

**Minutes**

DVD No. 117

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 21, 2005. Mayor Peggy Dunn presided.

**Councilmembers present:** Jim Rawlings, Scott Gullede, Mike Gill, James E. Taylor, Sr., Gregory Peppes, Lou Rasmussen, and Debra Filla.

**Councilmembers absent:** Gary Bussing

**Staff present:**

Scott Lambers, City Administrator  
Diane Binckley, P&D Director  
Chief Sid Mitchell, Police Department  
Joe Johnson, PW Director  
Mark Andrasik, IS Director

Patty Bennett, City Attorney  
Kathy Rogers, Finance Director  
Chris Claxton, P&R Director  
Deb Harper, City Clerk  
Christy Wise, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn advised that agenda item No. 7J would be pulled. Councilmember Rasmussen requested item No. 7G be pulled for discussion. A motion was made by Councilmember Gullede, seconded by Councilmember Taylor to approve the remainder of 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.**

Gordon Henke, 8901 High Drive, requested to place documents representing the 8<sup>th</sup> Annual BC Invitational Swim Meet, held June 17-18<sup>th</sup>, 1978, at the Leawood County Club, into the Leawood Historical records. Mr. Henke also expressed his concern regarding items that remain in the old Leawood Country Club and asked that efforts be made to preserve these historical items.

4. **PROCLAMATIONS - None**
5. **PRESENTATIONS/RECOGNITIONS - None**
6. **SPECIAL BUSINESS**

A. Public Hearing regarding 2006-2010 Capital Improvement Projects [C.I.P.]

Mayor Dunn noted that there have been numerous work sessions by the Governing Body regarding the 2006-2010 C.I.P. She then opened the public hearing for comments. There being no comments, a motion was made by Councilmember Rasmussen to close the public hearing, and seconded by Councilmember Gill. Councilmember Taylor stated that through prior discussion, it was his understanding that there would be a possible amendment to the 151<sup>st</sup> Street vs. 143<sup>rd</sup> Street improvements following the approval of the C.I.P. Mayor Dunn stated that it was agreed upon to place this topic on a future agenda. She stated that the approval of the C.I.P. (item No. 6B) would not preclude a future discussion on this issue. The motion was approved following a unanimous vote of 7-0.

B. Resolution No. 2368 adopting the 2006-2010 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas

Councilmember Rasmussen made a motion to approve the resolution subject to removal of the proposed administrative fee section identified in the City's Debt Management Policy (see agenda item No. 7J). The motion was seconded by Councilmember Gill. Mayor Dunn confirmed with City Administrator, Scott Lambers, that by pulling item 7J from the Consent Agenda, the proposed administrative fee portion would be removed. The motion was approved by the following 6-1 vote: Yea: Councilmembers Rawlings, Gullledge, Taylor, Peppes, Rasmussen, and Gill. Nay: Councilmember Filla.

Councilmember Filla stated that she had some concerns about the long-term capital improvements associated with the IRONHORSE Golf Course.

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. Accept minutes of the February 7, 2005 Governing Body meeting
- B. Accept minutes of the January 11, 2005 Historic Commission meeting
- C. Accept minutes of the January 11, 2005 Park and Recreation Advisory Board meeting
- D. Approve Co-op bid in the amount of \$157,553.00, from Shawnee Mission Ford for the purchase of 7 Police Vehicles

- E. Approve Co-op bid in the amount of \$17,554.00, from Raytown Dodge for the purchase of a Police mini-van
- F. Approve Co-op bid in the amount of \$9,361.90, from Laser Specialists, for the purchase of survey equipment
- G. Approve Change Order No. 1, in the amount of \$17,163.75, to Miles Excavating, Inc., pertaining to the Storm water Management Advisory Council; SMAC Project JB-04-008; Lee Boulevard to State Line and 103 to I-435
- H. Approve Change Order No. 1, in the amount of \$24,362.00, to Wiedenmann & Godfrey, pertaining to the Dykes Branch Channel Improvement SMAC DB-04-024 Project, between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- I. Approve Change Order No. 5, in the amount of \$25,344.26, to APAC-Kansas, pertaining to the Roe Avenue Improvement Project [between 124th Street and 135th Street] CIP # 110]
- J. Resolution amending the City's Debt Management Policy previously adopted on May 3, 2004, and repealing Resolution No. 2221- **THIS ITEM IS PULLED**
- K. Resolution No. 2369 requesting Johnson County, Kansas to participate in the City of Leawood's Five-Year Capital Improvement Program through the 2006-2010 County Assistance Road System [CARS] Program
- L. Police Department Monthly Report
- M. Fire Department Monthly Report
- N. Municipal Court Monthly Report

Mayor Dunn noted that some minor technical changes were done to items 7A and 7B and that item 7J had been pulled. Councilmember Rasmussen requested item 7G be pulled for discussion. A motion was then made by Councilmember Gullede, seconded by Councilmember Peppes to approve the remainder of the Consent Agenda. The motion was approved following a unanimous vote of 7-0.

- 7G. Approve Change Order No. 1, in the amount of \$17,163.75, to Miles Excavating, Inc., pertaining to the Stormwater Management Advisory Council; SMAC Project JB-04-008; Lee Boulevard to State Line and 103 to I-435

Councilmember Rasmussen inquired about the estimated cost and expenditures to date on this project. Joe Johnson, Public Works Director, responded that this project is currently on schedule with the bid. He stated that the change order amount was less than 1% of the total project cost, whereas they are typically in the 5-10% range. Mr. Johnson stated that they have made a final payment request for Phase I of this project and should be able to finalize Phase II within the next month. Councilmember Rasmussen confirmed with Mr. Johnson that the total project cost was within the estimate including a 5-10% contingency. Councilmember Rasmussen then moved to approve item 7G, which was seconded by Councilmember Taylor. The motion was approved following a unanimous vote of 7-0.

**8. MAYOR'S REPORT**

- A. Attended production of Thornton Wilder's "Our Town" by the Leawood Stage Company at Leawood United Methodist Church. Congratulated Liz Hoyt and associates of the Leawood Stage Company for a very well done presentation.
- B. Attended 44<sup>th</sup> Annual Mayors Prayer Breakfast at the Hyatt as a guest of Kansas City Mayor Kay Barnes. There were approximately 31 area mayors from surrounding counties in attendance. The mission of the breakfast was to emphasize ethics, morality and spirituality in business, labor, the professions, and government.
- C. Served on a panel discussion with a third grade class at Leawood Elementary for Government Day along with Leawood Municipal Judge Renee Gurney.

**9. COUNCILMEMBERS' REPORT - None**

**10. STAFF REPORT - None**

***COMMITTEE REPORTS***

**11. PLANNING COMMISSION**

*[from the January 25, 2005, Planning Commission meeting]*

- A. Ordinance No. 2097 approving a rezoning from AG (Agriculture) to SD-O (Planned Office), Preliminary Site Plan and Preliminary Plat for State Line Office Building located south of 127<sup>th</sup> Street and west of State Line Road [Roll Call Vote]

Diane Binckley, Planning & Development Director, stated due to the fact of a valid protest petition on this item, a 3/4 majority vote (7) in the affirmative would be needed to approve the ordinance.

Kerry Knott, applicant, an architect for Bell/Knott & Associates, made a presentation. He stated that he would be 50% owner of the facility in question along with his partners, Terri and Jerry Mancuso. He stated that the site would be located at 12730 State Line Road. Mr. Knott gave a presentation of the project with vicinity maps, aerial photos, and site plans. He stated that he is proposing a 14,141 square foot two story building with a 56 space parking area. Site enhancements will include a solid six-foot masonry fence on the south side to provide screenings for the neighbors. He stated that the drawing indicates openings in the fence at the request of the Planning staff to allow visual access and air circulation. He is willing to leave these areas open or make the fence solid, whichever the neighbors prefer. The west side also abuts a residential area and the site plan indicates a three-foot berm with heavy plantings of hedges, shrubs, and trees to create a barrier. Mr. Knott stated that most of the neighbors indicated that they would like for this area to be open, and he could certainly make these changes.

He explained that the building will set back 75-ft. from the residents to the south and significantly more than 75-ft. from the residents to the west, which is the requirement. The property has been pushed towards State Line Road to meet the requirements for parking and driveways along the frontage of the property. Mr. Knott stated that he has provided 46% open space, the required percentage is 30%.

Mr. Knott explained that the upper floor of the building will be occupied by his company, Bell/Knott & Associates. He stated that they are a full service architectural firm and will employ approximately 23 individuals. The lower floor of the building will be occupied by his partner, Terri Mancuso, who will run a high-end residential interior design, finishes, and furnishings business. He explained that his business is more commercial while Mrs. Mancuso's is residential.

Using visual aid, Mr. Knott demonstrated that the elevations of the building and the building materials (brick, cut stone, cast stone, rough-cut stone, simulated slate shingles and wood timbers) will give a residential character. He stated that the windows would be tinted glass with painted aluminum frames.

Mayor Dunn confirmed with Mr. Knott that the wall on the south would match the material and appearance of the wall currently on State Line Road. She thanked Mr. Knott for his cooperation in the changes he has made at the request of residents as well as for making his building design more residential in nature.

Councilmember Taylor asked Mr. Knott to explain his request for deviations to the north line property. Mr. Knott stated that he would like a 15-ft. parking setback rather than the standard 25-ft. setback as well as a 36-ft. building setback rather than the 50-ft. standard. He stated that the Planning staff was supportive of this as it is standard for two interior commercial parking lots. Councilmember Taylor confirmed with Mr. Knott that the property owner to the north has an adjacent parking lot. Councilmember Taylor also asked about the front yard setback. Mr. Knott stated that it would be a 50-ft. setback and reviewed the building setback dimensions as being north 34-ft., south 75-ft., and east-west 130 ft.

Councilmember Rawlings asked how the height of the two-story building would affect the sight line. Mr. Knott described the retaining wall surrounding the building as being 30-ft. and the pitch of the roof at the gabled end at 40-ft. He stated that the new design has a more residential flavor so as to relate to the surrounding areas.

Councilmember Taylor asked if the drawing of the elevations in the packets differed from the visual aids being presented tonight. Diane Binckley clarified that the packets contained the original design presented to the Planning Commission as well as a letter and additional drawings illustrating changes in elevations that were suggested by staff. She made it aware that the staff had not evaluated the updated drawings. Councilmember Taylor agreed that the new drawings had a more residential style. He also inquired about the synthetic slate to be used for the building. Mr. Knott advised that it was a polymer product and is an approved material currently in the Leawood Planning Guidelines.

Councilmember Gill inquired as to the type of business that will occupy this space. Mr. Knott explained that neither business was a drive-by type of business. The upper floor will contain the architectural firm with 19-24 employees. The lower level will be a new high-end residential interior design firm that will also sell high-end finishes and furnishings. He stated that this company has a warehouse leased in the Grandview area where shipping will occur. The proposed office space will contain display rooms, sample rooms, conference rooms, and consultation rooms. The business will employ professional designers and predominately cater to builders. Mr. Knott explained that the owner, Terri Mancuso, could not attend tonight's meeting due to surgery.

Mr. Knott stated that the 3/4 required majority vote is applicable only to the rezoning request and requested that the preliminary site plan and preliminary plat approval be voted on separately. Mayor Dunn confirmed with City Administrator Scott Lambers and City Attorney Patty Bennett that both the rezoning issue and the preliminary site plan/plat have to be voted on together. However, it was pointed out that if the rezoning issue was not passed, the preliminary plan/plat would be moot as it could not be placed on an agricultural parcel.

There being no further questions by the Governing Body, Mayor Dunn moved on to the citizen comment portion of the meeting.

#### CITIZEN COMMENTS

1. Kevin Jeffries, 2919 W. 124<sup>th</sup> Terrace, President of the Leawood Chamber of Commerce, spoke in favor of the rezoning on behalf of the Leawood Chamber of Commerce Board. He referenced a letter from the LCC Board that was distributed to the Governing Body, which outlined the reasons for their support.
2. Robert Kazmierski, 12705 Cambridge Lane, stated that his concern regarding the retaining wall along State Line Road had been addressed during the course of the meeting.
3. Karen Bayne, 12728 Cambridge Lane, speaking in opposition to the rezoning, advised that she was concerned with the appearance of the building and the retaining wall. She also stated that visibility into her home would be accessible from a two-story building and suggested that the building design be changed to one-story or 1½-story.
4. Cricket Barlow, 12724 Cambridge Lane, was also concerned about visibility into her home and stated that it would be an invasion of privacy. She was in favor of the continuous solid wall.
5. Chuck Barlow, 12724 Cambridge Lane, commended Kerry Knott for agreeing to put in the solid wall to protect the privacy of the neighbors but also suggested a lower elevation for the building, perhaps a one-story with walkout.

6. Vic Lindeman, 12711 Cambridge Lane, speaking in opposition to the rezoning, stated that concern should be placed more on the people of Leawood rather than tax dollars generated. He felt that State Line Road did not need anymore traffic.
7. Joann Farris, 12894 Cambridge Court, spoke on behalf of the Cambridge Townhouse Association and in favor of the rezoning. She felt that Mr. Knott was planning a nice building for the area and would like his request approved.

Councilmember Gill questioned the height of the existing two-story house that currently occupies the property. Diane Binckley stated that it was approximately 40-ft., the same height as Mr. Knott's proposed building. Councilmember Gill remarked on the citizen comments and said that they made very good points. He said that he was also worried about the future of State Line Road and viewed it as a challenge in terms of zoning and long-term planning. He felt that Mr. Knott's business had many positive characteristics and viewed it as a good opportunity for State Line Road. He felt that it was an important and needed project for the area, encouraging the Governing Body to vote in favor of the ordinance.

Councilmember Taylor stated that he supported Councilmember Gill's comments and inquired about the property to the north of the land in question. Diane Binckley stated that it is owned by Madden McFarland Interiors and is a similar type use to the one that the applicant is proposing for the first floor. She stated that it was zoned Planned Office (SD-O) 3-4 years ago. She stated that it was also a two-story building and has a similar site plan design.

Councilmember Taylor asked Mr. Knott if he considered the possibility of renovating the existing farmhouse on the site rather than constructing a new building. Mr. Knott affirmed that it was considered, however it would not accommodate the needs of his business. Councilmember Taylor then asked how close the existing building was to the west and south property lines.

Scott Coryell, building designer, answered that the house was approximately 55 feet from the south property line and 75 feet from the west property line. A site plan was then placed on the overhead screen. Councilmember Taylor confirmed with Mr. Knott that parking requirements could be met if the existing house had been renovated. Councilmember Taylor stated that the only problem he has observed is the visibility issue from the second floor onto neighbors' property. Mr. Knott pointed out that this would occur from the existing house or any other two-story structure placed on the property. He reviewed his plans for screening with Councilmember Taylor by keeping existing trees on the property as well as adding coniferous trees.

A motion was made by Councilmember Gulledge, seconded by Councilmember Gill, to pass the ordinance.

Councilmember Rasmussen amended the motion by adding a stipulation to construct a wall on the west side of the property in order to provide screening for the neighbors. Mr. Knott explained that the neighbors have asked that there not be a wall on the west side, only the south side. Councilmember Rasmussen then removed his amendment.

Councilmember Filla had concerns about the hours of trash pick-up and water run-off issues. Ms. Binckley clarified that stipulation No. 16 limits trash pick-up hours between 7:00 a.m. and 10:00 p.m. She also stated that the requirements for an erosion control plan has been reviewed by the Public Works Department. Councilmember Filla also offered a stipulation for a continuous wall on the south side of the property rather than one with openings. Ms. Binckley stated that it would be covered under stipulation No. 19. Councilmember Filla inquired as to whether there would be any benefit in connecting Mr. Knott's parking lot with the adjacent parking lot. Ms. Binckley answered that as State Line Road has full access north and south with no medians, there would not be a benefit in connecting the parking lots.

Mayor Dunn thanked the neighbors for their involvement with the project and Mr. Knott for his cooperation in meeting their needs.

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

Councilmember Gullede left the meeting at 8:45 p.m.

B. Ordinance No. 2098 approving a Preliminary Site Plan for Cheeseburger in Paradise and Bonefish Grill located on the southeast corner of 135<sup>th</sup> Street and Nall Avenue, within the Cornerstone Development [Roll Call Vote]

Councilmember Taylor advised that he would be recusing himself from this item and left the Chambers.

Applicant, Denise Valenta with W.D. Partners, stated that since the time of the Planning Commission meeting, they have worked with Klover Architects on suggested changes. She distributed updated elevation designs along with restaurant concept information for the Bonefish Grill and Cheeseburger in Paradise. Ms. Valenta described the history of both restaurants to the Council and stated representatives from both restaurants were present to answer questions.

Mayor Dunn asked Ms. Valenta to specify changes that have been made to the building designs since the time of the Planning Commission meeting. Using exhibits, Ms. Valenta outlined that the previous elevations contained two types of stone whereas the new design has only one type to allow better integration between the buildings. The roofline to the patio area has also been lowered. Modifications have also been done to the parapet where the signage will be applied. There have been changes in color to allow the buildings to flow together.

Mayor Dunn asked what changes had been done to the water tower feature. Ms. Valenta replied that the height of the entryway has been increased in order to modify the height of the water tower; however, as it is a theme element, only slight changes have been made in the materials. Mayor Dunn asked what materials would be used. The applicant answered aluminum panels. Mayor Dunn asked to see elevations of the Cheeseburger in Paradise restaurant located at the speedway in Kansas City, Kansas. In comparing elevations it was distinguished that the water tower feature shown in the current elevations has been reduced to half the diameter and is approximately 4 ft. taller than the original prototype used at the speedway.

Councilmember Gill stated his concern about the visualization of the alleyway to the buildings. Ms. Binckley responded that a stipulation is in place that requires the applicant to construct a staff approved wall to block the view of the service doors if another building to the south is not built within 18 months. Councilmember Gill confirmed with Ms. Binckley that residents to the south of the Church of the Resurrection would not have visibility to the service corridor. Councilmember Gill expressed his eagerness to dine at the new restaurant and relayed support for the project from residents in this Ward.

Ms. Valenta requested that the stipulation regarding the appearance of the water tower be addressed. She stated that it was extremely important to the client for this identifying feature to remain as it defines the history of the restaurant. Mayor Dunn referred to stipulation No. 6 which states “the applicant will work with Klover Architects, the architect for the Cornerstone development, to ensure that the project meets the design guidelines and sign criteria that is approved with the Cornerstone development,” and asked Ms. Binckley if this has been satisfied. Ms. Binckley stated that Klover Architects are continuing to make strides in the correct direction to meet these guidelines.

Mayor Dunn asked Henry Klover of Klover Architects to define his understanding of “prairie style” design and how the water tower meets this description. Mr. Klover reiterated that the water tower is a very important element and that it has been indicated from a cooperate level that the restaurant cannot proceed with exclusion of the water tower. Ms. Binckley read the second part of stipulation No. 6 as being, “the applicant will make efforts to eliminate the appearance of a water tower or grain silo and have a physical form in keeping with the prairie style design of the center.” Ms. Binckley stated that she felt much more comfortable on review of the new designs presented tonight and felt that Mr. Klover was making positive changes in the elevations.

Councilmember Rasmussen revealed his decision to vote against the project as he was not in favor of the corporate demands regarding the water tower.

Councilmember Filla stated that the new design was much more attractive in keeping a balance with the building and liked the variety that it provided.

**CITIZEN COMMENTS:**

1. Lee Hollis, not present.

2. Bob Adams, 12340 High Drive, spoke in favor of the project.

Mayor Dunn expressed concern about having sufficient votes to override a Planning Commission recommendation in light of Councilmember Rasmussen stating that he would not vote for approval. She confirmed with Mr. Lambers that approving this issue tonight would not be an override of Planning Commission recommendations. Mr. Lambers also clarified that voting in favor of the project does not mean that the water tower must be eliminated provided there is a motion of intent to keep some rendition of the feature.

Councilmember Gill recommended approval of the motion with acknowledgement that efforts to eliminate the water tower had been made by the applicant. The motion was seconded by Councilmember Filla.

Councilmember Rawlings asked about the color of the water tower. Ms. Valenta stated that it was a brushed aluminum. He suggested painting the water tower a color that would blend in more, such as beige. He also felt that making the water tower part of the doorway would be an interesting concept.

Mayor Dunn consulted with City Attorney Patty Bennett regarding the possibility of the motion going forward with 5 votes. Ms. Bennett stated that the motion was to approve the Planning Commissions' recommendations. Mayor Dunn, Councilmember Gill, Councilmember Filla, and Ms. Binckley then discussed the fact that the applicant had succeeded in scaling down the appearance of the water tower from the original design. Mayor Dunn confirmed with Mr. Klover that continued modifications would occur throughout the planning process.

Ms. Bennett and Ms. Binckley both clarified that the word "eliminate" in stipulation No. 6 does not mean that total elimination of the water tower must occur.

Councilmember Peppes asked Ms. Binckley if it was possible to make the tower more "Leawood" in design. She stated that they could certainly work toward making it fit in with the surrounding development.

Councilmember Gill expressed to the applicants that he liked the water tower and thanked them for making the changes to date. He asked if the applicant would prefer a vote tonight versus continuing the issue.

Councilmember Rasmussen asked Ms. Binckley if there was a photograph of the actual water tower that inspired Jimmy Buffett to write the song, "Cheeseburger in Paradise". She stated that there was not. Reno Knight, partner of Cheeseburger in Paradise confirmed that the water tower design was not an exact replica of the original. He stated that during the planning stages in 2001-2002, Jimmy Buffet was very adamant that a water tower be a feature of the restaurant. He went on to say that he is very excited about operating a business in Leawood, and stated he would prefer this issue be voted on tonight.

Mr. Lambers advised the councilmembers to take into consideration the possibility that the water tower shown tonight could be part of the final design.

The ordinance passed with the following roll call vote of 5-1: Yea: Councilmembers Gill, Filla, Peppes, Rawlings, and Mayor Dunn. Nay: Councilmember Rasmussen. (Councilmember Taylor recusing, Councilmember Gullede leaving the meeting, and Councilmember Bussing absent)

**12. OLD BUSINESS- None**

**13. NEW BUSINESS - None**

**14. OTHER BUSINESS** – Mayor Dunn reminded the Council to RSVP the invitation from the Taipei Economic and Cultural Office.

**ADJOURN**

There being no further business, the meeting was adjourned at 9:30 P.M.

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Debra Harper, CMC, City Clerk