

Minutes

Audio Tape No. 606

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, November 3, 2003. Mayor Peggy Dunn presided.

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

Councilmembers absent: Shelby Story and Scott E. Gulledge.

Staff present:

Scott Lambers, City Administrator	Patricia A. Bennett, City Attorney
Ben Florance, Fire Chief	Joe Johnson, Public Works Director
Sid Mitchell, Police Chief	Chris Claxton, Parks & Rec Director
Jeff Cantrell, Neighborhood Serv. Admin.	Kathy Rogers, Finance Director
Diane Binckley, Planning & Develop. Dir.	Sam Maupin, Building Official
Mark Andrasik, Info Systems Director	Kim Curran, Recreation Serv. Mgr.
Deb Harper, City Clerk	Emily Gleasure, Deputy City Clerk

- 114 **1. PLEDGE OF ALLEGIANCE**
- 167 **2. APPROVAL OF AGENDA**
Councilmember Dunn made a motion to approve the Agenda. Councilmember Gill seconded the motion, and it was approved 5-0-0.
- 186 **3. CITIZEN COMMENTS**
Eric Kratty, 2401 W. 124th Terrace, discussed the large turnover (75%) of full-time staff in the Parks & Recreation Department over the past 15 months. He stated that after speaking to Human Resource Director Colleen Browne, Parks & Rec Director Chris Claxton suspended him for a week on the advice of City Administrator Scott Lambers. Mr. Kratty advised he would be resigning his position in the Parks & Rec Department. He also said he would be forwarding letters from past Parks & Rec employees as to their reasons for leaving and in support of his resignation to the Governing Body. He asked that Staff take employees' concerns seriously.
- 245 **4. PROCLAMATIONS - None**
- 247 **5. PRESENTATIONS/RECOGNITIONS – None**

249

6. SPECIAL BUSINESS – PUBLIC HEARING

A. To Show Cause why the residential structure located at 2316 West 127th Street, located in the Royse Subdivision, City of Leawood, Johnson County, Kansas, should not be condemned and ordered demolished.

Sam Maupin, Building Official, explained that on July 16, 2003, the residence at 2316 W. 127th Street sustained extensive damage due to a fire. On July 17th, he conducted an investigation of the property and determined that it was dangerous and unsafe for habitation. At that time a Notice was posted on the structure to that effect. On July 28th, a Notice of Violation was issued to the property owner, Litton Loan Service, giving 20 days to respond to the Notice and indicating their plan of action. Litton failed to reply and subsequently was in violation of said Notice.

Mr. Maupin showed photographs of the house from various angles, indicating where parts of the upper story of the structure had been severely damaged by fire. He stated that if the structure was removed, attention needed to be given to the swimming pool located in the backyard of the property, as it would also need to be removed. Mr. Maupin said that the 1997 Uniform Abatement of Dangerous Buildings, adopted by the City, defined the terms “unsafe” and “dangerous” as they apply to certain buildings. By definition, the residence was unsafe and dangerous, and needed to be demolished or repaired. As no one had come forward to repair it, the City had no other recourse but to demolish it.

377

Councilmember Gill stated he agreed that the building needed to be razed in the shortest amount of time. He confirmed with Patty Bennett and Deb Harper that the Governing Body had passed a resolution on September 15, 2003, to start the process for this action.

Ms. Bennett stated the record title owners were still the Lathams, however the mortgage company had bought the property at a Sheriff’s sale. The Sheriff’s Deed had not been issued as of this date on the property. She also indicated the Internal Revenue Service (IRS) had a lien on the property. Proper notice was given to all parties of interest. Mike Doering, attorney for the current owner of the house, had been negotiating with the owner and another party interested in buying the property. Because of the legal complexities Ms. Bennett felt it would be more expedient if Mr. Doering and the other party were able to accomplish the transaction within 30 days, with the buyer presenting a contract for the demolition at the December 1st Governing Body Meeting. If this didn’t occur, the Governing Body would be able to consider another course of action at that time. The statutory requirements compelled the owner to either repair or demolish the home within a “reasonable time.” If the owner failed to comply within that time, the City could order the Staff to take measures to contract the repair or demolition of the home.

Councilmember Gill confirmed with Ms. Bennett that legally the City could begin to proceed with its plans for demolition while, concurrently, the current owner tried to sell the house. If the sale fell through, the City would not have lost time in removal of the house. However, she suggested a “reasonable time” would more appropriately be 90 days, due to all the legal work required.

565

Councilmember Taylor arrived at 7:50 P.M.

Councilmember Dunn affirmed with Ms. Bennett that the Governing Body would be setting the outside time limit for the resolution tonight if the resolution passed.

577 Councilmember Rasmussen confirmed with Ms. Bennett that the insurance carrier, the Lathams, the mortgage company and Mr. Doering as its representative, the IRS and its representative had all been served Notice of the Public Hearing. Ms. Bennett also stated the Lathams had been divorced at the time of the fire.

620 Mayor Dunn declared the Public Hearing open and called on citizens who had signed in to speak on the issue.

626 Mike Doering, 4344 Belleview, Kansas City, MO, an attorney, stated he had initiated the foreclosure of the property five years ago. He stated the property loan had been sold three times. The current owner was Pledged Property IX, LLC. He stated Litton was his client and operated as a loan servicing company for the owner of the note and mortgage. The legal status of the property entailed the note mortgage having been foreclosed, a Sheriff's sale conducted, and an Extended Period of Redemption on behalf of the IRS expiring. In the meantime, the structure had been damaged by fire. The issue of priorities of the IRS lien with respect to his clients had been to the Court of Appeals and remanded back down where it was finally resolved. The status of the title of the property his client purchased at the foreclosure sale was as the holder of a Certificate of Purchase, held during a redemption period. Once that period expired, the owner could then go to the Sheriff to ask for a Sheriff's Deed. The IRS had a lien against Mr. Latham's interest in the property, not against Mrs. Latham's interest, and that was where the problems occurred. The IRS had a lien against the Certificate of Purchase, and when the Sheriff's Deed was issued, they would have a lien against it as well. Any contract Mr. Doering was to draw up between a buyer and a seller of the property would need the approval of the IRS. The IRS had orally given Mr. Doering preliminary approval of the amount agreed upon as the selling price, as well as preliminary approval by an insurance company.

720 Mr. Doering stated the oral agreement to sell the property was with Zachary Kern, a next-door neighbor to the property. Mr. Kern was employed as a developer and residential builder.

Mr. Doering stated that his purpose tonight was not to get the property condemned, but to seek a timeframe wherein he could get the agreement between the seller and buyer completed, title the property to Mr. Kern, and allow him time to conduct the demolition.

Councilmember Taylor established with Mr. Doering that Mr. Kern was not in attendance, nor could he give Mr. Kern's professional credentials or examples of his development expertise. Councilmember Taylor confirmed with Ms. Bennett that Mr. Maupin was requiring the total demolition of both the building foundation and the swimming pool.

Mr. Maupin stated the current ordinance as it pertained to demolition of a structure required the entire foundation and all improvements to the property be removed. He said his concern would be on whom the responsibility would fall to erect a fence around the pool and foundation and who would maintain the fence if the pool was not removed. He felt the City would not want to take on that responsibility. Councilmember Taylor questioned how long the City would be responsible for the property. Mr. Maupin stated the City could put out the request for bids for the demolition, award the bid, and be ready to proceed should the sale of the property not be completed. The demolition of the property itself might only take two days, but the disconnection of utilities and other necessary details would extend the estimated time to approximately 30 days. With the hauling away of debris, Mr. Maupin stated 60 days would be an adequate timeframe to consider for the entire process.

Councilmember Taylor asked Mr. Doering to produce Mr. Kern's credentials for the City.

940 Councilmember Gill estimated 80% of the citizens in attendance on this issue wished for the house to be razed, and in the shortest amount of time. Mr. Doering stated Mr. Kern had been interested in the house for over five years and was ready to begin demolition. Councilmember Gill suggested that the Governing Body approve a timeframe for Mr. Kern to work out the contract details while the City concurrently prepared by starting the bid process. Mr. Doering stated he could work out the contract details in the next few days and indicated he had one more court appearance in Johnson County confirming the sale. After the court date, he would be in a legal position to transfer title of the property to Mr. Kern and complete the closing. He stated he did not know if additionally, given 30 days, Mr. Kern would then have time to complete the demolition. Mr. Doering was not in a position to say how long Mr. Kern would need post-transfer to arrange for the demolition.

1037 Mayor Dunn called on the citizens who had signed in to speak.

Mr. Andrew Lyons, 2308 W. 127th Street, stated he lived next door to the house in question. He indicated that there had been no upkeep on the house since 1997. Mr. Lyons acknowledged Mr. Maupin's expertise and concern surrounding the issue. Mr. Lyons had been worried about the safety of people entering the house in its present condition, as he knew children had been inside of it on Halloween.

Bruce Keplinger, 12529 High Drive, stated he was in support of the Governing Body passing the resolution to allow the demolition to move forward quickly. He said he would be in support of dual tracking between Mr. Kern and the City, so that if Mr. Kern's contract fell through, the City would not have wasted time in securing bids for the demolition.

Mayor Dunn requested that citizens who supported Mr. Lyons and Mr. Keplinger's remarks raise their hands. Approximately 15 people did so. Mayor Dunn asked if there were any other individuals who wished to address the Governing Body.

Mary Beth Welzenbach, 2321 W. 127th Street, suggested that Mr. Kerns' building credentials be investigated. She stated Mr. Kerns owned the property next door to the Lathams but leased it, and was himself a non-resident of Leawood.

1334

Mayor Dunn noted that a memo in front of the Governing Body from Staff indicated that they were requesting that the Public Hearing be continued, being reopened at the December 1, 2003, Governing Body Meeting. Ms. Bennett stated the Public Hearing should be closed if the Governing Body decided to act on the resolution tonight. The resolution would require the Governing Body to determine whether the structure was unsafe or dangerous, and then to order it either demolished or repaired by the current owner, after giving the current owner reasonable time to do so. After that time the Governing Body could instruct the City to contract for demolition.

Councilmember Rasmussen asked Mr. Doering whether the current owner, Marsha Latham, was present in the Council Chambers. Mr. Doering stated he represented the mortgage company that was foreclosing the mortgage that Mrs. Latham took out on the property and that he had never personally spoken to her. Ms. Bennett stated the mortgage had been foreclosed and a Sheriff's Sale had occurred, but there was not currently a Sheriff's Deed. Mr. Doering stated his client held a Certificate of Purchase, and Mrs. Latham was the current record owner of the property. Ms. Bennett stated the statute allowed notice to the owner to be sent to the property itself, which had been done, in addition to two newspaper publications of the notice.

1451

Mr. Lambers stated the murkiness of the title necessitated the recommendation for continuance. He said that no interested person in attendance had title, nor could take out contracts to commence demolition. Mr. Lambers said that after giving Mr. Doering 30 days, the issue would be revisited at the December 1st Governing Body meeting. At that time, if Mr. Doering's contract with Mr. Kern had fallen through, Staff would advise the Governing Body of the City's impending action. He suggested that if the Governing Body proceeded with the resolution, ample time not to exceed 90 days be provided Mr. Doering to account for the need to clear the title and to complete the demolition.

Dennis Welzenbach, 2321 W. 127th Street, asked if the property had been insured, if any insurance proceeds had been paid out, and if someone had bettered himself or herself as a result of the fire.

Mr. Doering stated there had been an insurance claim made and insurance proceeds had been paid out in the last 30 days. The proceeds were currently in his client's escrow account in a segregated fund. The money had not been dispersed as both the City and the IRS had liens against the proceeds. Until there was a resolution of all issues, no money would be paid out.

Councilmember Gill suggested that the Public Hearing be closed, and a motion be made to include the dual track concept. The Governing Body would approve commencement of the process Mr. Maupin described to include an end date of having the house down and leveled within 60 days. There would also be a 30-day checkpoint corresponding to the reasonable time given to Mr. Doering. Should Mr. Doering not have a signed contract at that time, the City would initiate demolition, with the demolition completed within the original 60-day timeframe. Mr. Lambers concurred with this proposal.

Councilmember Gill asked Ms. Bennett if the City would still retain a lien on the proceeds in escrow to cover the demolition costs should the contract not close and the City commence with the demolition. She replied that there was a statutory lien of a certain percent, of which the City was allowed a portion for reimbursement; however, it also would be subject to the IRS lien. Councilmember Gill asked if it would be reasonable to expect the demolition costs to be less than the underlying land value, with the lien covering the City's expenditure. Ms. Bennett replied the City's portion of the lien was dependant upon the amount of the IRS lien. Mr. Lambers stated he felt the liens would exceed the land value and 100% recovery would not be possible.

1676

Councilmember Dunn stated the resolution before the Governing Body contained a 30-day period mentioned in Sections 3 and 4, within which the commencement of the repair/removal would need to take place. He asked Mr. Lambers if this was the location where he was suggesting substituting 60 or 90 days into the provision. Mr. Lambers replied that he wished to give an end date to the project; therefore it should read, "commencing with a completion date of 90 days from" tonight. He commented that the residents were mainly concerned as to when the demolition would be completed, so he wanted to include an outside date to avoid any misunderstanding.

Councilmember Taylor made a motion to close the Public Hearing. Councilmember Gill seconded the motion. The motion was approved 5-1-0, with Councilmember Bussing opposing, stating that by voting for the motion, it precluded re-opening the Public Hearing on December 1st.

1762

B. Resolution declaring the structure located at 2316 West 127th Street to be unsafe or dangerous and directing the repair or removal of such structure pursuant to K.S.A. § 12-1750 et seq.

Councilmember Rasmussen stated that for the record he wished to make clear that the Governing Body, in voting for this resolution, declared 1) the structure to be unsafe or dangerous; and, 2) the establishment of a 90-day timeframe for the repair or removal of the structure. Mr. Lambers stated that by adopting the resolution, those issues would be made clear. He also referenced the absent property owners, saying that they would not be involved in any way in this process.

Mayor Dunn questioned whether the 90-day timeframe should be included in the resolution. Mr. Lambers replied that a timeframe was not mandated by State statute. The resolution's language was statutory specific, with the 90-day timeframe being understood by reference to it only in the motion.

Councilmember Taylor made a motion to adopt the resolution with the understanding that within 90 days (until February 1, 2004) the structure would be demolished either by the owner or the City. Councilmember Dunn seconded the motion. The motion passed unanimously 6-0-0.

1901 **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. 986
- B. Accept Minutes of the October 20, 2003, Governing Body meeting
- C. Accept Minutes of the October 6, 2003, Governing Body Work Session meeting
- D. Approve bid in the amount of \$53,095 to Audiovisual, Inc. [d/b/a/ AVI Systems] for audio-visual equipment at the Lodge at Ironwoods Park, 14701 Mission Road [CIP # 116]
- E. Resolution approving a Final Site Plan for lighting and signage for Siena located on 140th Street east of Mission Road [*from the October 28, 2003, Planning Commission meeting*]
- F. Resolution approving a Final Site Plan for Pet Suites of Kansas City, located south of 143rd Street, east of Overbrook, within the Bi-State Business Park [*from the October 28, 2003, Planning Commission meeting*]

Mayor Dunn stated Councilmember Rasmussen had asked for Item No. "7E" to be pulled from the Consent Agenda. Councilmember Taylor asked for Item No. "7D" to be pulled for discussion.

Councilmember Gill made a motion to approve the remainder of the Consent Agenda. Councilmember Taylor seconded the motion. The Consent Agenda was approved unanimously 6-0-0.

Councilmember Taylor questioned Chris Claxton as to how many bids were taken on Item "7D." Ms. Claxton replied only one bid had been received and her Staff had conducted the bidding process. Councilmember Taylor asked if any of the items she had requested could be eliminated to bring the bid amount within her budget constraints. She replied she would need to review the bid, but thought that it could be reduced, with those removed items requested at a later date if funding was available.

Councilmember Bussing confirmed with Ms. Claxton that the audio-visual items were chosen in coordination with the technical engineer from the Arts Council and Leawood Stage Company. He stated he felt \$3,000.00 was a small amount to quibble over in a \$5.4 million budget.

Mayor Dunn asked Ms. Claxton as to why there had only been one bidder. Ms. Claxton replied that an advertised bid had been placed in the newspaper. Additionally, the Consultant had suggested an interested party and Bob Craig from the Leawood Stage Company had suggested a potential bidder. Information had been sent to them as well. Within the information package was a form for prospective bidders to fill out to indicate why their company had chosen not to bid. None of the forms had been returned.

Councilmember Taylor made a motion to limit the expenditure with AVI to \$50,000.00. City Clerk Deb Harper confirmed that he was therefore rejecting the bid as stated, and amending the amount as stated on the Consent Agenda. Councilmember Rasmussen seconded the motion.

Councilmember Gill asked if the reason for the motion was because of a \$3,000.00 overage of a line item in a \$5.4 million project. Councilmember Taylor replied that the contingency line item had been \$150,000.00, with this bid utilizing the remainder of the funds. Councilmember Gill stated Ironwoods Park was one of three parks that had been created through a \$12.5 million bond issue, of which purchasing authority had not yet been exhausted. He confirmed with Ms. Claxton that this equipment would be available for users of the Lodge from whom revenue would be collected. Mayor Dunn affirmed with Ms. Claxton that it was possible any of the items requested tonight could increase in cost at a later date.

Councilmember Taylor stated that the Parks and Recreation Advisory Board had compiled a list of priority items they wanted for park improvements, and he was trying to set aside funds for purchasing those items in the future. Councilmember Bussing stated he felt no one more than Ms. Claxton and Mr. Lambers knew the necessity to be fiscally prudent, and preferred to let them make the decisions on those matters rather than the Governing Body.

The motion to approve the bid to be capped at \$50,000.00 was defeated 2-4-0. Yea: Councilmembers Taylor and Rasmussen. Nay: Councilmembers Gill, Bussing, Dunn and Rawlings.

Councilmember Gill made a motion to approve the bid for \$53,095.00. Councilmember Bussing seconded the motion. The motion passed 4-2-0. Yea: Councilmembers Gill, Bussing, Dunn and Rawlings. Nay: Councilmembers Taylor and Rasmussen.

2305 Councilmember Rasmussen questioned Diane Binckley as to the meaning of the words “maintained by Homes Association” in Item 2 of “7E” (“The installation of streetlights along all public streets shall conform to public works construction standards and shall be maintained by Homes Association.”). Ms. Binckley stated that the light standards would be removed or replaced by the Developer or Homes Association, while the cost of electricity would be covered by the City.

Councilmember Rasmussen made a motion to approve the resolution. Councilmember Dunn seconded the motion, and it was approved unanimously, 6-0-0.

2350 **8. MAYOR’S REPORT**

- A. Attended with Mr. Lambers the unveiling of a mural depicting the history of Overland Park in the Atrium of the Overland Park Chamber of Commerce Offices, dedicated to former Chamber Executive Mary Birch
- B. Attended the Leawood Chamber of Commerce fundraiser, “Spotlight on Leawood,” at AMC Town Center, benefiting Safehome
- C. Attended the FLan Park dedication while the FLan Delegation was visiting Leawood. Appreciation was extended to Roxanne Wu-Rebein, the Sister City Committee, Colleen Browne, Chris Claxton and the Parks and Rec Staff, as well as to attending Councilmembers.
- D. Attended the groundbreaking for Ironhorse Center at 151st Street and Nall Avenue. Also in attendance were Councilmember Rasmussen, Ms. Binckley, Mr. Lambers and Ms. Claxton. Sculptor Tom Corbin was commissioned to create life-sized sculptures for the Center.
- E. Attended an open house for CBIZ, celebrating their new offices on Tomahawk Creek Parkway. Mr. Lambers and Kevin Jeffries also attended.
- F. Attended the Johnson County Developmental Support Center reception honoring former Lenexa Mayor Joan Bowman for her leadership on behalf of people with disabilities
- G. Announced that the Leawood Arts Council Committee would be presenting the musical entertainment, KC Brass, on November 9th at 4:00 P.M. in the Council Chambers

2491 **9. COUNCILMEMBERS’ REPORT - None**

2493 **10. STAFF REPORT – None**

2494 **11. OLD BUSINESS – None**

2496 **12. NEW BUSINESS**

A. Discussion regarding the selling of a tract of land currently owned by the City, located at 114th & Tomahawk Creek Parkway [3.9 acres]

Mr. Lambers stated Ken Block had approached him about the possibility of selling the above-mentioned tract of land on which to build an office building. The property had been set aside for the construction of a future Police Station/Justice Center. Mr. Lambers said it was his opinion that this site would be better utilized as part of the office complex currently in the area. If the Governing Body agreed with that usage, he asked for permission to attempt to secure an alternative site for the Justice Center. He suggested not selling the current site until the new tract was secured, and at that time, request the disposal/sale of the property by the Governing Body. He stated the Justice Center was scheduled to be completed by 2008; therefore, it would be prudent to begin a search for a new site immediately.

Councilmember Gill stated he was not adverse in selling the property but not until the City was ready to go ahead with the planning of the new Justice Center, with a new location having been secured. Councilmember Dunn and Mayor Dunn agreed. Councilmember Rasmussen confirmed with Mr. Lambers that he was asking to be allowed to search for another suitable site for the Justice Center and bring his findings back to the Governing Body at a future time, if found. Mayor Dunn stated that the Governing Body was in concurrence with Mr. Lamber's request and he could proceed in his search.

2620 **B. Resolution authorizing a Public Improvement Project at 133rd Street between Roe and the western city limits, Briar from 133rd Street south to 135th Street, 135th Street from the west City limit east to Roe Avenue and Roe Avenue between 133rd and 135th Street within the City of Leawood, Kansas; providing for the issuance of General Obligation Bonds of the City pursuant to K.S.A. § 12-6a01, to provide funds to pay the costs thereof, and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; expressing the intent to reimburse costs of the project so incurred from proceeds of such Temporary Notes and General Obligation Bonds; and authorizing and approving certain related matters and actions [Parkway Plaza Project] CIP # 195]**

Councilmember Gill asked for clarification on the second paragraph of the memo the Governing Body had received, concerning Parkway Plaza seeking assurances that the City would continue to proceed with review of the petition “and that subsequent approvals will be granted to the use of permanent financing to the City’s debt.” Ms. Bennett replied that this was a resolution of intent to approve the Benefit District, not other future financing. Councilmember Gill confirmed with Ms. Bennett that this resolution would allow Mr. Sailors to move forward with his project’s engineering plans, ultimately charging these costs against the Benefit District. She stated this was not the approval of the Benefit District, but only a resolution of intent to approve which met a certain IRS rule on bonds. Mr. Lambers added that if something happened later on in the project, and the Governing Body did not wish to continue, the Governing Body could, with justification, legitimately not go forward. However by issuing the resolution of intent, Mr. Sailors’ incurred costs could be covered by the Benefit District. Until this was issued, those costs would be his alone. Mr. Lambers stated Staff was recommending approval.

Councilmember Rasmussen made a motion to approve. Councilmember Taylor seconded the motion, and it was approved unanimously, 6-0-0.

2756

C. Resolution waiving the bidding process, in accordance with Charter Ordinance No. 32, for the Parkway Plaza Special Benefit District Project [CIP # 195]

Councilmember Dunn asked if the resolution included the Staff’s recommendation to include three conditional points as stated in the Staff Review Memo. Ms. Bennett stated the resolution was a standard waiving of the requirements, however, the conditions could be included in the Resolution.

Councilmember Bussing stated he would be voting in opposition to the resolution, as he had concerns about the Developer serving as the General Contractor and waiving the bidding process. Councilmember Gill agreed, adding, however, that the three conditions placed on the Developer were a great improvement to the situation. Councilmember Dunn advised that the second condition made it mandatory for the contractors to be approved by the City and Developer for bidding, and that this assured him that the waiving of the bidding process was not significant.

Councilmember Dunn made a motion to approve the resolution, with the addition of the three conditions recommended by Staff stated within the Resolution. Councilmember Rasmussen seconded the motion. The motion was approved 4-3-0. Yea: Councilmembers Dunn, Rasmussen, and Rawlings. Nay: Councilmembers Taylor, Gill and Bussing. Mayor Dunn voted in favor of the resolution, breaking the tie vote.

Mr. Lambers advised that after the two City projects using Developers as General Contractors were completed, the Staff could do an analysis of the bids received from the projects, prepare a report, and discuss the results in a Work Session. Councilmember Bussing expressed his approval of this approach, adding the three conditions made the motion more agreeable. He stated he felt the open bid process was important and needed to be continued by the City. Councilmember Taylor stated he felt the concern of the Governing Body was that the bid package should only contain improvements to public property and not to private property.

- 2955 **D. Approve Certified Statement regarding the conditions to Article II of that certain Construction Agreement dated August 4, 2003, between the City and Walton Construction Company, L.L.C., pertaining to the construction of public improvements, including streets and stormwater, located in the vicinity of 135th Street and Nall Avenue**

Councilmembers Gill and Taylor recused themselves, citing conflicts of interest. Mayor Dunn noted that with the recusal of the two Councilmembers, there was no longer a quorum. She stated no action would be taken on the issue tonight, but would be placed on the November 17th Governing Body Meeting Agenda.

- 3036 **13. OTHER BUSINESS - None**

- 3037 **14. ADJOURN**

There being no further business, the meeting was adjourned at 9:15 P.M.

Debra Harper, City Clerk

Emily Gleasure
Recording Deputy City Clerk