

**Minutes**

DVD No. 118

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, March 7, 2005. Mayor Peggy Dunn presided.

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

**Councilmembers absent:** Mike Gill

**Staff present:**

Scott Lambers, City Administrator  
Diane Binckley, P&D Director  
Chris Claxton, P&R Director  
Deb Harper, City Clerk  
Karl Weinfurter, IS Specialist

Patty Bennett, City Attorney  
Chief Sid Mitchell, Police Department  
Joe Johnson, PW Director  
Christy Wise, Deputy City Clerk

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn advised additional material for Agenda item No. 7E had been distributed to the Council. A motion was made by Councilmember Peppes, seconded by Councilmember Rawlings to approve the agenda. The motion carried following a unanimous vote of 6-0 (Councilmember Bussing not seated for the vote).

**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.**

Pamela Zubeck, 2500 W. 90<sup>th</sup> Street, reported on destruction of Lee Boulevard in her neighborhood caused by inconsiderate drivers. She stated that large ruts have been created in her yard by cars driving onto property. She requested help with this problem and suggested putting curbs along Lee Boulevard.

Joe Zubeck, 2500 W. 90<sup>th</sup> Street, demonstrated destruction of Lee Boulevard via photographs. Further stating he and his wife can no longer repair the damage themselves and requested the City's aid in stopping the ongoing ruin.

**4. PROCLAMATIONS - None**

**5. PRESENTATIONS/RECOGNITIONS - None**

**6. SPECIAL BUSINESS - None**

**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 21, 2005 Governing Body meeting
- B. Accept minutes of the January 20, 2005 IRONHORSE Advisory Board meeting
- C. Approval of the Governing Body 2005 Goals & Objectives
- D. Resolution No. 2370 calling for a pre-budget public hearing to be held on Monday, April 4, 2005, regarding 2006 Fiscal Budget
- E. 8<sup>th</sup> and Final Pay Request in the amount of \$30,000.00, to Miles Excavating, Inc., [Phase I] pertaining to the JB-04-008 SMAC Project, Lee Boulevard to State Line and 103 Street to I-435 Highway
- F. Resolution No. 2371 approving and authorizing the Mayor to execute an Inter-local Agreement between the Leawood and the City of Overland Park, pertaining to the 2005 Microsurfacing Project on College Boulevard between Nall and El Monte, [Arterial PAYGO Project]
- G. Resolution No. 2372 approving and authorizing the Mayor to execute a Professional Service Agreement between the City and Haris Engineering for an amount not to exceed \$6,950.00, for Structural Plan Review
- H. Resolution No. 2373 approving a Final Site Plan for Legacy Investment Partners for a sign, located at 11350 Tomahawk Creek Parkway [*from the February 22, 2005 Planning Commission meeting*]
- I. Resolution No. 2374 approving a Final Plat for Village of Camden Woods, 74<sup>th</sup> Plat, located south of 143<sup>rd</sup> Street and west of Kenneth Road [*from the February 22, 2005 Planning Commission meeting*]
- J. Resolution No. 2375 approving a Final Plat for Village of Camden Woods, 75<sup>th</sup> Plat, located south of 143<sup>rd</sup> Street and west of Kenneth Road [*from the February 22, 2005 Planning Commission meeting*]

- K. Resolution No. 2376 approving a Final Plat for Village of Camden Woods, 76<sup>th</sup> Plat, located south of 143<sup>rd</sup> Street and west of Kenneth Road *[from the February 22, 2005 Planning Commission meeting]*
- L. Resolution No. 2377 approving a Final Plat for Village of Camden Woods, 77<sup>th</sup> Plat, located south of 143<sup>rd</sup> Street and west of Kenneth Road *[from the February 22, 2005 Planning Commission meeting]*
- M. Resolution No. 2378 approving a Final Site Plan for Town Center Business Park pertaining to revised design guidelines located south of 115<sup>th</sup> Street and east of Roe Avenue *[from the February 22, 2005 Planning Commission meeting]*
- N. Resolution No. 2379 approving a Final Site Plan and Final Plat for Town Center Business Park, for Sunrise Senior Living located south of 115<sup>th</sup> Street and east of Roe Avenue *[from the February 22, 2005 Planning Commission meeting]*
- O. Resolution No. 2380 approving a Final Site Plan for Chadwick Place, for Mission Bank located at the southeast corner of 135<sup>th</sup> Street and Chadwick *[from the February 22, 2005 Planning Commission meeting]*
- P. Declaration of Surplus Property [Police & PW Vehicles]
- Q. Declaration of Surplus Property [IRONHORSE Clubhouse furniture]

Mayor Dunn noted technical corrections had been made to items 7A and 7C. Councilmember Rasmussen requested to pull items 7B and 7N for discussion. A motion was made by Councilmember Gulledge, seconded by Councilmember Peppes to approve the remainder of the Consent Agenda. The motion was approved following a unanimous vote of 7-0.

- 7B. Accept minutes of the January 20, 2005 IRONHORSE Advisory Board meeting

Councilmember Rasmussen stated that the IRONHORSE Advisory Board requested a correction to the minutes on page 2, paragraph 2. The statement, "Lou Rasmussen motioned that we coordinate with SMAC to have one project and manage the timing and funding together as a group," should read **Johnson County Wastewater District** rather than SMAC. Councilmember Rasmussen then moved to accept the minutes with the correction, seconded by Councilmember Taylor. The motion was followed by a unanimous vote of 7-0 to accept the minutes.

- 7N. Resolution No. 2379 approving a Final Site Plan and Final Plat for Town Center Business Park, for Sunrise Senior Living located south of 115<sup>th</sup> Street and east of Roe Avenue *[from the February 22, 2005 Planning Commission meeting]*

Councilmember Rasmussen suggested remanding this item back to the Planning Commission in order to include recommendations from the Fire Marshal that requires the developer to provide a tornado warning siren. Mayor Dunn stated that Stipulation No. 18 requires the applicant to obtain approvals from the Fire Department per the Fire Marshal's memo. Councilmember Rasmussen stated that the current memo on file from Fire Marshal Gene Hunter is not an absolute requirement for the developer but merely a consideration. He expressed his concern as it is a public safety issue and felt that the siren should be mandatory.

Diane Binckley, Planning and Development Director, stated that through discussions with the Fire Marshal, the purpose of the memo was not to require an alarm for this specific building but to illuminate the need for a siren in the general area. The location of the assisted living facility will be at the lowest point of the development. A siren would serve better being placed at a higher elevation such as the intersection of 117<sup>th</sup> Street and Roe Avenue.

Ms. Binckley reiterated that the Fire Marshal's objective was to generate the City's awareness for need of a tornado warning siren, not to make conditions on this particular developer.

Councilmember Rasmussen moved to pull the item from the agenda for consideration at the next meeting in order to allow Staff to clarify the intent of the Fire Marshal's request.

Councilmember Rawlings inquired about City and County responsibilities regarding installing tornado warning sirens. He asked if it was usually something that a developer would be responsible for as it is a public safety issue pertaining to the entire neighborhood.

Andy Schlagel, planning consultant for Sunrise Senior Living facility, stated that his discussions with Fire Marshal Gene Hunter matched the response reported by Ms. Binckley. It was his distinct impression that the Fire Marshal wanted to point out to the Governing Body that the area was lacking in service, not to specifically saddle Sunrise Senior Living with the responsibility. Mr. Schlagel stated that he would prefer that the issue be resolved rather than have it delayed.

Councilmember Taylor seconded the motion by Councilmember Rasmussen to continue this item to the next meeting. He acknowledged that the project was encumbered by the recommendation and did not understand why the problem was not introduced during approval of past projects in this area. He felt that a delay would be appropriate so that Staff could resolve the matter.

Mr. Schlagel asked the Council to consider approving the project with a stipulation for this matter to be resolved before issuance of the building permit or Certificate of Occupancy. Mayor Dunn advised if the issue were continued, it would not be heard again for one month as there will be a recommendation this evening to cancel the March 21<sup>st</sup> meeting, due to lack of agenda items.

Councilmember Taylor asked Councilmember Rasmussen to reconsider his motion to continue the item and instead include a stipulation with approval.

Councilmember Rasmussen asked if there would be any objection from the developer to place a tornado warning siren on the premises. Tim Hedges, representative for Sunrise Senior Living, stated that there was no objection. Councilmember Rasmussen removed his original motion to continue the item with the second motion removed by Councilmember Taylor.

Councilmember Rasmussen then moved to approve item No. 7N with the caveat to resolve the issue of tornado siren location before Certificate of Occupancy with no economic responsibility to the developer. Councilmember Taylor seconded the motion.

Councilmember Rawlings asked whose responsibility it was to determine the placement of tornado warning sirens.

Mr. Lambers stated that there has never been a prior situation where a siren was imposed on a developer. He apologized to the Governing Body and applicant for the unclear wording of the stipulation. He stated that it was the City's responsibility to place and finance tornado warning sirens. Mayor Dunn advised that Mr. Lambers' remarks would supersede Stipulation No. 18.

The motion was approved following a unanimous vote of 7-0.

## **8. MAYOR'S REPORT**

- A. Meeting with Finance Director Kathy Rogers, City Administrator Scott Lambers, and County Appraiser Paul Welcome regarding the evaluation report for Johnson County, copies of which have been distributed. The study revealed increases in residential property values of 6.4% for northern Leawood, 4.23% for central Leawood, and 3% for southern Leawood.
- B. Attended Leawood Rotary Club's 10<sup>th</sup> Anniversary Celebration with Councilmember Rawlings and Councilmember Bussing. Congratulated Councilmember Bussing for receiving the Paul Harris Fellow Award. She stated it was a very well deserved honor for all of his contributions to the community. The Leawood Rotary Volunteer of the Year Award went to Marc Elkins, who is very involved with the scouting program, specifically Troop 10.
- C. Leawood Historic Commission is being awarded the Preservation Advocacy Award for 2005. Congratulations to Chairperson Beverly Hurley, members of the Historic Commission and Council liaisons (Councilmember Filla and Councilmember Gill). This is a terrific honor as there is only one other advocacy award given for 2005. Awards ceremony will be in Topeka on Thursday evening, May 5<sup>th</sup>, during the Kansas Preservation Alliance Conference.
- D. Participated with Kansas City, Missouri Mayor Kay Barnes and Overland Park Mayor Ed Eilert on a panel discussion with a KU Masters class in public administration/public service leadership on February 28<sup>th</sup> at the Edwards Campus.
- E. Congratulations to Overland Park Mayor Ed Eilert for being selected Johnson Countian of the Year by the Johnson County Community College. He will be honored at a dinner to raise scholarship funds in November.
- F. Guest reader at Children's Mercy South Hospital for Dr. Seuss' 101<sup>st</sup> Birthday. This event celebrated the National Education Associations Read Across America campaign.
- G. Presented calendar for Council's review which commemorates 150 years of building community by Johnson County. Councilmember Rasmussen serves on the committee for this celebration.
- H. Happy New Year card from I-Lan Mayor Lu, which depicts a photograph of the Leawood Bridge on the front cover.

- I. Announced cancellation of the March 21<sup>st</sup> City Council meeting per recommendations of Staff due to lack of agenda items.
- J. Schedule a Governing Body Executive Session on Monday, March 28<sup>th</sup>, 2005 at 6:00 P.M., to discuss a Personnel Matter; City Administrator's 6-month review.

A motion was made by Councilmember Taylor, seconded by Councilmember Filla to approve the scheduling of the Executive Session. The motion was approved following a unanimous vote of 7-0.

**9. COUNCILMEMBERS' REPORT - None**

**10. STAFF REPORT - None**

***COMMITTEE REPORTS***

**11. PLANNING COMMISSION**

*[from the February 22, 2005 Planning Commission meeting]*

- A. Resolution No. 2381 approving a Final Site Plan for Church of the Resurrection, specifically for Directional Signs located at 13720 Roe Avenue *[remanded from the Governing Body]*

Councilmember Taylor stated that he would recuse himself from this agenda item and left the Chambers.

A motion was made by Councilmember Rasmussen, seconded by Councilmember Rawlings to approve the resolution.

Councilmember Bussing recalled that follow-up studies on traffic impact were to be done as the facility developed. Mr. Lambers stated that it would be more sensible to do such studies upon completion of Nall and Roe Avenue construction.

The motion was approved following a unanimous vote of 6-0.

- B. Resolution No. 2382 approving a Final Site Plan for Town Center Plaza, for Outlot located north of 119<sup>th</sup> Street and east of Nall Avenue *[from the February 22, 2005 Planning Commission meeting]*

***Staff Comment: It is the position of the City Administrator that this item needs to be remanded back to the Planning Commission with the specific directive that Stipulation No. 13 be amended, as recommended by the City's Engineer, to include the escrow requirement for the traffic signal at 117<sup>th</sup> Street and Town Center Drive and the 100-foot extension of the existing eastbound left-turn on 119<sup>th</sup> Street at Rosewood.***

Councilmember Rasmussen moved to approve the remand back to the Planning Commission. The motion was seconded by Councilmember Rawlings.

John Petersen of Polsinelli, Shalton, et al., and representative of Developers Diversified Realty, stated that he would like to address Stipulation No. 13. He compared that during approval of the Park Place project, they were also stipulated to pay half the cost of a traffic signal for this intersection. He stated that it was the opinion of traffic consultant, Tom Swenson of TranSystems, that a traffic signal at this location is not warranted now nor will it be upon completion of his client's building or the Park Place project.

Mr. Petersen stated that the premise of requiring exactions must follow a ruling by the U.S. Supreme Court which states that there must be a rational nexus. He said that he has never known Leawood to ask applicants to pay for things just because they would like to have them, and would like consideration for the Planning Commission's recommendations to exclude the requirements.

Mr. Petersen displayed charts of the traffic study documenting that the Pottery Barn will generate a 1.8% increase in traffic. He demonstrated that the intersection turning lane under consideration, 119<sup>th</sup> and Rosewood, would have an increase in delay time from 41.3 seconds to 41.4 sections at peak. Overall, business patrons accessing the intersection at 117<sup>th</sup> and Town Center Drive would not necessitate the addition of a traffic signal. He asked the Governing Body to evaluate the rationality of the nexus given the minimal traffic impact and requested approval of the resolution as presented by the Planning Commission.

Mayor Dunn confirmed with Ms. Binckley that the escrow account for the traffic signal was included in preliminary plan approval. It was clarified that the Planning Commission overturned the approval during final site planning. Mayor Dunn reviewed that the traffic study done in the interim of preliminary and final site planning recommended extra footage for the ingress lane.

Councilmember Bussing first inquired as to the basis of the traffic study that refuted Mr. Petersen's figures. Secondly, he asked if the escrow for 117<sup>th</sup> Street was intended when three outlots were being considered by the developer. Ms. Binckley answered the latter question by stating that the recommendation was for the one pad site only.

Councilmember Bussing stated that it seemed odd to escrow a traffic signal on the north side of the complex as a result of development on the south side. Mr. Lambers stated that required improvements are not imposed on developers to be done all at once, hence the need for an escrow account. He stated that if remand took place, the proposed project should receive the same stipulation as Park Place which is to put a traffic signal escrow account in place when warranted. Contrary to Mr. Petersen's study, a traffic signal will be needed at the time of ultimate development. Mr. Lambers agreed that developers should be treated the same.

Councilmember Bussing understood that the whole project would benefit from adequate traffic signaling and access but stated these needs should have been recognized via traffic studies at the time of original design. He felt that the entire Town Center Plaza development should be escrowed rather than one developer.

Mayor Dunn stated the issue needed clarification. Mr. Lambers agreed that the length of the turning lane was underestimated at the time of design. Regarding the traffic signal, he stated that it has been envisioned as an imminent need for an extensive time with contingencies on remaining development. He reiterated that it was a fair requirement to ask the developer to escrow the funds when warranted, after which the City will proceed with the improvement.

Joe Johnson, Public Works Director, added that the original traffic study done on Town Center Plaza looked at timing for each intersection to determine the length of the left turning lane. He stated that the traffic signals are timed between Nall and Roe with current queues not allowing for traffic to taper at 225 feet. He stated that the TranSystems analysis was based on the existing timing with recommendations to extend the turning lane to 325 feet, which Staff is in agreement with.

Councilmember Bussing asked if the intersection to the east of Rosewood was adequate in taper. Mr. Johnson responded that it was questionable. Councilmember Bussing inquired why the developer had not been asked to fund these improvements as well. Mr. Johnson responded that the Rosewood intersection was studied as it is adjacent to the property.

Councilmember Taylor asked if Bucher, Willis & Ratliff, engineer consultants, were involved in doing an overview of the traffic system as a second opinion. Mr. Johnson responded that the company was involved in the original design process but had not been brought in for the current traffic model. The traffic model is being revised to another software program at this time but consultations could be sought upon completion.

Councilmember Taylor asked Mr. Johnson how to resolve the issue of whether signalization and lane extension is necessary. Mr. Johnson stated that a warrant study should take place, as done by TranSystems on the 119<sup>th</sup> Street intersection. He reported that the applicant did not do a study on the 117<sup>th</sup> and Town Center Drive intersection. Councilmember Taylor asked what credentials were used in determining the need for future improvements. Mr. Johnson recalled that the original plan for Town Center Plaza documented that a future traffic signal would be required at this intersection.

Councilmember Taylor felt the Council lacked information to challenge the traffic study provided by the applicant. Mr. Johnson stated that he has not been provided a study from TranSystems stating that improvements were not warranted presently or in the future. Mayor Dunn doubted that there could be such a study to predict future needs and asked Mr. Swenson of TranSystems for his input. Mr. Swenson stated that Mr. Johnson was correct in that a signal warrant study was not submitted with this application. He reported that a study was conducted when there were three pad sites proposed, however it was never submitted. Mr. Swenson stated that the study was done one year ago and confirmed it unnecessary to place a traffic signal on 117<sup>th</sup> Street due to the addition of the new development as well as for the future development of Park Place. He stated what would compel traffic signalization is either traffic crossing a busy street or turning left on a busy street. He reported that this intersection does not meet the criteria.

Councilmember Taylor stated he has experienced problems on numerous occasions crossing the intersection of 117<sup>th</sup> and Town Center Drive due to the poor sight distance to the east. He stated that a traffic signal is needed from a safety standpoint alone. Mr. Swenson responded that the study only dealt with traffic volume.

Councilmember Filla appreciated Mr. Petersen's point regarding escrow versus money set aside as warranted. She also agreed with Councilmember Taylor that there is a line of sight problem that will complicate as traffic increases. She acknowledged the impossibility to predict the needs for Town Center at the time of original development. She asked at what point during involvement should reassessment take place given the growth of the center.

Mr. Lambers stated with hindsight, this stipulation should have been part of the main development when approved by the Governing Body. He stated that by having the stipulation worded "as warranted," there would be a documented reason for the traffic signal to be installed and would clearly identify that Town Center and Park Place are both responsible for their portions. Mr. Lambers advised that if the project is remanded back to the Planning Commission, the stipulation should be changed to "as warranted."

Councilmember Filla thanked Mr. Lambers for clarification and stated that she anticipated a need for the traffic signal but was more concerned with the issue of the turning lane. She asked if the project just happened to be "the straw on the camel's back," thereby forcing improvements to this intersection. Mr. Lambers stated that the distinction between the two intersections is that 119<sup>th</sup> Street presently needs corrective measures while 117<sup>th</sup> Street improvements will be needed in the future.

Councilmember Rasmussen asked Ms. Binckley if the preliminary site plan for Town Center Plaza indicated potential need for a traffic signal at this location. Ms. Binckley stated that she did not recall. Councilmember Rasmussen inquired if it was characteristic for preliminary plans to estimate development of traffic needs and then have these needs change upon final planning. Ms. Binckley stated that it was typical to have early estimates based on traffic studies during preliminary and then experience subsequent changes.

Councilmember Rasmussen also asked Ms. Binckley, in her experience, if developers usually try to stagger requirements for escrowing of funds regarding specific site development conditions. Ms. Binckley stated this was true if the option was offered to them. Councilmember Rasmussen was concerned that a situation could occur in which the property changed hands and escrow stipulations would not be applicable to a new owner.

Councilmember Bussing stated that he was struggling with the current motion as he did not feel comfortable with the incremental improvements. He stated that before voting on this item, he was interested in future necessary improvements for Town Center such as: predicted number of additional ingress/egress lane extensions; predicted number of additional traffic signals; and number of pad sites in complex yet to be developed. He inquired the reasoning behind allocating the turning lane extension and 50% of the traffic signal to this particular development.

Councilmember Bussing felt that the City Council erred in approving the preliminary site plan for the development. He viewed the wording concerning the 117<sup>th</sup> Street traffic signal as flawed. He felt that in the least, it should read “when warranted.” He was also not convinced that it was reasonable for a development on the south side be held responsible for a traffic signal on the north side of the complex.

Mayor Dunn pointed out that these questions came up during the Planning Commission meeting. She asked Ms. Binckley to read from page 9 of the Planning Commission meeting minutes. Ms. Binckley quoted, “although this is a new tenant or a new building, the property will still be owned by DDR, who owns the remainder of the development, excluding the pad sites that Petersen identified earlier. Granted, the 16,000 sq. ft. does not increase the traffic by much, but it will be DDR who owns all of this property. From staff’s point of view, it is not Pottery Barn, but the owner of the property who will be paying for the traffic improvements.”

Councilmember Bussing stated that property owners should be aware of capital improvement expectations as development continues. He further voiced his concern in forcing developers to pay for oversights made during the original designing of Town Center and stated he intends to vote against the motion as it stands.

Mr. Johnson reported that improvement recommendations are based upon traffic studies, which are done each time a new development takes place. He explained that needs are not identified until the study is performed. Councilmember Bussing stated he understood the methodology, however, was reluctant to place responsibility on the property owner.

Mayor Dunn revealed that during the Planning Commission meeting, a City Engineer likened this situation to the approval of Park Place being contingent upon stormwater improvements behind City Hall. She explained that precedence has been set as needs have often been met per project approval ramifications. Councilmember Bussing further expressed disagreement with the process.

Mr. Petersen agreed that adequate analysis had taken place during the Park Place stormwater agreement, based upon exact cubic amounts of water the development would generate. Regarding traffic improvement needs, he stated the changes could not be anticipated as other businesses near Town Center also generate a large amount of traffic. Mr. Petersen stated that DDR owned 56% of Town Center, and suggested a fair approach be made by changing the wording of the stipulation to the likes of “when warranted upon evaluations of intersection utilization.” He agreed to work with Staff in extending the turning lane.

Mayor Dunn proposed the City Attorney change the wording of the stipulation to match the agreement with Park Place. Mr. Lambers confirmed the Park Place stipulation to say, “50% of the improvement when warranted will be placed into escrow” as opposed to escrowing immediately. Mr. Lambers agreed that it should be based upon incremental traffic growth by Town Center.

Mr. Petersen was opposed to this agreement, stating it was more reasonable for the developer to pay for only the percentage of traffic generated from the project. He felt it excessive to pay 50% when warranted if the need is caused by a larger development six years into the future.

Mr. Lambers advised a remand back to the Planning Commission as an override is necessary to change their recommendation.

Councilmember Rawlings suggested using the word "agreement" which would pass on to another owner if the property was sold. Mr. Lambers suggested, out of fairness, to mirror the stipulation made in the Park Place agreement.

Councilmember Gullede asked Mr. Petersen to clarify his request. Mr. Petersen responded that DDR will commit to paying 56% of the signalization cost allocated to Town Center. Councilmember Gullede inquired if it would be possible to obtain the remaining 44% of Town Center's portion from the other business owners. Mr. Lambers stated that under this scenario, the balance would be assumable to the taxpayers at large.

Councilmember Filla stated that if there is no equitable way to address the changes in infrastructure at Town Center because of ownership issues, the City should freeze further development. She stated that she was in support of remanding the issue back to the Planning Commission in order to reach a compromise.

Mayor Dunn reminded Mr. Petersen that the stipulation would state "when warranted" and that his traffic engineer reported the traffic signal to never be warranted. She stated that it seemed a waste of time to remand the issue and possibly have the Planning Commission come back with the City Administrator's recommendations. Mr. Petersen agreed to take the City Administrator's recommendations in terms of paying for the traffic signal in the future when warranted rather than establishing an escrow account. He requested that the Council make a decision this evening.

Mayor Dunn confirmed with Mr. Petersen that he also accept the agreement to provide a turning lane extension at 119<sup>th</sup> and Rosewood.

Councilmember Rasmussen removed his original motion to remand the item back to the Planning Commission and Councilmember Rawlings removed his second. Councilmember Rasmussen then moved to approve the resolution with the agreement of the owner to provide half the cost of a traffic signal at 117<sup>th</sup> Street and Town Center Drive when warranted, and to provide a 100-foot extension of the existing eastbound left-turn on 119<sup>th</sup> Street and Rosewood. Councilmember Filla seconded the motion.

Mayor Dunn advised as an override of the Planning Commission's recommendations, a supermajority vote (6) would be needed.

Councilmember Bussing commented that the process was broken. He stated that the remaining infrastructure at Town Center needs to be evaluated before further development takes place. He also requested to have the Park Place development plans sent to him.

The motion was approved following a unanimous vote of 7-0.

Mr. Lambers agreed that part of the process was broken. He reviewed that the Governing Body recently approved a change to the LDO which provided final planning to come back before Council as there were concerns that changes were being made at the Planning Commission level not acceptable to the Governing Body. He requested authorization from the Council to amend the LDO by requiring the Planning Commission to have a supermajority vote in the event that changes to preliminary approved stipulations take place.

Councilmember Rasmussen echoed Councilmember Bussing's concerns that future development needed to be evaluated.

It was agreed upon by consensus of the Council to approve Mr. Lambers' recommendation to amend the LDO.

**12. OLD BUSINESS- None**

**13. NEW BUSINESS - None**

**14. OTHER BUSINESS – None .**

#### **ADJOURN**

There being no further business, the meeting was adjourned at 9:20 P.M.

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Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk