

Minutes

DVD No. 108

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, September 20, 2004. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Gregory Peppes, James E. Taylor, Sr., Louis Rasmussen, Mike Gill, Gary Bussing, and Scott Gulledge.

Councilmembers absent: Debra Filla.

Staff present:

Scott Lambers, City Administrator
Joe Johnson, Public Works Director
Diane Binckley, Planning & Develop. Director
Ben Florance, Chief, Fire Department
Stephanie DeLoach, Deputy City Clerk

Patty Bennett, City Attorney
Chris Claxton, Parks & Rec Director
Sid Mitchell, Chief, Police Department
Deb Harper, City Clerk
Mark Andrasik, Info. Systems Director

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated that Deb Harper, City Clerk would make an introduction under Item "5" Presentations/Recognitions. An additional item would be added under Item "6" Special Business. Item "6A" will be the presentation from Pat Dunn and Item "6B" will be a presentation from Johnson County Commissioner Ed Peterson. The continuance date for Item "11A" would be November 15, 2004 rather than October 18, 2004. Mayor Dunn stated that Item "13A" and "13E" would be switched under New Business. With those revisions, a motion was made by Councilmember Rasmussen, seconded by Councilmember Taylor to approve the agenda. The motion carried following a unanimous vote of 7-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

Mr. Mike Shahrokhi, 12312 Pawnee Lane, made comments regarding loud stereo systems from vehicles in his neighborhood. Councilmember Taylor asked what particular ordinance would pertain to this situation. Patty Bennett, City Attorney stated that she would review the noise ordinance.

Mr. Jeff Nessel, 12012 Ensley Lane, made comments regarding Councilmember Rasmussen's request on controlling deer in the City of Leawood at the previous council meeting on September 7, 2004.

Mr. G. Gordon Thomas, 10516 Mohawk Lane, made comments regarding conflict of interests and on Item "13F" [rezoning issues for property located at 8901 Sagamore, Leawood Country Club, Estates of Old Leawood].

4. PROCLAMATIONS

Mayor Dunn proclaimed **October 10, 2004 as Double Tenth Day** in the City of Leawood.

Mayor Dunn recognized **October 2004 as Visual Arts Month** in the City of Leawood.

Mayor Dunn also recognized **September 17-23, 2004 as Constitution Week** in the City of Leawood.

5. PRESENTATIONS/RECOGNITIONS -

Deb Harper, City Clerk, introduced Stephanie DeLoach as the new Deputy City Clerk for the City of Leawood.

6. SPECIAL BUSINESS

A. Presentation of NCCJ Walk As One Event [to be held on Sunday, October 3, 2004] by Pat Dunn and Alice Hawk

Pat Dunn, 2018 W. 91st Street, made a presentation on behalf of the National Conference for Community and Justice formerly known as the National Conference of Christians and Jews [NCCJ]. The NCCJ was formed in 1927 with a primary purpose to fight against bias, bigotry and racism in America by sponsoring events in the community. On October 3, 2004, NCCJ will host the 2nd Annual Walk As One event. The walk is being sponsored by the City of Kansas City, MO, City of Gladstone, MO, City of Leawood, and the Leawood Foundation. The 5K walk will begin at the Liberty Memorial with sign in at 1:00 p.m. and the walk starting at 2:00 p.m.

Alice Hawk, Leawood Foundation Chairwoman encouraged everyone to participate.

B. Presentation of Johnson County's 2005 Budget Summary by Commissioner Ed Peterson

Commissioner Peterson distributed copies of the County's 2005 Budget Summary and stated the County's Budget had been approved for 2005, and wanted to give area cities an overview of the County's Budget objectives. Commissioner Peterson stated that the funding for the CARS program stayed at \$15.4 million, and was not increased for the

year 2005. The need for maintaining these roads is increasing. Commissioner Peterson encouraged more municipal input on this issue for next year.

Commissioner Peterson stated that the county facilities would need to be modified in the near future to accommodate growth. This will be a five to seven year project at an approximate cost of \$200 million. The county is looking for a dedicated revenue source for this project, and encouraged involvement as a community to discuss funding possibilities.

Councilmember Taylor asked what the bonding period would be for maintaining a ¼ of a mill for funding the construction of the county facilities. Commissioner Peterson stated that he would anticipate 15 years depending on interest rates and the increase would be approximately two or three mills or a ¼ of a cent sales tax.

Councilmember Bussing asked if the Storm Water Management Program [SMAC] was increased in the 2005 budget. Commissioner Peterson stated that the funding increases each year based upon sales tax. Commissioner Peterson stated that the Storm Water Management Advisory Council is conducting a study to focus on forming a storm water utility basin. SMAC does not generate enough money to deal with big projects and will have to find another source of funding in the future.

Councilmember Bussing asked if there was funding in the budget for work on the Sunflower development. Commissioner Peterson stated that there is a small amount of funding to deal with the administrative costs, but most of the costs will be at the expense of the developer.

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. 1008
- B. Accept Minutes of the September 7, 2004, Governing Body meeting
- C. Accept Minutes of the August 3, 2004, Parks and Recreation Advisory Board meeting
- D. Approve issuance of Temporary Alcohol Permit to sell/serve alcoholic liquor for the Fundraiser for Durwood Educational Scholarship Fund, to be held at 11701 Nall [AMC Movie Theatre] on October 14, 2004
- E. Approve purchase of a 2004 Ford Explorer in the amount of \$22,127.00, from Shawnee Mission Ford
- F. **Resolution No. 2293** consenting to the enlargement of Consolidated Main Sewer District of Johnson County, Kansas, [JCUWD] by the Board of County Commissioners of Johnson County, Kansas [BOCC], pursuant to Johnson County Charter Resolution No. 29-92, for property located in the vicinity of 145th Terrace and Kenneth Road

- G. **Resolution No. 2294** relating to benefits obtainable by cities under program for Federal Aid on highway construction, pertaining to the Nall Avenue Improvement Project [between 135th Street and 143rd Street] CIP # 139]
- H. **Resolution No. 2295** approving and authorizing the Mayor to execute a Software Agreement between the City and Intergraph Public Safety, Inc., in the amount of \$31,700, pertaining to the Intergraph Software System [Livescan Interface] for the Police Department
- I. Police Department Monthly Report
- J. Fire Department Monthly Report
- K. Municipal Court Monthly Report

A motion was made by Councilmember Rawlings, seconded by Councilmember Rasmussen to approve the Consent Agenda. The motion carried by a unanimous vote of 7-0.

8. MAYOR'S REPORT

- A. Attended the Mayor's panel for the Senior Leadership of Johnson County's programs sponsored by the Volunteer Center of Johnson County to report on items of interests and volunteer opportunities. The Mayor of Mission Woods stated that there has not been one contested race or one divided vote in his nine years as mayor.
- B. Expressed appreciation to Colleen Browne, Human Resources Director, for organizing the United Way Kick-off Luncheon on September 10, 2004 and thanked all those who participated.
- C. Congratulated Liz Hoyt, Chair of the Leawood Stage Company for the successful Red, Hot and Cole series. Expressed appreciation to Jerry Snider with the Parks and Recreation Department for his assistance.
- D. Moderated Shughart, Thomson & Kilroy's fall symposium question and answer session entitled "All about Arts" at Johnson County Community College, with Paul Sorvino as the keynote speaker.
- E. Attended a recognition luncheon sponsored by Commerce Bank and the William T. Kemper Foundation honoring Stu & Diane Sharp with a community service award.
- F. Reminded the Council of the Special Call Meeting on Monday, September 27, 2004 at 6:00 p.m. with an Executive Session immediately following to discuss a personnel matter.
- G. Extended happy birthday wishes to Councilmember Taylor.

9. COUNCILMEMBERS' REPORT - None

10. STAFF REPORT- None

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[from the August 24, 2004, Planning Commission Meeting]

- A. Ordinance approving a Special Use Permit, [SUP] Preliminary Site Plan and Preliminary Plat for Sunrise Senior Living located south of 115th Street and east of Roe Avenue [Roll Call Vote] – *[Continued to the November 15, 2004 Governing Body Meeting, at the request of the applicant]***
- B. Ordinance No. 2079 approving a 2-year Special Use Permit [SUP] for Nextel Antenna Site located at 5200 W. 135th Street [Roll Call Vote]**

Joe Dubinski of Bryan Cave Law Firm, 1200 Main Street, Kansas City, MO, stated that Nextel is requesting a two-year renewal of an existing Special Use Permit [SUP] for their wireless telecommunications. The antenna site is located at 5200 W. 135th Street and is shared with Sprint, Cingular, Verizon and TMobile. Nextel's wireless antenna is located at the 110-foot level. This site is vital to Nextel to continue providing service to their customers. The Planning Commission has recommended approval of this two-year renewal request. An interact meeting was held and no objections to the project were made.

Councilmember Taylor asked when the tower was scheduled to be removed. Diane Binkley, Planning and Development Director stated that the Special Use Permit for the existing tower and other antennae would expire on September 16, 2006.

A motion was made by Councilmember Gill, seconded by Councilmember Peppes to pass the ordinance. The ordinance passed following a unanimous roll call vote of 7-0.

- C. Ordinance No. 2080 approving a Special Use Permit [SUP] Preliminary Site Plan and Preliminary Plat for Doctor's Specialty Hospital Expansion located at 5001 College Boulevard [Roll Call Vote]**

Chuck Peters with Peters & Associates, 9900 College Blvd., Overland Park, Kansas requested approval for expansion of the Doctor's Specialty Hospital located at 5001 College Blvd. An interact meeting was held with no objections.

Mayor Dunn asked why additional parking was requested beyond the required amount. Mr. Peters stated that the request is reasonable according to parking space required for medical buildings.

Councilmember Gill asked if the property is a hospital and if so, is it zoned for a hospital type facility. Diane Binkley stated that the City requires a special use permit for this hospital type facility. Mr. Peters stated that the Doctor's Specialty Hospital is a 10-bed unit that handles orthopedic, plastic surgery and obesity. They do not handle emergency care.

A motion was made by Councilmember Gullede, seconded by Councilmember Peppes to pass the ordinance. The ordinance was passed following a unanimous roll call vote of 7-0.

12. OLD BUSINESS - None

13. NEW BUSINESS

- A. Ordinance No. 2081 appropriating the amounts set up in each fund in the budget for Fiscal Year 2005, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts [Roll Call Vote]**

Mayor Dunn asked if the listing of appropriations would be submitted to the City Council on the same schedule as they are now. Scott Lambers, City Administrator stated that the Council would still receive the listing of appropriations, but the checks would be released as they are processed.

Councilmember Gill stated that he is opposed to this ordinance because he feels it is an internal control of the Council's review. Councilmember Bussing stated that he is in favor of this ordinance because it will improve the efficiency of the operations of the City and reviewing this level of detail is an inappropriate use of the Council's time.

A motion was made by Councilmember Rasmussen, seconded by Councilmember Peppes to pass the ordinance. The ordinance was passed by the following 5-2 Roll Call Vote: Yea: Councilmembers Bussing, Rasmussen, Peppes, Rawlings and Gulledge; Nay: Councilmembers Taylor and Gill.

- B. Resolution No. 2296 approving and authorizing the Mayor to execute a Community Service Agreement between the City and Blue Valley Unified School District No., 229, pertaining to the assignment of School Resource Officers [SRO]**

A motion was made by Councilmember Gill, seconded by Councilmember Gulledge to approve the resolution. The resolution was approved following a unanimous vote of 7-0.

- C. Ordinance No. 2082C amending Sections 14-101 through 14-107, and adding new Sections 14-108 and 14-109, of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating traffic within the corporate limits of the City of Leawood, Kansas; incorporating by reference the 'Standard Traffic Ordinance for Kansas Cities, 2004 edition' [STO] with certain amendments, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, and K.S.A. §12-3301 and 12-3302; repealing existing §14-101 through 14-107; and other sections in conflict herewith [Roll Call Vote]**

A motion was made by Councilmember Rasmussen, seconded by Councilmember Taylor to pass the ordinance.

Councilmember Gill asked which items were variances from the Standard Traffic Ordinance. Patty Bennett, City Attorney stated that any changes are contained within the ordinance and most of these are clarifications. Councilmember Gill suggested a presentation to the Council in the future on the municipal court system.

The ordinance passed following a unanimous roll call vote of 7-0.

- D. Ordinance No. 2083C amending Sections 11-101 through 11-106, adding new Sections 11-107 through 11-109, of the Code of the City of Leawood, Kansas, 2000, pertaining to regulating public offenses within the corporate limits of the City of Leawood, Kansas; incorporating by reference the ‘Uniform Public Offense Code for Kansas Cities, 2004 edition’ [UPOC] with certain amendments and omissions, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, and K.S.A. §12-3301 and 12-3302, and repealing existing §11-101 through 11-106, and other sections in conflict herewith [Roll Call Vote]**

A motion was made by Councilmember Rasmussen, seconded by Councilmember Taylor to pass the Ordinance. The ordinance was passed following a unanimous roll call vote of 7-0.

- E. Ordinance No. 2084C authorizing the creation of a Transportation Development District [TDD] in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefore [Roll Call Vote]**

A motion was made by Councilmember Rasmussen, seconded by Councilmember Taylor to pass the ordinance.

Jeff Alpert, Park Place Partners, LLC, made a presentation of the Transportation Development District [TDD]. The TDD is bounded by Town Center Drive, Nall Avenue and 117th Street. The proposed project is for two 7-level parking structures with approximately 700 spaces each. The parking structures will allow for elimination of vast areas of asphalt, greater areas of green space, and emphasize the pedestrian over the automobile to create a vibrant, energetic place. The estimated cost for the parking structure is \$18.5 million with a maximum of \$12.5 million financed through TDD and a maximum of \$11.3 million applied to the construction costs. The proposed method of financing will be from Special Obligation Bonds to be amortized by revenue received from a TDD Sales Tax of up to 1% of all retail sales and a special assessment levied against all property located within the district. The bonds would be privately placed and sold to institutional investors, Park Place Partners LLC and/or related affiliates and other investors satisfactory to the Governing Body. The prerequisites for funding are a minimum of 120,000 square feet of retail space opened and operating for three months, receipts for not less than three months of retail sales received by the State, and an analysis of future sales tax revenues would be performed by an independent consultant.

Patty Bennett, City Attorney, clarified that the third option to place bonds with other investors satisfactory with the Governing Body has been removed from the Petition.

The Ordinance passed by a unanimous roll call vote of 7-0.

F. Schedule a Special Call Governing Body meeting on Monday, October 25, 2004, to discuss rezoning request for property located at 8901 Sagamore [Leawood Country Club] [Estates of Old Leawood]

Mayor Dunn stated that it is very important for all Councilmembers to be present at this meeting. Councilmember Bussing stated that he would be out of town on October 25th. Scott Lambers, City Administrator suggested discussing this issue at the regular November 1, 2004 Governing Body meeting.

Motion from Councilmember Gulledge, seconded by Councilmember Gill to begin the regularly scheduled council meeting on November 1, 2004 at 7:00 p.m. The main topic on the agenda would be to discuss the rezoning request for property located at 8901 Sagamore. The motion was approved by a vote of 7-0.

14. OTHER BUSINESS

Mayor Dunn asked if the city attorney could review the noise ordinance. Scott Lambers, City Administrator stated that he has dealt with this issue before and it is a very difficult regulation to enforce. Most cities use a distance method with a decibel-measuring device.

ADJOURN

There being no further business, the meeting was adjourned at 9:03 p.m.

Debra Harper, CMC, City Clerk

Stephanie DeLoach
Recording Deputy City Clerk