

## Minutes

Audio Tape No. 644

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 5:30 P.M., on Monday, February 21, 2005. Mayor Peggy Dunn presided.

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

**Councilmembers absent:** Gary Bussing

**Staff present:** Scott Lambers, City Administrator  
Kathy Rogers, Finance Director  
Kathy Byard, Budget Coordinator  
Joe Johnson, Public Works Director  
Patty Bennett, City Attorney  
Jeff Cantrell, Neighborhood Services Administrator  
Deb Harper, City Clerk  
Christy Wise, Deputy City Clerk

### **1. Opening By The Mayor**

Mayor Dunn welcomed Councilmembers and Staff to the Special Work Session. She then turned the meeting over to City Administrator Scott Lambers and Finance Director Kathy Rogers.

### **2. Property Tax Base Analysis Discussion**

Ms. Rogers explained that a property tax base analysis has been done for the last five years and is used to determine the impact of construction in the community. In comparing the studies from 1995 to 2005, there has been a shift in areas dependent upon residential taxes from 80% to 70%. A great part of this shift has been taken up by commercial growth as well as increases in valuation per personal utility/motorvehicles. The model also reflects projections over the next five years based on inflation and per capita growth, which is 5%. Ms. Rogers referred to page 4 of the Property Tax Base Analysis, demonstrating new growth of residential versus commercial. The graph shows a decrease in new construction with increases in existing property to date.

Councilmember Rawlings asked if the changes in commercial and residential growth were average compared to other cities. Mr. Lambers stated the growth corridor was anticipated to be mostly commercial with less residential, creating a 5% split.

Councilmember Rasmussen inquired about the collection of personal property taxes on items purchased in other counties, such as aircrafts and boats. Mayor Dunn stated that the question will be presented at a future meeting with County Appraiser Paul Welcome.

### **3. 2006-2010 Strategic Planning Model**

Mr. Lambers reviewed the Assumption Criteria from the Strategic Planning Model reflecting a five year average, broken down in yearly increments. He stated the revenue projections are subject to an increase or decrease depending upon factors such as growth in commercial development. Sales tax revenues are in a state of flux due to state changes in the compensating use tax. Projections are hard to predict as there are no certain base numbers.

Mr. Lambers stated that expenditure assumptions reflect full-time employees. He explained that if there are extensive requests for part-time personnel, then full-time numbers would be reduced accordingly. Mr. Lambers stated that employees are eligible for yearly salary increases of up to 5.25%. Typical increases are from 3.75-4.75%, with an additional .25% available upon supervisors' requests as well as another possible .25% for exceptional employee performances. The last .25% must have City Administrator's approval. Mr. Lambers stated that the City is limited in controlling costs regarding benefit increases. For now it is listed at 15% but could go up to 18%. There was not a significant increase during the past year but when this does occur, offset options are explored such as increasing employee participation.

Councilmember Gullede arrived at 5:40 P.M.

Councilmember Gill asked Mr. Lambers how use taxes would be enforced. Mr. Lambers responded that proper inspections would be done. He stated penalties were severe enough to ensure compliance. Councilmember Gill inquired as to whether individuals would have to file a use tax return when purchases were made out of jurisdiction. Mr. Lambers stated that collections would be handled through the County. Ms. Rogers explained that the taxes are distributed based upon destination, where purchased items are delivered. If something is bought in Lenexa but delivered to Leawood, taxes will be paid to Leawood. Councilmember Gill asked what procedures are in place to ensure that taxes are paid to the proper communities. Ms. Rogers responded that all businesses are aware of how to report and implement sales tax distribution. Audits are being conducted to ensure compliance.

Councilmember Gill further questioned the distribution of sales taxes in the instance that purchases are made across state line or over the Internet. Mayor Dunn stated that the Internet does not follow these sales tax guidelines. Ms. Rogers clarified that the sales tax enforcement efforts described apply to purchases made within the state of Kansas. Mayor Dunn confirmed with Ms. Rogers that businesses were to implement the sales tax regulations by the end of December 2004.

Ms. Rogers explained that the sales tax revenue analysis for future years could change depending upon several factors including compliance, legislative mandated exemptions, and construction. The conservative sales tax revenue increase projections are reflective of these factors. Mr. Lambers stated that there are always uncertainties to be dealt with during the process of creating future budgets. Dramatic changes could occur with something as simple as fluctuations in the marketplace. However, forecasting at this time based on known data, gives ample opportunity to make adjustments accordingly. Mr. Lambers reiterated that the legislature has a big impact on revenue.

Councilmember Gill asked why individuals were not targeted with use tax audits. Mr. Lambers answered that resources were not available to do this as it would have to be a statewide effort.

Councilmember Taylor inquired if sales tax of retail space per square foot was calculated into the figures. Ms. Rogers and Mr. Lambers confirmed that revenue projections were not based on square footage but on actual retail sales.

Councilmember Peppes arrived at 5:50 P.M.

Councilmember Taylor asked for a review on Internet sales taxation. Mr. Lambers answered that the Internet was not subject to taxation at this time. Councilmember Gill pointed out that purchases via telephone are taxed.

#### **4. Golf Course Model**

Ms. Rogers referred back to the Strategic Planning Model and explained that the focus of the 2006 budget is the Capital Improvement Program [C.I.P.] projects at IRONHORSE Golf Course, including the creek bank stabilization and SMAC project. She stated that the construction dates are September 2006 through April 2007, with assumptions based upon effecting factors of the golf course. The Golf Course Model shows requirements needed to maintain the City's debt service reserves with operating reserves. Ms. Rogers reviewed that there would be a 0.83% mill levy increase in 2007 to handle loss of revenue during construction and to sustain the golf course through the end of it's debt. She stated that the 0% growth in revenue and 3% growth in expenditure assumptions were based upon analysis done last November, which offered no change in the mill levy for 2006. Year 2007 will have the 0.83% mill levy increase with 0.75% for two years thereafter.

Mayor Dunn brought up the fact that this was not an assumption but more of a Council goal that has yet to be formally adopted. She stated that this could be discussed further under item No. 6, Desired Council Discussion/Presentation Topics for Budget WSS.

Councilmember Taylor voiced that prior discussion to do the 143<sup>rd</sup> Street project before the 151<sup>st</sup> Street project would create a difference in expenditures. Ms. Rogers pointed out that the response per staff review regarding the priority level of these projects indicated that there would not be a change in the planned order. Mr. Lambers reported that Police Chief Sid Mitchell and Public Works Director Joe Johnson evaluated the two streets and recommended that 151<sup>st</sup> Street should be the priority. Councilmember Taylor requested that a traffic engineer make the analysis rather than staff. Mr. Lambers stated that this could be done; however, based upon staff evaluation, 151<sup>st</sup> Street remains the priority. Mayor Dunn and Mr. Lambers confirmed with Councilmember Taylor that subsequent to the approval of the C.I.P., this item could be placed on an immediate future agenda for amendment.

Councilmember Filla asked if staff recommendations to keep the current order of the street improvement projects were from a safety point of view. Mr. Lambers answered that from a safety standpoint, the priority is 151<sup>st</sup> Street before 143<sup>rd</sup> Street. Mayor Dunn revealed that the January 18, 2005, work session minutes reflected, "Scott Lambers stated that he would have the staff review the priority level of 151<sup>st</sup> Street versus 143<sup>rd</sup> Street," and that it was never projected to be an outside consultant.

Referring to the Golf Course Model, Mr. Lambers recommended that Council take corrective action regarding the golf course financial planning. He stated that in 2007 we would have a 0.83% mill levy increase transferred into the Golf Course Fund. He stated that the two 0.75% increases would be in effect to offset the loss of revenue experienced as a result of actions taken by State Legislature. Due to the fact that the City has had growth in other areas, the revenue loss has been able to be pushed back until 2011. Further years reflect a deficit due to projects and corresponding debt. He clarified that the 0.83% mill levy will not carry out beyond the debt service of the golf course.

Councilmember Gill remarked that closure of the golf course due to the stormwater project would result in over one million dollars of lost revenue. He stated that the City should not have to bear the entire brunt of this impact. Councilmember Rasmussen felt that the 75/25 split for SMAC projects should include loss of operating revenue. He stated that Annabeth Surbaugh, Chairman of Johnson County Board of Commissioners, should be approached with providing 75% of this impact. Mayor Dunn confirmed with Mr. Lambers that Pat Dunn is no longer acting representative for the Stormwater Management Committee; Joe Johnson now holds the position. Mayor Dunn stated the issue could certainly be addressed with the County.

Councilmember Peppes agreed with Councilmember Rasmussen and illuminated that there is a set amount of money allotted per year for SMAC projects. He pointed out that if we are approved money for a SMAC project and then went back to ask for more funds, the additional funds may not be paid during that particular year. Councilmember Rasmussen and Mayor Dunn explained that there are always contingencies due to other cities passing up their turn for SMAC assistance. There was discussion regarding the fact that the golf course SMAC project was lobbied for by the City and not requested by the County. Councilmember Rasmussen volunteered to present an argument to the County on this issue.

Councilmember Gill stated that development in other areas of Johnson County have exacerbated the flooding situation at the golf course, making the project necessary. It was decided that Mr. Lambers and Mr. Johnson would develop a plan for lobby efforts. Mr. Lambers stated that to his knowledge SMAC money is allotted for actual construction costs with no disbursements for negative impacts with the exception of permanent condemnation. Councilmember Gill stated that in the past, compensation payments had been made to individuals whose property was damaged as a result of SMAC projects. Mr. Lambers explained that the payments were not made from the 75/25 project cost split. He stated that the payment request being discussed, temporary loss of revenue suffered by a business due to improvement, has never occurred to his knowledge. Councilmember Taylor and Councilmember Gill considered the economic loss permanent rather than temporary.

Mayor Dunn advised that scheduling of the lobby efforts will include Councilmember Rasmussen and Councilmember Gill.

Councilmember Filla asked if the golf course SMAC project was requested due to flooding of homes. Mayor Dunn affirmed that it was as well as flooding of the golf course. Councilmember Filla inquired if buying the homes were considered. Mayor Dunn stated that due to the monetary value of the homes, it was more cost effective to do the project. Councilmember Taylor stated that there was one home subject to a buy out.

Mr. Lambers stated that the purpose of the detailed Golf Course Model is to respond to inquires. Councilmember Taylor affirmed with Mr. Lambers that the debt service of the golf course will be paid off in 2015.

Councilmember Filla requested statistics regarding how many citizens of Leawood use the golf course. She stated that she would not be able to support a tax increase when other options were not explored. She questioned the financial responsibility of embarking on the current course. Councilmember Filla stated that if the basis for doing the SMAC project was to protect the houses as well as keep the golf course operational, alternatives should be explored such as other recreational uses for the land. She questioned whether the revenue generated from the golf course justified the draining costs of improvement projects. She felt that an outside consultant should be sought.

Councilmember Gill paralleled the concept of shutting down the golf course based on Leawood citizen usage to closing Arrowhead Stadium based on Jackson County resident usage. Councilmember Gullede asked Councilmember Filla if she applied this philosophy to the Leawood Aquatic Center and other quality of life services provided by the City. She stated that she did not but would like to know who used the golf course.

Mayor Dunn acknowledged Councilmember Filla's feelings toward the golf course. She stated that as the tax increase isn't projected until 2007, there would be time for debate on the subject. Councilmember Filla again stated her concern for the SMAC project and creek bank stabilization being unwarranted. Mayor Dunn stated that a majority of the Council wants the SMAC project done to protect the home value of the neighbors and pointed out that funding would not have been granted if it were for the golf course alone. Councilmember Filla suggested further that the cost of the project could be decreased if golf course operations were scaled back.

Further discussion took place between Councilmember Gullede, Councilmember Filla, and Councilmember Gill comparing the positive revenue and debt load of the golf course with other recreational facilities provided by the City. Councilmember Filla stated that there should be a common benchmark to evaluate all services rendered.

Mayor Dunn stated that approximately 45% of golf course patrons were Leawood citizens. She confirmed with Ms. Rogers that there would be additional tracking ability available in the future. Mayor Dunn also pointed out that IRONHORSE Golf Course was voted on by the people, it is a public facility owned by the people of Leawood, and that Leawood believes in taking care of things that they own.

## **5. Budget & Financial Policies**

Ms. Rogers stated that no changes are being proposed to the Budget and Financial Policies. She stated that they are still recommending 11% for operating fund reserves and 20% for debt service reserves. Debt planning policies as shown in the C.I.P. remain the same. Under proposal is policy No. 14, administrative costs at 3%.

Councilmember Taylor referred to policy No. 8, benefit districts governed by Resolution 694. He inquired about the resolution and Ms. Rogers stated that it simply established the use of benefit district financing.

Councilmember Taylor had questions regarding the 3% administrative fee. He stated that it was his understanding that a trustee is involved with managing the special benefit district bonds, who charges approximately \$2,000 per year. He wanted clarification as to why the 3% administrative fee is being charged. Mr. Lambers explained that it covers administrative costs of the project from beginning to end, which includes the time devoted by staff. Councilmember Taylor asked if there is documentation of staff hours spent on a project to justify the fee. Mr. Lambers stated that tracking hours is not necessary when charging a flat rate. He also stated that the City has the option of charging up to 5%.

Councilmember Taylor was concerned with the policy projecting on the overall costs for developers. He felt that it should be studied before approval. Mr. Lambers remarked that the other option would be for staff to track costs, and then charge the developer for tracking the costs. He felt that it was better to have a flat percentage fee. Councilmember Taylor agreed with having a flat rate but felt that 3% was unacceptable.

Councilmember Rasmussen recalled a failed past attempt to have administrative fees charged to those making applications for franchises. Mr. Lambers confirmed that there is a current fee for this, which came about when Axon wanted to pass lines through the City. Regarding the current proposed administrative fees, Councilmember Rasmussen stated that we should have consistency. He felt that a percentage fee was an unfair burden to the applicant and would rather have a fixed dollar amount.

Councilmember Gill pointed out that the City does take a credit risk on these bonds. He explained that these are general obligation bonds of the City that provide lower cost financing to the developer. He stated that we provide a better deal than could be offered at a bank as the applicant receives the benefit of our borrowing base. He felt that a 3% fee to cover the credit risk and efforts provided by the City was very reasonable.

Councilmember Taylor furthered his concerns regarding the 3% fee. Councilmember Rasmussen objected to the percentage based on his experience in financing and reiterated the proposition to have a fixed dollar amount.

Councilmember Filla asked if the discussion referred to subsidizing structured parking. Ms. Rogers answered that the administrative fees in question applied to any special benefit district [SBD] project. Mr. Lambers clarified that the structured parking was a transportation development district [TDD] project but that there were SBDs for standard traffic improvements around the parameters of property including Park Place [\$3.5-million] and the Parkway Plaza Development [7-million]. Councilmember Taylor used the differing costs of these two projects for examples of why he felt the 3% administrative fee would be unfair, stating that the same amount of work would be done for both projects but with considerable different costs.

Mr. Lambers reminded the Council that state statutes control the percentage rates. He stated that if a fixed dollar amount was used, assuming an average project cost of \$5-7 million dollars, it would be unfair to a project coming in at one million dollars. Either decision to use a fixed dollar rate or a percentage would leave someone at a disadvantage.

Councilmember Gill stated that if the fee were based only upon staff hours, a flat dollar rate would be feasible. However, taking into account the risk premium and depleting asset premium, the fee should be directly proportional to the amount of the debt by using a percentage. He stated that a more valid discussion would be exactly what percentage rate to use.

Councilmember Gullede echoed Councilmember Gill's remarks and stated that for consistency, it should be a percentage rate. He felt that a fixed dollar amount was not a fair pricing mechanism.

Mayor Dunn agreed with Councilmember Gill's point that as the special benefit district is limited in funding and operates on a "first come, first serve" basis, the fee should be relative to the amount taken out of the fund.

Councilmember Rasmussen observed that the need to collect administrative costs was not being disputed but rather the method of charging being a percentage versus fixed dollar amount.

Councilmember Taylor stated that he felt a negative attitude was being taken towards development in the City by charging unproven fees. Mayor Dunn asked Ms. Rogers to explain what steps were taken to arrive at the recommended fee of 3%. Ms. Rogers responded that the State Statute allows 0-5%. She stated that before the arrival of Scott Lambers as City Administrator, discussion and studies involving the Council regarding who did and did not charge administrative fees took place. She stated that the Public Works Department does most of the administrative work with additional duties performed by the City Attorney, Finance Department, Planning & Development, Mr. Lambers and the Mayor. She stated that the subject of cost recovery for services has been brought up during past C.I.P.s with split opinions of the Council. Ms. Rogers explained that it was put back into the C.I.P. this year for discussion at the request of Mr. Lambers. She stated that the 3% fee proposal was selected as it fell in the middle of the spectrum.

Mayor Dunn recalled a past policy regarding the special benefit district that allowed staff associated costs to be charged toward a project, however the City of Leawood did not charge the fee. Mr. Johnson clarified that the Public Works Department charges a separate 5% inspection fee to cover planning review and inspections. Councilmember Taylor confirmed with Mr. Johnson that daily inspections were done.

Mr. Lambers stated that he would verify through state statute if charging a fixed dollar amount would be allowable. He emphasized to the Council the importance of finding a comfort level among them regarding a percentage rate. Mayor Dunn confirmed with Mr. Lambers and Ms. Rogers that approval of the C.I.P. could still be voted on at tonight's Governing Body meeting with the exclusion of the administrative fees, identified in the proposed Special Benefit District Policy amendment.

Councilmember Gill suggested Mr. Lambers consider the rates charged by underwriters as a benchmark for arriving at a percentage rate fee for the City.

Councilmember Filla asked if Leawood was experiencing problems with acquiring new development. Councilmember Taylor offered that we are in competition with Overland Park and Kansas City, Missouri. Mayor Dunn stated that neither of these two cities offered special benefit districts.

## **6. Budget Directives for 2006**

Ms. Rogers distributed a graph depicting debt outstanding by category. She reviewed that in 2006, 39% debt payments will be for special benefit district with 35% for 2007. She stated that these numbers would be turned back to the City via the property owners' taxes. Mayor Dunn noted the difference between 2004 and 2006 with the special benefit district growing from 16.9% to 39.5%.

## **7. Desired Council Discussion/Presentation Topics for Budget WSS**

Mr. Lambers stated that as part of the operating budget review, the Council requested an opportunity to ask questions on specific targeted areas. To allow for staff response, Mr. Lambers asked that questions be submitted by March 7, 2007.

Mayor Dunn stated that there could be advanced conversation with Mr. Lambers regarding the questions that may be very helpful on some issues.

Mayor Dunn thanked Mr. Lambers, Ms. Rogers, and Ms. Byard for the budget presentation. The meeting was adjourned at 7:10 P.M.

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Christy Wise, Recording Deputy City Clerk