy Thompson, Parks and Recreation Special Events Coordinator, and Dan Mahanke's, Sports Supervisor, ability to solicit grants to underwrite these types of programs.

Councilmember Story made a motion to approve the remainder of the Consent Agenda. The motion was seconded by Councilmember Gill, and the motion was approved unanimously, 7-0-0.

Mayor Dunn asked for clarifications in the wording on pages 5 and 6 of Item No. KK. Councilmember Taylor made a motion to approve the clarifications. The motion was seconded by Councilmember Rasmussen, and the motion was approved unanimously, 7-0-0.

628 **9. MAYOR'S REPORT**

- A. Mayor Dunn stated she had been out of town for two weeks and had no City-related activities to report on. She thanked Councilmember Bussing for attending the Chamber of Commerce Board meeting on her behalf.
- B. Reporting on the Mission Road and 119th Street intersection, Joe Johnson confirmed that the intersection would be completed by August 20, with the remaining sidewalks, grading and landscaping completed by October 1.
- C. Reporting on the traffic signal project at Tomahawk Creek Parkway and Roe in conjunction with Overland Park, Mr. Johnson stated he did not have a firm completion date, but construction would begin by the end of the summer and completed by the end of the year.

775 **10. COUNCILMEMBERS' REPORT - None**

776 **11. STAFF REPORT – None**

COMMITTEE RECOMMENDATION

777 **12. PLANNING COMMISSION**

[from the May 27, 2003, Planning Commission meeting]

- A. **Ordinance amending § 16-9-139 of the Leawood Development Ordinance [LDO] pertaining to building height definition [Roll Call Vote] *[Continued from the July 7, 2003, Governing Body meeting]* - WITHDRAWN**
- B. **Ordinance No. 2013 amending § 16-2-8.1 of the Leawood Development Ordinance [LDO] pertaining to Principal Permitted and Special Uses [Roll Call Vote] *[Continued from the July 7, 2003, Governing Body meeting]***
Councilmember Dunn made a motion to pass the ordinance, and was seconded by Councilmember Rasmussen. The Roll Call vote was unanimous, 7-0-0.

800 **13. OLD BUSINESS - None**

802 **14. NEW BUSINESS**

- A. **Ordinance No. 2014 amending Article 2 of Chapter VI, of the Code of the City of Leawood, 2000, pertaining to Ward Boundaries, and repealing all other section in conflict herewith [Roll Call Vote]**
Councilmember Rasmussen made a motion to pass the ordinance. The motion was seconded by Councilmember Story and was passed unanimously following a Roll Call vote, 7-0-0.

- 820 **B. Approve Change Order No. 2, with Zimmerman Construction Company, Inc., in the amount of \$11,845.00, pertaining to the Fire Station No. 2 Remodeling Project, located at 12701 Mission Road [CIP # 150]**

Councilmember Taylor confirmed with Ben Florance that the items listed on the Change Order were uncovered during construction activities and that there were sufficient funds available in the contingency account to cover this change order amount.

Councilmember Bussing made a motion to approve the Change Order. The motion was seconded by Councilmember Dunn, and the motion was approved unanimously, 7-0-0.

- 856 **C. Approve Change Order No. 15, with Vanum Construction, Co., Inc., in the amount of \$5,550.00, pertaining to I-Lan Park Improvement Project [CIP # 111]**

Mayor Dunn confirmed with Mr. Lambers that the ultimate responsibility for payment of the change order amount would be determined at a future date. Mr. Lambers stated it was necessary to go ahead with the Change Order for the project to move forward.

Councilmember Rasmussen made a motion to approve the Change Order. The motion was seconded by Councilmember Story, and the motion was approved unanimously, 7-0-0.

Councilmember Bussing asked Mr. Lambers after the vote about the deadline for the construction completion. Mr. Lambers confirmed that the deadline was the end of August for the balance of the construction, with the water line being completed in 60-70 days.

- 916 **D. Resolution No. 2040 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,944,889.00, between the City and Walton Construction, pertaining to the construction of public improvements, including streets and stormwater, located in the vicinity of 135th Street and Nall Avenue- *[Continued from the July 21, 2003, Governing Body meeting]***

Councilmember Taylor recused himself from the vote and left the Council Chambers.

Councilmember Rasmussen verified the construction amounts within the Walton agreement with Mr. Johnson. Mr. Johnson stated two of the benefit districts had not been approved and were pulled out of the contract which accounted for the difference in the amount of the agreement. Mr. Johnson acknowledged that Walton was in agreement with the new contract.

Councilmember Dunn confirmed with Patty Bennett that she had reviewed the contract agreement in detail, and that Cornerstone (Doug Patterson) and Walton Construction had also concurred.

Councilmember Gill asked for an explanation of the exercise of rescission rights held by the current members as mentioned in Article 2. Ms. Bennett stated it was in regards to work Cornerstone had done with the Kansas Securities Commission. Mr. Patterson explained that Cornerstone, a publicly registered company, had missed a filing date that triggered the rescinding of investments by investors. His firm had started the procedure to end the process as quickly as possible by sending the investors documentation to get their money back if desired. Councilmember Gill confirmed with Mr. Patterson that if capital available exceeded 10%, the City would not be obligated to reimburse Walton under temporary notes or bonds proceeds. Councilmember Gill recused himself from the vote at this point, explaining that his firm had done some of the work on some of the securities issues.

Mayor Dunn confirmed with Ms. Bennett and Mr. Lambers that Bill Hess, the City's Bond Counsel, had also reviewed the language. Mr. Lambers stated it would be preferable if the situation did not exist, but there were enough safeguards in the rescission process that should problems arise with Cornerstone, the City would be protected.

Councilmember Dunn questioned Ms. Bennett concerning the removal of the language in paragraphs 2 and 3 on the first page referring to the bidding process. Ms. Bennett stated the bidding process had been waived on this project and had been approved by the Governing Body to contract with Walton in this manner.

Councilmember Rasmussen made a motion to approve the agreement. The motion was seconded by Councilmember Dunn, and the motion was approved unanimously, 5-0-2. Councilmember Taylor returned to the Council Chambers.

1215 15. **OTHER BUSINESS**

A. Discussion regarding extending the registration deadline for recreational vehicles [R.V.'s] located within the City of Leawood, Kansas, as specifically identified in § 16-4-5.10 of the Leawood Development Ordinance [LDO]

Councilmember Rasmussen stated that he felt that because of website problems, that relying totally on web notifications to the public was inadequate and he suggested extending the deadline approximately 30 days.

Councilmember Dunn publicly noted that he knew the extent to which the Code Enforcement department had gone to get the notice out on RV registration. He stated he supported the extension period also.

Mr. Lambers stated that by giving the extension period, it would require an amendment to the ordinance, which would be presented to the Council at the August 18, 2003 Governing Body meeting. Mr. Lambers suggested suspending the RV registration deadline until September 30, 2003.

Councilmember Story reiterated Mr. Dunn's statement about the Code Enforcement department. He also stated he felt six months was ample time for citizens to come into compliance. However, he supported the September 30th date, and asked that the 103 RV owners identified by the City be advised of the intended extension. Jeff Cantrell confirmed his department would be able to mail these notices to the list of owners they have on file.

Councilmember Bussing confirmed with Mr. Lambers that the Governing Body was not agreeing to extend the time within which the RV owners came into compliance, but only extending the registration period.

Mayor Dunn pointed out that while many people did not have Internet access, the local newspapers had done an excellent job of informing the public on the RV registration issue.

Councilmember Rasmussen made a motion to direct Staff to draft the ordinance to extend the registration deadline until September 30, 2003. The motion was seconded by Councilmember Dunn, and the motion passed unanimously, 7-0-0.

- 1445 **16. ADJOURN**
 There being no further business, the meeting was adjourned at 8:25 P.M.

Debra Harper, City Clerk

Emily Gleasure, Recording Deputy City Clerk