

Minutes

Audio Tape No. 600

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 Tuesday, September 2, 2003. Mayor Peggy Dunn presided.

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

Councilmembers absent: Shelby Story

Staff present:

Scott Lambers, City Administrator
Ben Florance, Fire Chief
Joe Johnson, Public Works Director
Kathy Rogers, Finance Director
Diane Binckley, Planning & Develop. Dir.
Mark Andrasik, Info Systems Director

Patricia A. Bennett, City Attorney
Craig Hill, Captain, Police Dept.
Chris Claxton, Parks & Rec. Dir.
Sam Maupin, Building Official
Deb Harper, City Clerk

- 117 **1. PLEDGE OF ALLEGIANCE**
- 159 **2. APPROVAL OF AGENDA**
Mayor Dunn noted that Agenda Item No. 12 [Rezoning request for property located at 8901 Sagamore (Leawood Country Club)] would be continued to the September 15, 2003, Governing Body meeting. Councilmember Taylor made a motion to approve the Agenda. Councilmember Rawlings seconded the motion, and it was approved unanimously, 7-0-0.
- 180 **3. CITIZEN COMMENTS**
G. Gordon Thomas, 10516 Mohawk Lane, spoke on the democratic form of government.
- 305 **4. PROCLAMATIONS**
Mayor Dunn proclaimed **Payroll Week, September 1-5, 2003, and Leukemia, Lymphoma & Myeloma Awareness Month, September, 2003**, in the City of Leawood. Mayor Dunn presented the Payroll Week Proclamation to Kathy Rogers, Finance Director and Marsha Lewis, Accounting Manager, appearing on behalf of Judy Hansel, Payroll Account Technician.

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

401 **6. PUBLIC HEARING**

Proposed Assessments for the 133rd Street [between State Line and Mission Road] Improvement Project, [CIP # 178]

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

424 **7. SPECIAL BUSINESS**

Ordinance No. 2016 levying assessments on lots, pieces, and parcels of real property in the City of Leawood, Kansas, for the purpose of paying for the cost of improvements to 133rd Street from State Line Road to Mission Road and repealing Ordinance No. 2006 [CIP # 178]

Mayor Dunn confirmed with City Administrator Scott Lambers that the total assessment amount was lower than originally identified and passed by Ordinance No. 2006 on July 7, 2003, and that was the reason to re-enact the ordinance and assessment process.

Councilmember Gill asked if the assessment roll column labeled “Assessment” represented the total assessment or the annual assessment. City Clerk Deb Harper replied that it was the total assessment. Ms. Rogers added that the property owners could pay a one-time amount by September 10, 2003, or the assessment would be spread over fifteen years at the rate the bonds would be sold for on September 15th.

Councilmember Rasmussen made a motion to pass the ordinance. Councilmember Taylor seconded the motion, and a Roll Call vote was taken. The ordinance passed unanimously, 7-0-0.

486 **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. 981
- B. Accept Minutes of the August 4, 2003, Governing Body meeting
- C. Accept Minutes of the August 18, 2003, Governing Body meeting
- D. Mayoral appointment of Carl McCaffree to the Arts Council Committee
- E. Referral to the Public Works Committee for the hiring of consultant for inspections services pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- F. Schedule Governing Body Work Session to be held at 6:00 P.M., on Monday, September 15, 2003, regarding Discussion on establishing a Transportation Development District [TDD] Policy
- G. Approve First and Final Payment in the amount of \$182,048.64, to Musselman & Hall Contractors, LLC, pertaining to the 2003 Slurry Seal Project

- H. Approve payment in the amount of \$14,245.00, to Nate Fors, Artist, for the sculptural structure, "Lllooppi," to be placed at the entrance of Leawood City Park, 10601 Lee Boulevard
- I. Approve payment in the amount of \$35,329.00, to Haren & Laughlin Construction Company, for the installation of the sculptural structure, "Lllooppi," to be placed at the entrance of Leawood City Park, 10601 Lee Boulevard
- J. Approve purchase in the amount of \$11,594.67 from Mity Lite, Inc., pertaining to Tables and Carts Furnishings at Ironwoods Park located at 14701 Mission Road
- K. **Resolution No. 2071** calling for a public hearing to be held on October 20, 2003, to show cause why the residential structure located at 2316 W. 127th Street should not be condemned and ordered demolished
- L. **Resolution No. 2072** amending the City's Special Benefit District Policy, previously adopted on June 18, 2001, for the City of Leawood, Kansas, and repealing Resolution No. 1615
- M. **Resolution No. 2073** accepting a Permanent Storm Sewer Easement and Temporary Construction Easement located at 12702 Linden Lane from Jennifer J. Hopkins, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- N. **Resolution No. 2074** accepting a Temporary Construction Easement located at 12402 Linden Lane, from Jay W. & Robin H. Murphy, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- O. **Resolution No. 2075** accepting a Permanent Storm Sewer Easement and Temporary Construction Easement located at the Woodlands, Tract 'A' of the Woodlands, 3rd Plat approximately 129th & Roe Avenue, from Woodlands Homes Association, Inc., pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- P. **Resolution No. 2076** granting a Permanent Utility Easement to Kansas City Power & Light [KCPL] pertaining to the Improvement to Ironwoods Park, located at 14701 Mission Road [CIP # 116]
- Q. **Resolution No. 2077** approving and authorizing the Mayor to execute Addendum No. 1, to that certain Purchase and Service Agreement dated May 5, 2003, in the amount of \$15,600.00, between the City and Eden Systems, Inc., pertaining to the Integrated Finance Software System [Eden Project]
- R. **Resolution No. 2078** approving and authorizing the Mayor to execute an Independent Contractor Agreement for an amount not to exceed \$7,200.00, between the City and The Sports Section, pertaining to Fall Soccer League photographs
- S. **Resolution No. 2079** approving and authorizing the Mayor to execute a Lease Agreement in the amount of \$840.00, between the City and South Kansas City Storage, pertaining to the Leawood Stage Company
- T. **Resolution No. 2080** approving a Final Site Plan for the Leawood Elementary School located at 2400 West 123rd Street [*from the August 26, 2003 Planning Commission meeting*]

- U. **Resolution No. 2081** approving and authorizing the Mayor to execute a Personal Service Agreement between the City and Orion Management Solutions, to provide for the management of the IRONHORSE Golf Facility to extend through December 31, 2004
- V. **Resolution No. 2082** accepting a Temporary Construction Easement located at 13008 Granada, from Nancy & Steven Faulkner, Trustees, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- W. **Resolution No. 2083** accepting a Temporary Construction Easement located in Patrician Woods, Tract 'D,' 7th Plat approximately 126th & Roe, from Patrician Woods Seventh Plat Homes Association, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]
- X. **Resolution No. 2084** accepting a Temporary Construction Easement, Permanent Utility Easement, Permanent Drainage Easement and Deed of Dedication for property located approximately on Roe Avenue between 133rd Street and 135th Street from Naomi J. Jameson Trust, Richard A. Jameson Trust, and Jane L. Jameson, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street][CIP #110]

Councilmember Taylor asked that Items "F," "H," "I," "L" and "U" be pulled for further discussion. Councilmember Rasmussen made a motion to approve the remainder of the Agenda. Councilmember Gill seconded the motion, and it was approved unanimously, 7-0-0.

Councilmember Taylor stated he had not received information in his packet on Item "F". Mr. Lambers replied that he was in the process of preparing a memo in regards to a Work Session to discuss the Governing Body's preference as to whether or not to proceed with the creation of Transportation Development Districts (TDDs). He stated Bill Hess and Roger Edgar would present a brief overview at that time. If the Council was favorable, discussions would begin on establishing a policy to consider these requests. He indicated he had already received such a request.

Mayor Dunn advised that the date Mr. Lambers had suggested for the Work Session would not work with her schedule. Councilmember Taylor made a motion to continue Item "F" to a time that was convenient for both Mayor Dunn and Mr. Lambers. Councilmember Gill seconded the motion, and it was approved unanimously, 7-0-0. Councilmember Taylor suggested that the Work Session take place as soon as possible to bring the Governing Body up-to-date on the TDDs.

Councilmember Taylor asked that Items "H" and "I" be reviewed together, as they both pertained to the new sculpture at City Park. He asked that it be shown for the record that the dollar amounts of both Items "H" and "I" would be the maximum dollar amounts for the purchase (\$14,245.00) and installation (\$35,329.00) of the sculpture.

Mayor Dunn recognized Tod Haren, Haren & Laughlin Construction Co.; Mary Tearney, Chairman of the Arts Council Committee; Nate Fors, Artist; Dr. Ann Kenney, Arts Council Committee; and Jerry Snider, Cultural Arts Coordinator, who were present.

Mr. Haren advised that the proposal letter sent to the Arts Council had guaranteed that the purchase and installation of the sculpture was a 'not to exceed' amount, and any savings would be returned to the City. He confirmed that the estimated cost stated within the letter was now the guaranteed maximum cost of the project.

Councilmember Bussing expressed his gratitude for the hard work put in by the Arts Council Committee, Mr. Fors and Mr. Snider to acquire the sculpture for City Park, and extended his gratitude to Mr. Haren for his involvement with the project. It was confirmed by Mayor Dunn that the Park and Recreation Advisory Board had recommended the sculpture be placed at the entrance to the park. Ms. Tearney advised that on August 14, 2003, a group had experimented with the fiber optic lighting and had had favorable results.

Councilmember Taylor made a motion to approve both Agenda Items "H" and "I". Councilmember Rasmussen seconded the motion, and the motion was approved unanimously, 7-0-0. Mayor Dunn commented that "Lllooppi" would be completed by the end of December 2003.

758 Concerning Item "L", Councilmember Taylor asked for an explanation of changes to the policy. Mr. Lambers replied that prior to the start of the process of getting special benefit district financing, the City requested that an applicant demonstrate the financial wherewithal of being able to proceed and complete the project. The proposed change would require the presentation of securities as outlined in the policy to the satisfaction of City Staff and Bond Counsel prior to any formal action being taken by the Governing Body. This would apply prior to the issuance of a Notice of Intent, but would not be required for an Indication of Intent. Any applicant, who had not received formal approval from the Governing Body at the time of the change, would be subject to the new policy, unless otherwise granted by the Governing Body.

Councilmember Gill confirmed with Mr. Lambers that no applicant would be "grandfathered" unless a Notice of Intent had been issued.

Councilmember Taylor made a motion to approve Item "L". Councilmember Rasmussen seconded the motion and it was approved unanimously, 7-0-0.

884 Regarding Agenda Item "U," Councilmember Taylor questioned Patty Bennett regarding keyman life insurance policies for Orion employees. Ms. Bennett stated it would be Orion's decision to insure their employees through a keyman policy. She stated the City held the Orion Company to a certain standard, not the individual. Councilmember Taylor replied that the City might be provided a more secure management contract if it insured key employees of Orion. Mr. Lambers reiterated Ms. Bennett's statement, saying the City held an agreement with the Orion corporation, and it was the corporation that had to perform to acceptable standards, irregardless of whether the principles were present. Councilmember Taylor stated that without knowing Orion's financial net worth, it was unknown if the City would suffer financially by a loss within Orion's management group.

Councilmember Gill stated he felt the concept of business interruption insurance as opposed to keyman insurance might have some merit for investigation. He also mentioned that the contract provided for both the general manager and the greens keeper to be designated key personnel, and as such could not be removed or replaced without the City's approval. Should they be replaced, the new employees would be subject to the City's approval as well. Councilmember Gill advised Councilmember Taylor that he was comfortable with this contract.

Councilmember Taylor made a motion to approve Item "U." Councilmember Rasmussen seconded the motion, and the motion was approved 6-1-0 with Councilmember Bussing stating for the record that he had voted against the motion because of his concerns about the financial results of the golf course.

1089 **9. MAYOR'S REPORT**

- A. Extended her appreciation to the Fire Department and Police Department for their assistance in the recovery efforts of drowning victim George Robison over the holiday weekend, and extended condolences to his family.
- B. The Police Department and Fire Department hosted a successful open house sponsored by the Police Community Partnership Committee. Councilmembers Rawlings and Taylor attended.
- C. Councilmember Rasmussen, Mr. Lambers and Mayor Dunn attended the site dedication for the Korean War Memorial at 119th and Lowell in Overland Park. Senator Sam Brownback paid tribute to those members of the Armed Forces who served during the Korean War.
- D. Councilmember Bussing and Mayor Dunn attended the Blue Valley Education Foundation breakfast where they heard the last State of the School District Address from Dr. David Benson.
- E. On September 11th at 7:30 AM, a memorial service will be conducted at the County Courtyard. Councilmember Bussing will be representing the City and presenting a memorial wreath. Also that day at 2:30 PM, Councilmember Rawlings will take part in a patriotism program at Brookwood School.
- F. An Arts Festival on the grounds of the Jewish Community Campus, sponsored by the Jewish Federation, will be held September 14th.
- G. On September 16th, a videoconference of the mutual signing of the Sister City agreement between Leawood and Regional Council Gezer will be held at 9:30 AM at the Stinson, Morrison, Hecker LLP Corporate Woods office. No quorum will be required, but the members of the Governing Body were urged to attend.

1288 **10. COUNCILMEMBERS' REPORT**

Councilmember Gill stated he had received several calls about the house at 2316 W. 127th Street. He advised that there would be a hearing scheduled on October 20th concerning this matter.

Councilmember Dunn mentioned that he would be riding with his son, and several members of Staff, in the MS150 Bike Tour the weekend of September 6-7th.

1290 **11. STAFF REPORT – None**

COMMITTEE RECOMMENDATION

1292 **12. PLANNING COMMISSION**

[from the August 12, 2003, Planning Commission meeting]

Ordinance approving rezoning from REC [Planned Recreation] to R-1 [Planned Single Family-Low Density Residential], Preliminary Site Plan and Preliminary Plat for Estates of Old Leawood, located at 8901 Sagamore [Leawood Country Club] [Roll Call Vote]- *[Continued from the August 18, 2003, Governing Body meeting]* - **THIS ITEM WILL BE CONTINUED TO THE SEPTEMBER 15, 2003, GOVERNING BODY MEETING**

1338 **13. STORMWATER MANAGEMENT COMMITTEE**

[from the August 15, 2003, Stormwater Management Committee meeting]

Approve recommendation of Summary Description of Stormwater Management Ordinance

Councilmember Dunn commented that this recommendation was the result of a suggestion by one of the committee members to supply a one-page description summarizing the Stormwater Management Ordinance and the responsibilities of the residents. He stated it would also be posted in full on the City website.

Mayor Dunn expressed her appreciation to the Stormwater Committee and Joe Johnson for their hard work on the project.

Councilmember Rasmussen made a motion to approve the recommendation. Councilmember Gill seconded the motion, and it was approved unanimously, 7-0-0.

1387 **14. OLD BUSINESS – None**

1389 **15. NEW BUSINESS**

A. Approve Change Order No. 16, in the amount of \$6,161.00, to Vanum Construction, Inc., for the entry gate, pertaining to the Ironwoods Park Project [CIP # 116]

Councilmember Taylor questioned Chris Claxton about the additional cost for the electrification of the gate that had not been mentioned on the previous change order for an additional amount for the same gate. He added there was a possibility for an additional \$3,000+ for KCPL to hook up the “electrified circuit.” Councilmember Taylor confirmed with Ms. Claxton that the City could be responsible for an additional \$9,000-10,000 that had not been brought to the attention of the City by the consultant. Ms. Claxton stated the fee for KCPL would come from the original amount that had been approved while the additional \$3,000 would come from the Utility Fund. Councilmember Taylor stated he felt the City had not been served well by the consultant.

Councilmember Gill confirmed with Ms. Claxton that the project was still within budget, and there was only a small amount of contingency money available. Ms. Claxton indicated Staff was working on a spreadsheet for Mr. Lambers showing how the project money had been spent. Councilmember Gill praised the new park as the “Loose Park of South Johnson County.”

Councilmember Bussing confirmed with Ms. Claxton that the gate in question was located on Mission Road and would work on a timing system to open and close at set times.

Mr. Lambers indicated he had discussed his displeasure over the situation concerning this matter with the consultant.

Mayor Dunn questioned if the gate had been bid out, and if so, would these change orders refute the results of that bidding. Mr. Lambers stated that the problem occurred because the specifications had not been complete and a major component had been missing, with the resulting problems occurring regardless of who had bid it.

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

1611

B. Ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation for the Roe Avenue Improvement Project [124th Street and 135th Street] [CIP # 110] – *Continued from the August 18, 2003, Governing Body meeting*

Mr. Lambers informed the Governing Body that there was only one parcel of property left to negotiate; however, it was important to proceed with the ordinance at this time in order to comply with KDOT requirements. Ms. Bennett asked the Governing Body to amend the motion to show only condemnation on the Effingham tract and its mortgage holders, parties and interests. Ms. Harper advised Ms. Bennett that the final ordinance she had presented included the three remaining parties and did not need to be amended. Mayor Dunn asked if the passage of this ordinance would preclude the City from going ahead and trying to negotiate with Effingham. Mr. Lambers stated it would not.

Councilmember Rasmussen made a motion to pass the ordinance. Councilmember Gill seconded the motion, and a Roll Call vote was taken. The ordinance was passed unanimously, 7-0-0.

1654

16. OTHER BUSINESS - None

- 1656 **17. ADJOURN**
 There being no further business, the meeting was adjourned at 8:27 P.M.

Debra Harper, City Clerk

Emily Gleasure, Recording Deputy City Clerk