

Minutes

Audio Tape No. 618-619

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, February 16, 2004. Mayor Peggy Dunn presided.

**Councilmembers present:** James E. Taylor, Sr., Jim Rawlings, Patrick Dunn, Louis Rasmussen, Scott E. Gulledege, and Mike Gill.

**Councilmembers absent:** Shelby Story and Gary Bussing.

**Staff present:**

Scott Lambers, City Administrator  
Ben Florance, Fire Chief  
Sid Mitchell, Chief, Police Dept.  
Mark Andrasik, Info Systems Director  
Diane Binckley, Planning & Develop. Dir.  
Deb Harper, City Clerk

Patricia A. Bennett, City Attorney  
Joe Johnson, Public Works Director  
Chris Claxton, Parks & Rec Director  
Kathy Rogers, Finance Director  
Jeff Cantrell, Neighborhood Serv. Adm.  
Emily Gleasure, Deputy City Clerk

43     **1.     PLEDGE OF ALLEGIANCE**

119    **2.     APPROVAL OF AGENDA**

Mayor Dunn noted that there would be an additional Councilmember report from Councilmember Gill under Item "9." Councilmember Dunn made a motion to accept the Agenda with the one addition. Councilmember Gill seconded the motion, and the motion was approved unanimously, 6-0-0.

142    **3.     CITIZEN COMMENTS**

G. Gordon Thomas, 10516 Mohawk Lane, asked that Items "11D-F" be withheld from approval as only seven citizens showed up for the meeting, with no Staff present to discuss the issues.

William Wesemann, 8407 Cherokee, stated in regards to the Leawood Country Club issue, the citizen group that was vocal about being unhappy with what is being done with the property should understand that the land belonged to a failed private business, and never was used as public green space. He stated the new owners should be allowed to develop it as they please.

4. **PROCLAMATIONS -**

Mayor Dunn proclaimed March 1<sup>st</sup> – 5<sup>th</sup>, 2004, **Blue Valley Educational Foundation Week** in the City of Leawood.

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

353 6. **SPECIAL BUSINESS –**

A. **Resolution finding as to the advisability and authorizing the construction of storm water improvements [SMAC Project DB-04-024-01] to the Dykes Branch between 83<sup>rd</sup> Street & Wenonga south to 86<sup>th</sup> Street and Overhill, located within the City of Leawood, Kansas, pursuant to K.S.A. § 12-16a01 et. seq [Continued from the February 2, 2004 Governing Body meeting] – NOT APPROVED.**

Councilmember Dunn made a motion to approve the Resolution in accordance to the City Administrator's Recommendation Draft No 2 that was contained in the Work Session packet. Councilmember Gullede seconded the motion.

Councilmember Dunn explained to the citizens present that the Council had discussed the options available to the City in the Work Session prior to this meeting. The Governing Body agreed that the project needed to go forward by means of one of two options, those options being 1) create a Special Benefit District (SBD) requiring payments for easements to all affected property owners and then assess back against those properties based on a formula used by the courts; or, 2) as per the City Administrator's recommendation, purchase the necessary easements with the City's at-large funds. Councilmember Dunn stated it was his recommendation that the second choice be approved.

Mayor Dunn read into the record the Resolution as was stated in the Draft Form No. 2, for Councilmember Dunn's motion, with Councilmember Gullede's second, as follows:

**\*B. Resolution No. 2175 finding as to the advisability of and authorizing the construction of the Storm Water Drainage Improvements to the Dykes Branch [SMAC PROJECT DB-04-024-01] between 83<sup>rd</sup> Street and Wenonga Road south to 86<sup>th</sup> Street and Overhill Road located within the City of Leawood, Kansas; providing for the issuance of General Obligation Bonds of the City 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**

Mayor Dunn stated a great majority of people had dedicated easements and that Joe Johnson had indicated only four easements were left to acquire. Mayor Dunn thanked those property owners who had dedicated their easements to the City. While approving the resolution was difficult for the Governing Body, it was for the greater good for the citizens of Leawood.

Councilmember Dunn thanked the property owners who had taken the time to call him and discuss this issue after the last Council meeting.

Chaunce Gundelfinger, 8606 Belinder, signed in but did not desire to speak.

520 John Abraham, 8633 Overhill Road, stated he was out of town during most of the discussions on this issue. He questioned if he would be assessed more than he was appraised for his property. Mayor Dunn replied that if the motion passed, the Benefit District would not be formed, and property owners would not be assessed.

Mayor Dunn called for the question. The vote was 4-2-0, with Councilmembers Taylor and Rasmussen opposed. Mayor Dunn voted in favor of the Resolution, creating a majority approval, and the Resolution was approved 5-2-0.

606 **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 Nos. 990C and 992
- B. Accept minutes from the February 2, 2004, Governing Body meeting
- C. Accept minutes from the January 13, 2004, Historic Commission meeting
- D. Accept minutes from the January 6, 2004, Parks and Recreation Advisory Board meeting
- E. Approval of the Governing Body 2004 Goals & Objectives
- F. Renewal of Cereal Malt Beverage [CMB] License for Phillips Town Center 66, located at 11921 Roe Avenue
- G. Renewal of Cereal Malt Beverage [CMB] License for Leawood Hen House, located at 11721 Roe Avenue
- H. Approval of Cereal Malt Beverage [CMB] License for Dragon Dynasty, located at 12248 State Line Road
- I. Approve Change Order No. 8, in the total amount of \$26,236.00, [\$8,595.79-CIP # 190; \$17,640.21-CIP # 191] to Walton Construction Company, pertaining to the Cornerstone & Church of the Resurrection Public Improvement Projects [CIP # 190 and CIP # 191]
- J. Approve Change Order No. 2, in the amount of \$4,681.00, to Sunflower Construction, Inc., pertaining to the Oxford School Renovation Project, located at Ironwoods Park, 14701 Mission Road
- K. Approve purchase in the amount of \$20,000.00 from the Kansas City Wizards pertaining to awards for Parks and Recreation Soccer Program
- L. **Resolution No. 2176** requesting Johnson County, Kansas to participate in the City of Leawood's Five-Year Capital Improvement Program through the 2005-2009 County Assistance Road System [CARS] Program
- M. **Resolution No. 2177** accepting New Development Contribution of 136<sup>th</sup> & Kenneth Parkway traffic signals [GASB-34]

- N. **Resolution No. 2178** accepting New Development Contribution of storm sewers for Willow Creek, located at 3916 West 140<sup>th</sup> Drive [GASB-34]
- O. **Resolution No. 2179** approving and authorizing the Mayor to execute a Restrictive Covenant between the City and Kansas Department of Health & Environment [KDHE], pertaining to the use of property located on the southeast corner of Lee Boulevard and Mission Road for a previous landfill not currently in use
- P. Declaration of surplus property [vehicles and equipment from various departments]
- Q. Municipal Court Monthly Report
- R. Fire Department Monthly Report
- S. Police Department Monthly Report

Councilmember Taylor asked that Item “7I” be pulled for a separate vote, due to an appearance of conflict. Councilmember Rasmussen made a motion to approve the remainder of the Consent Agenda. Councilmember Gullede seconded the motion, and the motion was approved unanimously, 6-0-0.

Councilmember Rasmussen made a motion to approve Item “7I.” Councilmember Gullede seconded the motion, and the motion was approved 5-1-1, with Councilmember Gill opposed, Councilmember Taylor recusing, and Mayor Dunn voting in favor of the motion. Councilmember Gill stated he was philosophically opposed for previously stated reasons concerning Change Orders from Walton Construction on this project.

695

**8. MAYOR’S REPORT**

- A. Attended the Council Mayors Meeting in Springhill, Kansas. Speakers included Dr. Bob Clark from the KU Edwards Campus and Prof. Ken Davis from the School for Allied Health, KU Medical Center.
- B. Participated in a press conference with Jackson County Executive Katheryn Shields and Raytown Mayor Sue Frank for the “Go Red” Campaign for the American Heart Association.
- C. Extended her appreciation to Chief Sid Mitchell on behalf of Corporal Mark Hackathorn for an arrest he made, greatly assisting the KCMO Sex Crime Detectives.
- D. Wished everyone a happy President’s Day.

781 **9. COUNCILMEMBERS' REPORT**  
**Update on County's Stormwater Management Advisory Council [SMAC] Program**  
**by Councilmember Pat Dunn**

Councilmember Dunn stated he had served as Leawood's representative on the Stormwater Management Advisory Council (SMAC) that determines what counties are to receive the special tax assessments that have been collected for stormwater projects. Recently the Committee had been studying the feasibility of a stormwater utility for use by communities in Johnson County for funding stormwater needs. Councilmember Dunn was selected to interview the three firms who were the finalists. He has agreed to continue on the City of Leawood Stormwater Committee after his term as Councilmember has expired, and encouraged his fellow Councilmembers to contact him with questions or possible projects.

Councilmember Gill reported on the Kansas City Star article on look-alike guns being sold to children, and the diligent work performed by School Resource Officer Phil Goff in being a resource to students and parents alike concerned about this issue. Councilmember Gill mentioned that Chief Mitchell was preparing a report on these guns.

1002 **10. STAFF REPORT - None**

1004 **11. PLANNING COMMISSION - None**

*[from the January 27, 2004, Planning Commission meeting]*

- A. Ordinance approving a rezoning from AG [Agriculture] to RP-1 [Planned Single Family Low-Density], RP-2 [Planned Cluster Detached Residential], RP-3 [Planned Cluster Attached Residential], and SD[NCR] [Planned Neighborhood Retail], preliminary site plan and preliminary plat for LeaBrooke located at approximately 145<sup>th</sup> and Kenneth Road [Roll Call Vote] – *CONTINUED TO THE MARCH 1, 2004 GOVERNING BODY MEETING***

Philip Owen, 555 Schwarz, Lawrence, KS, land planner and architect gave a presentation on the proposed LeaBrooke subdivision. He stated there were only two residential parcels left to develop in Leawood: LeaBrooke and 51 acres south of the Ironwoods Park. LeaBrooke will consist of 116 single-family lots on 52.67 acres zoned RP-1; 79 single-family villa style lots on 27.60 acres zoned RP-2; 165 triplex units on 27.89 acres zoned RP-3; and 1 lot containing 34,500 sq. ft. of neighborhood retail on 7.68 acres zoned SD-NCR (F.A.R. 0.10). The residential portion of the development will have a density of 2.78 dwelling units/acre. Originally a horse farm, the plat had 44 non-usable acres that included a KCPL easement, a designated U.S. Waters Tributary area, and 31.97 acres of flood plain. In working with FEMA, nine acres in the flood plain have been reclaimed. Additionally, the Union Pacific Railroad is adjacent to the plat.

Mr. Owen stated that the developer gave him a mission statement that said, "To provide beautiful housing, that will increase in value through the careful integration of planning, architectural design, landscape amenities, craftsmanship, and responsible conservation of the natural beauty of the site." Mr. Owen described the homes on the site plan displaying several architectural renderings. He gave an overview of the shopping center included on the plat, that included 34,800 sq.ft. of retail space within three buildings.

1756

In discussing the liabilities of the site, Mr. Owen stated they had been able to create assets from them. The required drainage area was turned into an open, landscaped walking trail throughout the site, with a fishing lake, clubhouse, volleyball courts, tennis courts, parking lot and pool, with extensive use of prairie grass and sumac vegetation. There will be one drainage retention pond.

Mr. Owen added the one remaining problem with the site was the railroad. Neighbors from Camden Woods and Steeplechase had brought it to the developer's attention during the interact meetings. He stated he believed the problem could be solved with an automatic horn system (AHS). Mr. Owen stated that the applicant, David McIntyre, had pledged \$300,000 to the City to offset the cost of putting in the AHS. Under the National Railroad Act, trains do not have to blow their whistles when the AHS is used. He advised that private developers did not have any standing to talk to the railroad about the use of the AHS; the City of Leawood and the City of Overland Park would need to make the request. Mr. Owen suggested forming a Benefit District.

2005

Mr. Owen stated that within the Stipulations, Mr. McIntyre had additionally agreed to pay \$452,142.64 in contributory impact fees.

David McIntyre, 9241 W. 143<sup>rd</sup> Terrace, Overland Park, developer, presented a variety of reports that had been done, including several traffic feasibility studies an environmental study, and a financial viability study, to insure the project was advisable. He stated the first houses would be ready to be occupied in October 2005, should they receive Governing Body approval tonight. This would coincide with the building of a new Blue Valley grade school in 2004, and a recommendation by the Blue Valley Facility Planning Committee for two additional elementary schools to be built in 2006 and 2007.

2512

Mr. McIntyre addressed the issue of railroad noise, stating the two-story shopping center building was planned as a noise buffer. He stated that unless the project was approved from which he would be able to fund his pledge, he would not be able to pledge money for the AHS. He stated Overland Park had suggested putting in a bridge and overpass at Kenneth Road and 151<sup>st</sup> Street. The Union Pacific had mentioned realigning the railroad with State Line Road.

2640 Steve Hughes, 13101 Lamar, Overland Park, real estate consultant in appraisals and market analysis of new home subdivisions, stated the density of the project was within the norms of what one would expect in Johnson County and the financial viability was sound. It was his professional opinion that the project would work.

2720 Councilmember Rasmussen confirmed with Mr. McIntyre that the proposed bridge over the flood plain would be a public street with the bridge acquired by the City. Mr. McIntyre also stated the homes association would be responsible for the maintenance of the two ponds once it was set up, with the developer maintaining them until that time. The homes association would need to decide if the assessments paid by the home owners would be adequate to maintain the ponds, but the developer would not leave the homes association with any deficit in regards to that maintenance. Diane Binckley added that Stipulation No. 26 required the applicant to establish a funding mechanism to be in place for maintenance-related items.

Councilmember Rasmussen questioned the design of the railroad crossings. Scott Lambers replied that the current status of the railroad crossings would not be at an acceptable standard in the future, and the roads, when reconstructed, would need to have bridges installed. Overland Park would prefer to see Kenneth Road realigned to avoid having to put in a significant bridge over the waterway along the tracks. Leawood would share the funding with Overland Park of any crossing over Kenneth Road. The project proposes the 151<sup>st</sup> Street and Kenneth Road realignment could occur at a subsequent date given the phasing of this project. Councilmember Rasmussen confirmed with Mr. Lambers that the necessary easements would be obtained for the Kenneth Road expansion when it was ultimately developed, and the developer would obtain them.

2969 Mr. Owen stated the reason the SD-NCR was left for the final phase was because until the project was built, there would not be the demographics to support it. He advised that they understood that Leawood did not have a future growth problem, however, Overland Park would have significant growth with no money budgeted for this project.

3115 Councilmember Gill asked that no action take place on this project until the next scheduled Governing Body meeting on March 1<sup>st</sup>. Councilmember Bussing, who was the councilman of the ward in which this project was in, should be in attendance that evening. Postponement would allow Councilmember Bussing to have a chance to review the information given tonight. Mr. McIntyre advised that a two-week delay would not prevent him from meeting his contract deadlines.

Councilmember Gill confirmed with Ms. Binckley that the 2.6 dwelling units per acre included the open space, but not the right-of-ways. With the inclusion of the right-of-ways, the dwelling units per acre were 2.3. When taking the non-developable property out of the equation, the dwelling units per acre were 2.79. This project would be slightly higher in density than other similar developments.

Councilmember Gill questioned the reasoning behind the several deviations in the project. Ms. Binckley stated there was a combination of reasons, including setback deviations to the RP-2 lots to give a courtyard-feel to the design and allow for a larger green space. Councilmember Gill confirmed with Mr. Lambers that the west entrance from Ironwoods Park would incorporate a gate onto City property that would be controlled by the City; the developer would provide a turnabout for subdivision use when the gate was closed.

3600 Mr. McIntyre explained to Councilmember Gill that the nine acres reclaimed from the flood plain were actually backwater and standing water flood plain areas that were to be backfilled. The grading would allow the water to drain into the flood plain area that would not be developed. Harold Phelps, of Phelps Engineering, 1270 N. Winchester, Olathe, KS, stated that this reclaimed area would not cause flooding for owners of homes on the property.

3755 Councilmember Gill questioned the cost of the AHS. Mr. McIntyre stated they had been unable to get that type of information from Union Pacific; the City would need to make a request to the railroad for cost information. He stated he was adding \$800 per lot to the project to fund his contribution. Councilmember Gill asked that Ms. Binckley pursue this information with the railroad before this issue was discussed again. He then asked about the vibration of the trains. Mr. McIntyre stated the vibration occurred when the train started up from a stop, when the diesel engines were started. Councilmember Gill asked Ms. Binckley to also get information concerning maintenance costs associated with the bridge.

3955 Councilmember Dunn asked the location of the pond and lake that would be available to the residents, and Mr. Owens identified the locations of these features on the plan, as well as the walking trails. Councilmember Dunn advised Ms. Binckley the items listed in Stipulation No. 26 as being water features maintained by the developer needed to be carefully identified, and that funding be in place for the maintenance. Mr. Owen acknowledged that at least one of the lakes would need to be inspected for viability by the State. He stated these costs were developer expenses.

4141 Councilmember Taylor stated he had received many emails in opposition to this development, with density as the main issue. He asked what the price range would be per unit. Mr. McIntyre stated the single-family housing (RP-1) would range from \$350-550,000. The villas would be approximately \$210,000. Councilmember Taylor confirmed with Ms. Binckley that the units per acre, allowing for the right-of-ways and open space, were 2.38 and 2.39.

4320 Councilmember Taylor asked Mr. Lambers if the City planned to budget for the Kenneth Road improvements in the CIP. Mr. Lambers replied that the developer would participate along with Leawood and Overland Park in the improvement. In the first phase of the development, Kenneth Road would be improved just south of the north entryway into the project with the balance not taking place for many years. Currently, there was nothing budgeted in the CIP for Kenneth Road to be completed south of the improvement to the southern City limits. The City would collect the impact fee from the developer for that improvement and put it into escrow. Leawood would not participate in the improvements that lay within the city limits of Overland Park.

4435 It was pointed out to Mr. McIntyre by Councilmember Taylor that existing subdivisions could be in competition with LeaBrooke for homes in similar price ranges but without the noise problem. Mr. McIntyre confirmed that he was satisfied that he would be able to sell 50-60 units per year despite the noise issue.

4552 Councilmember Taylor addressed the issue of the train noise, listing the whistle blowing locations from Bannister and Troost Roads in Kansas City, MO to 151<sup>st</sup> Street and Kenneth Road, all of which he could hear from his home at 126<sup>th</sup> Street and Roe in Leawood. He questioned how Mr. McIntyre proposed to eliminate the noise from as far away as Bannister and Troost. Mr. McIntyre stated the AHS would eliminate the noise at 151<sup>st</sup> Street and Kenneth, and also at 148<sup>th</sup> Street and Kenneth. The main brunt of the noise would be dissipated within 2,500 feet.

4721 Councilmember Taylor asked Mr. McIntyre what he would include in the Benefit District. Mr. McIntyre stated that anyone within 2,500 feet would participate in the Benefit District, acknowledging that these participants would be in both Leawood and Overland Park. Councilmember Taylor advised Mr. McIntyre that he would need to petition both cities concerning this Benefit District.

4776 Councilmember Dunn stated he would be reluctant to make any decision tonight on a project outside his ward without both Councilmembers from that ward present. He confirmed with Mr. McIntyre that if a decision were made within two weeks, he would still be within the limits of his contract.

Tape 619 Mayor Dunn called on the citizens who had signed in to speak on this issue.

16

Janice Barbosa, 2917 W. 144<sup>th</sup> Terrace, stated she lived in Camden Woods. When they were building their home there, they were told by the Planning Department at City Hall that the Comprehensive Plan had just been revised and the LeaBrooke area was zoned for low density, single-family housing. When Ms. Barbosa asked if the Plan was binding, she was told, "No, but the City of Leawood looks after its homeowners." As the last major piece of land Leawood would be developing, the City should reconsider the type of legacy it would be leaving. Ms. Barbosa also discussed the issue of railway noise.

Tom Nocita, 14445 Meadow Court, Villas of Camden Woods, reconfirmed Ms. Barbosa's statement that when he bought his home, the Planning Department had told him the LeaBrooke area would be zoned RP-1 low density. He added he was opposed to the multi-family concept, was concerned with the noise and vibration of the railroad, and the dangerous hill at 143<sup>rd</sup> Street and Kenneth Road. He suggested first getting the infrastructure improved for a larger traffic flow before developing the property.

317 John Hill, 14463 Chadwick, Camden Woods, reiterated the problem of the train noise and how it would affect sales of the new homes.

Richard Rhodes, 14261 Granada Court, of Acuff and Rhodes Residential Development, stated he would attest to Mr. McIntyre's character as true to his word. Mr. Rhodes also pointed out that he believed the villa density of the Villas of Camden Woods was higher than those proposed for the LeaBrooke site.

Mike McCaw, 3541 W. 143 Terrace, Steeplechase, stated his subdivision was concerned with the traffic flow through their community, specifically on Windsor Drive. He would like to have a traffic study done with real numbers showing the impact on Steeplechase and street configuration changes that would discourage traffic flowing into their neighborhood. Mr. McCaw stated he would like to see density numbers for LeaBrooke. He also questioned the feasibility of diminishing the train noise.

633 Mr. Owen stated his team was the only one that had done investigation on the railroad noise. He reiterated that the City would need to contact the Union Pacific to discuss the AHS.

Councilmember Taylor left the Council Chambers at 9:52 P.M. and returned at 9:54 P.M.

Mr. Owen addressed the issue of improving the infrastructure by stating they were providing the funding for the Kenneth Road improvement. On the issue of the definition of "low density residential," Mr. Owen stated the Comprehensive Plan defined it as 3.63 units per acre; LeaBrooke was at 2.39 units per acre. Camden Woods was 2.16 units per acre. LeaBrooke was asking for the same variances that were granted to Camden Woods in terms of side-yard setbacks. On most of the variances, requests were to allow for more and varied architectural presentations on homes, more side entry garages, and for three-car garages.

710 Councilmember Gill made the motion that no further action be taken on this Item until the March 1<sup>st</sup>, 2004 Governing Body meeting. Councilmember Gullede seconded the motion, and the motion passed unanimously, 6-0-0.

- 750            **B.    Ordinance No. 2044 approving a rezoning from SD-O [Planned Office] to SD-CR [Planned General Retail] and SD-CR [Planned General Retail] to SD-O [Planned Office], preliminary site plan and preliminary plat for 135<sup>th</sup> & Roe Office Retail Development located on the northeast corner of 135<sup>th</sup> Street and Roe Avenue [Roll Call Vote]**

Applicant Chuck Peters, Peters and Associates, 9990 College Boulevard, Overland Park, stated he was submitting a revised preliminary plan for a 34-acre development mixed with 112,000 sq.ft. retail and 202,000 sq.ft. office space. The property is currently zoned SD-CR (Planned General Retail) and SD-O (Planned Office). The rezoning request is to maintain the same zoning category, but change the zoning lines. He stated the scale was similar to that of Hawthorne Plaza, with the same clientele sought. Mr. Peters stated the new plan addressed all of the concerns that David Ley reviewed in his letter of February 6, 2004.

Mr. Peters asked that it be shown that the Planning Commission approved the construction of the offices space ahead of the retail in Stipulation No. 31 [*No building permit for any construction on retail pad sites or out lots shall be issued until the principal shopping center buildings have been approved and their construction started. All buildings on out parcels or pad sites will conform to the architectural style of the principal center buildings as set forth by the developer and recommended by the Planning Commission and approved by the Governing Body*]. Ms. Binckley stated that “retail pad sites” or “out lots” had been added, which, in the Planning Commission’s mind, indicated the office would be able to go forward before the retail. She advised further clarification could be added in.

Mr. Peters also advised the Planning Commission had agreed to prorate the public improvements and not do all the public improvements prior to any construction, as stated in Mr. Ley’s letter, Item No. 10 [*Certificates of Occupancy shall not be issued for any building until all public improvements have been completed*]. Ms. Binckley replied that after meeting with Mr. Ley, it was decided that as portions of the development came in, evaluation of the public improvements would be made and the applicant would be advised of the requirements for each phase of the development. Ms. Binckley stated that Stipulation No. 27 could be amended to reflect this change.

1225            Councilmember Gulledge confirmed with Mr. Peters that the developer would assume the maintenance of the property. Discussion ensued concerning adding language to Stipulation No. 10 to reflect the maintenance agreement. Councilmember Gulledge asked about construction traffic on 133<sup>rd</sup> Street. Ms. Binckley stated that truck traffic would not be allowed on Mission Road, but would be on 133<sup>rd</sup> Street.

Mayor Dunn questioned Mr. Peters concerning the name of the project, stating no name was indicated. Mr. Peters stated they did not wish to name it until more thought could be put into the name.

- 1330 Councilmember Gill asked Mr. Peters if the stormwater issues had been resolved and the residents of Wilshire Estates would not be affected from runoff water from this project. Mr. Peters indicated that the stormwater engineer, Sterling Cramer with Olson Associates, 8301 State Line Road, Kansas City, MO, had also been the engineer for Wilshire. Mr. Peters advised that stormwater issues were being looked at, with the plan being to detain all the water onsite, predominantly underground. Councilmember Gill asked if any tenants or tenant profiles could be disclosed. Mr. Peters replied that more than 60% of both the office and retail property was under contract. Councilmember Gill stated he liked the office plan but wondered if the retail pad sites could be upgraded. Mr. Peters stated they were looking for upper scale restaurants or jewelry stores, and were not supportive of fast-food tenants.
- 1498 Councilmember Taylor asked Mr. Peters to discuss in more detail the stormwater control.
- Councilmember Dunn left the Council Chambers at 10:20 P.M. and returned at 10:23 P.M.
- Mr. Peters indicated on the plan the two watershed areas. He stated some of the detention would be done in the landscaped, open areas, with additional detention in underground pipes.
- Councilmember Taylor confirmed with Ms. Binckley that there would be no break in the median to allow traffic flow between this project and the Sailors' project. Councilmember Taylor discussed the sunset clause with Ms. Binckley, confirming the new Leawood Development Ordinance (LDO) allowed a development two years to begin once the preliminary site plan was approved.
- 1652 Councilmember Gullledge asked Mr. Peters his opinion as to why flooding occurred previously to residents in the area. Mr. Peters stated Mr. Ley had suggested that grading south of 133<sup>rd</sup> Street could have settled. With some foundation grading, runoff near homes could be improved. Mr. Peters advised that based on their input, the flow rates would not change, and there was nothing other than proper grading that needed to be done in the project to prevent flooding in the future.
- 1710 Ron Browne, 13217 El Monte, Wilshire, stated that having attended many meetings pertaining to Leawood's development since 1995, that Ms. Binckley was incorrect, and that somewhere it should be recorded that no truck traffic (i.e. supply vehicles) was to be allowed on 133<sup>rd</sup> Street between Roe Avenue and the school, nor on 132<sup>nd</sup> Street. He advised signs were supposed to have been erected to that effect, but it had not been done. Mr. Browne asked for extra berming on the south side of 133<sup>rd</sup> Street behind the Building E pad. He also advised that his home had been flooded four times.

Mayor Dunn questioned Ms. Binckley concerning the truck traffic issue that Mr. Browne mentioned. Ms. Binckley indicated she had only researched the final document for the Price Chopper site but would research further, with any new information provided at the final site plan. On the berming request, Ms. Binckley stated berming would be provided for the parking lot. Mr. Peters stated they were willing to work with Planning and Brick Owens of HNTB to provide adequate landscaping.

2006 Sterling Cramer addressed the issue of stormwater. He stated his company had written the drainage study, and assured the Governing Body that no additional water would be put onto 133<sup>rd</sup> Street or onto Roe Avenue as a result of this development. Councilmember Gullege stated he felt it necessary to investigate the area around the Browne's home before final site for potential flooding.

2051 Councilmember Taylor made a motion to approve the application, with the modification of Stipulation No. 27, to read in conjunction to the memo dated February 6, 2004, from David Ley as explained by Ms. Binckley. Councilmember Rasmussen seconded the motion. A Roll Call vote was taken, and the motion passed unanimously, 6-0-0.

2103 C. **Ordinance No. 2045 approving a Preliminary Site Plan and Preliminary Plat for Luke Professional Park located on the southwest corner of Kenneth Road and Kenneth Parkway [Roll Call Vote]**

The developer, Jay Lucas, Lucas Development L.L.C., 12525 Antioch, Overland Park, requested the approval of a preliminary plat and preliminary site plan for a 11,109 sq.ft. doctors office building, at the corner of Kenneth Road and Kenneth Parkway. He mentioned there would be an underground water detention area on site. The applicant, Daryl Carter, ACI/Boland Inc., 11229 Nall, Leawood, gave a presentation on the project, with some of the highlights being a future walkway/bike path, extensive landscaping and a 5-6 ft. limestone retaining wall on the southern end.

Councilmember Taylor suggested to Mr. Carter that there be solid screening material as opposed to landscaping to conceal the building's condenser units. Ms. Binckley stated that requirements concerning the concealment would be discussed at the final site plan. Ms. Binckley advised Councilmember Taylor that the adjoining project, Leawood Market Center, had a more retail look, but the materials would be the same within each project. He questioned why the Market Center had not been required to have a stormwater detention area. Ms. Binckley stated at the time the plan was submitted, there had been different standards. Those had since changed.

2674 Councilmember Gill confirmed with Ms. Binckley that the entire property would be the same small retail center plan that had been seen before, with the exception of the deletion of the Madden-MacFarland business on the corner.

Councilmember Dunn made a motion to approve the Ordinance with the condition of agreeing to put in the screening wall if the Planning Staff deems it necessary at final plan. Councilmember Rasmussen seconded the motion. A Roll Call vote was taken, and the motion was approved unanimously, 6-0-0.

2761

**D. Ordinance No. 2046 approving a 5-year Special Use Permit to allow the continued use of Cingular Cellular Tower located at 10515 Mission Road [Roll Call Vote]**

Councilmember Rasmussen asked if there had been any problems in maintaining the landscaping and wall around their tower. Ms. Binckley indicated there was a person to contact should any problems arise. He asked if there were plans to install a platform. Ms. Binckley replied Nextel already had a platform, and no other changes were planned.

Councilmember Taylor asked if the screening of the wall around the base of the tower could be improved. Curtis Holland, Esq., 6201 College Boulevard, Overland Park, attorney for the applicant, stated that in previous discussions on this issue, it had been decided that rather than making the wall appear more massive by more man-made screening, the landscaping would be allowed to grow up and become a more natural screening. Councilmember Taylor encouraged the applicant to put on a small roof or shield to hide the rooftops of the buildings inside the tower.

Councilmember Gill made a motion to approve the Ordinance. Councilmember Gullege seconded the motion. A Roll Call vote was taken, and the Ordinance was passed unanimously, 6-0-0.

2994

**E. Ordinance No. 2047 approving a 5-year Special Use Permit to allow the continued use of A.T. & T. Cellular Antenna located at 10515 Mission Road [Roll Call Vote]**

Councilmember Taylor advised he was suggesting the same comment as he made previously.

Councilmember Gill made a motion to approve the Ordinance. Councilmember Dunn seconded the motion. A Roll Call vote was taken, and the Ordinance passed unanimously, 6-0-0.

3019

**F. Ordinance No. 2048 approving a 5-year Special Use Permit to allow the continued use of Sprint Cellular Antenna located at 10515 Mission Road [Roll Call Vote]**

Councilmember Taylor advised he was suggesting the same comment as he made previously.

Councilmember Gill made a motion to approve the Ordinance. Councilmember Dunn seconded the motion. A Roll Call vote was taken, and the Ordinance passed unanimously, 6-0-0.

3047           **G.     Ordinance No. 2049 approving a 5-year Special Use Permit to allow the continued use of Nextel Cellular Antenna located at 10515 Mission Road [Roll Call Vote]**

Mayor Dunn advised that an additional stipulation had been suggested. Councilmember Taylor advised he was suggesting the same comment as he made previously.

Councilmember Dunn made a motion to approve the Ordinance with the additional stipulation to require a new study be performed prior to the next 5-year SUP renewal. The study shall review Nextel's technology and determine whether the slim line antenna can be used due to potential changes in technology. Councilmember Gullede seconded the motion. A Roll Call vote was taken, and the Ordinance passed unanimously, 6-0-0.

3140   **12.    OLD BUSINESS - None**

3142   **13.    NEW BUSINESS**

**A.    Approve Change Order No. 19, for an amount not to exceed \$28,186.06, to Vanum Construction, Inc., pertaining to the Ironwoods Park Improvement Project, 14701 Mission Road [CIP # 116]; and FLan Park Improvement Project 12601 Nall Avenue, [CIP# 111]**

Councilmember Gullede asked Mr. Lambers if there would be any further Change Orders. Mr. Lambers stated the project was almost done, with the Park opening in March, and every weekend reserved for activities from that point through November.

Councilmember Gill made a motion to approve the Change Order. Councilmember Rasmussen seconded the motion, and the motion was approved unanimously, 6-0-0.

**14.    OTHER BUSINESS - None**

**15.    ADJOURN**

There being no further business, the meeting was adjourned at 11:00 P.M.

---

Debra Harper, City Clerk

Emily Gleasure  
Recording Deputy City Clerk

