

Minutes

DVD No. 119

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, April 4, 2005. Mayor Peggy Dunn presided.

Councilmembers present: Jim Rawlings, Scott Gulledege, Gary Bussing, Mike Gill, James E. Taylor, Sr., Gregory Peppes, and Debra Filla.

Councilmembers absent: Lou Rasmussen

Staff present:

Scott Lambers, City Administrator
Diane Binckley, P&D Director
Chief Sid Mitchell, Police Department
Chris Claxton, P&R Director
Deb Harper, City Clerk
Jeff Cantrell, Neighborhood Serv. Admin.

Patty Bennett, City Attorney
Kathy Rogers, Finance Director
Chief Ben Florance, Fire Department
Joe Johnson, PW Director
Christy Wise, Deputy City Clerk
Mark Andrasik, IS Director

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted that Councilmember Bussing and Councilmember Filla will present reports under Item No. 10, Councilmembers' Report. A motion was made by Councilmember Rawlings, seconded by Councilmember Gill 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.

4. PROCLAMATIONS -

**Crime Victims' Rights Week, April 10-16, 2005
Child Abuse Prevention Month, April, 2005**

5. PRESENTATIONS/RECOGNITIONS Sgt. Tayne Smith, Recognition of 25 years of service with Leawood Police Dept.

Mayor Dunn bestowed thanks and appreciation to Sgt. Smith for his dedication to the Leawood community. She then presented him with a plaque. Police Chief Sid Mitchell remarked on the positive impact Sgt. Smith has made on the Leawood Police Department. Councilmember Rawlings shared a story involving Sgt. Smith. Sgt. Smith introduced the police officers belonging to his crew as well as Captain Scott Barton.

Dan Turner, Recognition of 25 years of service with the Public Works Dept.

Mr. Turner was unable to attend the City Council meeting. In his absence, Joe Johnson, Public Works Director, recognized that Mr. Turner is a great asset to the Public Works Department. Mayor Dunn asked Mr. Johnson to relay congratulations and sincere appreciation to Mr. Turner.

6. SPECIAL BUSINESS - None

7. PRE-BUDGET PUBLIC HEARING 2006 Fiscal Budget

Mayor Dunn opened the public hearing for comments. There being no comments, a motion to close the public hearing was made by Councilmember Gill, seconded by Councilmember Taylor. The motion was approved following a unanimous vote of 7-0.

8. 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 Appropriation Ordinance Nos. 1017 through 1023B
- B. Accept minutes of the March 7, 2005 Governing Body meeting
- C. Accept minutes of the February 21, 2005 Governing Body Work Session meeting
- D. Accept minutes of the February 15, 2005 Historic Commission meeting
- E. Approve Change Order No. 2 in the decreased amount of \$22,357.50 to Miles Excavating, Inc., pertaining to the Storm Sewer Maintenance Project 03-601
- F. Approve 3rd and Final Pay Request in the amount of \$2,000.00, to Miles Excavating, Inc., pertaining to the Storm Sewer Maintenance Project 03-601
- G. Approve Change Order No. 2 in the amount of \$26,704.47 to Miles Excavating, Inc., pertaining to the JB-04-008 SMAC Project, Phase II, Lee Boulevard to State Line and 103 Street to I-435 Highway
- H. Approve Final Payment in the amount \$7,200.00, [CIP #193, \$3,750.00; CIP # 194, \$3,450.00] to Phelps Engineering, Inc., pertaining to engineering services for Cornerstone, Church of the Resurrection, 135th Street, 137th Street, Briar, Roe Avenue and Storm Sewer Improvements [CIP # 190, 191, 193 and 194]

- I. Approve 26th and Final Payment in the amount of \$1,135.50, to Continental Consulting Engineers, pertaining to the JB-04-008 SMAC Project, Lee Boulevard to State Line and 103 Street to I-435 Highway
- J. Approve purchase in the amount of \$15,000 to Kansas City Wizards, pertaining to the purchase of soccer game tickets for the Leawood Soccer League
- K. Approve purchase in the amount of \$19,734.60, to Dell Computers for the purchase of Dell Desktop computers
- L. Approve continued use of the Edgar Law firm for legal services for ongoing litigation
- M. Approval of Massage Establishment License to Erica Nicholas, located at 13652 Roe Avenue, d/b/a 'Massage by Erica,' in accordance with Code § 5-520
- N. Resolution No. 2383 approving and ratifying the Mayor's execution of the Compliance Agreement between the City and Johnson County Interfaith Hospitality Network, Inc., pertaining to the 2005 Community Development Block Grant [CDBG] Program
- O. Resolution No. 2384 approving and authorizing the Mayor to execute a Sponsorship Agreement between the City and Coca-Cola
- P. Resolution No. 2385 approving a Final Plat for Town Center Plaza Lots 10 and 12 located north of 119th Street and east of Nall Avenue [*from the March 22, 2005 Planning Commission meeting*]
- Q. Resolution No. 2386 approving a Final Plat for Village of Camden Woods 78th Plat located south of 143rd Street and west of Kenneth Road [*from the March 22, 2005 Planning Commission meeting*]
- R. Resolution No. 2387 approving a Final Plat for Village of Camden Woods 79th Plat located south of 143rd Street and west of Kenneth Road [*from the March 22, 2005 Planning Commission meeting*]
- S. Police Department Monthly Report
- T. Fire Department Monthly Report
- U. Municipal Court Monthly Report

Mayor Dunn stated that Councilmember Taylor would be recusing himself from item No. 8H, therefore it would be pulled for the purpose of a separate vote. She also noted that a technical correction had been made to item No. 8C. A motion was made by Councilmember Gulledge, seconded by Councilmember Bussing to approve the remainder of the Consent Agenda. The motion was approved following a unanimous vote of 7-0.

- 8H. Approve Final Payment in the amount \$7,200.00, [CIP #193, \$3,750.00; CIP # 194, \$3,450.00] to Phelps Engineering, Inc., pertaining to engineering services for Cornerstone, Church of the Resurrection, 135th Street, 137th Street, Briar, Roe Avenue and Storm Sewer Improvements [CIP # 190, 191, 193 and 194]

Councilmember Filla moved to approve the item, seconded by Councilmember Gill. The motion was approved following a unanimous vote of 6-0 (Councilmember Taylor recusing).

9. MAYOR'S REPORT

- A. Recognition of the passing of Pope John Paul II. Mayor Dunn reported that messages of condolences were received from the Muslim and Jewish communities. She noted that the Pope stood for love, peace, and human rights. She asked that we pause for a moment of silence.
- B. Attended breakfast on March 9th to honor Dr. Eyal Ben-Ari, Director of the Harry S. Truman Institute for Peace Research at the Hebrew University in Jerusalem, Israel. He discussed the cooperative projects of the Truman Presidential Museum and Library and the Truman Institute for Peace Research. When asked how he felt about the opportunity for peace in the Middle East, Dr. Ben-Ari responded that he was, "cautiously optimistic a little bit."
- C. Participated along with County Chairperson Annabeth Surbaugh and other Johnson County mayors in a press conference called by Congressman Dennis Moore regarding the decrease in funding for the Community Development Block Grants [CDBG], which are receiving a proposed 35% cut from the Bush Administration. The National League of Cities and the National Association of Counties joined with the U.S. Conference of Mayors and a coalition of business leaders and locally appointed officials at the press conference to denounce the elimination of the grants in the proposed 2006 budget. The press conference was held at the Prairie Village City Hall.
- D. Participated with Raytown Mayor Sue Frank on a panel discussion for the Greater Kansas City Civic Council for Kansas City Tomorrow participants regarding the defeated Bi-State II referendum and other possible regional initiatives that might be undertaken in the future.
- E. Attended Chairperson Annabeth Surbaugh's State of the County Address along with several members of professional staff, Councilmember Filla, Councilmember Rasmussen, and Councilmember Taylor. There were 76 Leawood Chamber of Commerce members present at the luncheon.
- F. Attended retirement reception for Captain Terry Shepherd of the Leawood Fire Department, who is retiring after 25 years of service.
- G. Announced invitation from Fire Chief Ben Florance to welcome back the first Leawood fire truck, which was purchased in 1949. The event will take place on Friday, April 8th, 2:00 p.m. at Fire Station #1. The fire truck was purchased and donated back to the City by the Leawood Women's Club. Appreciation to current Leawood Women's Club President Joanne Howell, president-elect Alice Hawk, other members of Leawood Women's Club, and the Leawood Fire Department for their efforts to restore this historical item.
- H. Reminder that tomorrow, April 5th, is Election Day. Mayor Dunn encouraged everyone to get out and vote.

10. COUNCILMEMBERS' REPORT

- A. **Councilmember Filla** - Councilmember Filla reported that she attended the Art of the Zodiac event, showcasing Taiwanese art and Zither music. She stated that Lieutenant Governor John Moore, Director General Jo-Chin Wang of the Taipei Economic & Cultural Office, and other dignitaries were also in attendance. There was an introduction of the works by Dr. John Kennedy.

Councilmember Filla distributed a brochure of the artwork for Council's review. She commented on the various mediums used in their artwork. She shared a remark made by Lieutenant Governor John Moore that Taiwan represented the tenth largest trading partner for Kansas.

Councilmember Filla complimented Police Chief Sid Mitchell for a very well done job on the Annual Police Report.

Lastly, Councilmember Filla presented photographs taken of the Leawood entrance at the intersection of Somerset and Lee Boulevard. She stated that collaborative efforts to enhance the appearance of the entrance are being made by the Art and Public Places Initiative, Staff, and other committees.

Councilmember Taylor commented that there were several entrances to Leawood. Mayor Dunn stated that the objective was not to identify entrances of the City but rather to identify a location for the next public art project for which a presentation will be given in the near future.

- B. Councilmember Bussing** - Councilmember Bussing reported that he has received calls concerning overflow parking at I-Lan Park. He stated that he has noticed cars being parked upon the grassy areas, particularly on the weekends. He voiced his concern about the damage being done to the grass. Councilmember Bussing moved to refer an analysis and recommendation to the Public Works Committee in order to resolve the parking issues at I-Lan Park within 45 days. The motion was seconded by Councilmember Gill followed by a unanimous vote for approval of 7-0.

Councilmember Bussing complimented Parks and Recreation Director Chris Claxton for the wonderful job that Staff has done on the parks.

11. STAFF REPORT - None

COMMITTEE REPORTS

12. PLANNING COMMISSION

[From the February 22, 2005 Planning Commission meeting]

- A. Ordinance No. 2099 approving a 5-year Special Use Permit and Final Site Plan for Columbian Bank located on the southwest corner of College Boulevard and Roe Avenue [Roll Call Vote]

Councilmember Gill motioned to pass the ordinance with a second by Councilmember Gullledge.

Curtis Holland of Polsinelli, Shalton, et al., representing Columbia Bank, offered to answer questions. Councilmember Taylor questioned the reason for keeping the existing ATM unit. Mr. Holland stated that it was a matter of economics as there would be a cost associated with removing the unit. He also stated that the machine is still able to be utilized.

The ordinance was passed with the following roll call vote of 6-0: Yea: Councilmembers Taylor, Gill, Filla, Bussing, Rawlings, and Gullede. (Councilmember Rasmussen absent and Councilmember Peppes not seated for vote)

[From the March 8, 2005 Planning Commission meeting]

B. Resolution No. 2388 approving a Final Site Plan and Final Plat for Park Place located north of 117th Street and east of Nall Avenue

Jeffrey Alpert of Park Place Developers introduced the development team and provided an update of the project. He stated that purchase of the grounds has been completed. The leasing process for both retail and office space has continued. He reported that they have received a letter of intent from a major national hotel developer for an upscale luxury boutique hotel. In addition, the presale process has begun for the first condominium building. During a preview event, ten reservations were taken for the 52 unit building.

Councilmember Gill asked if there would be adequate funding for the parking structure through the Transportation Development District [TDD] based on retail sales. Mr. Alpert responded that they have numerous letters of intent from retail operators as well as restaurants, which are now progressing through the leasing process. He stated that the parking garage would be part of phase I and was confident that there would be enough retailers to support the funding mechanism.

Councilmember Taylor stated that it was his understanding that the TDD initially relies upon real property assessment before retail sales tax go into effect. Mr. Alpert clarified that the real property assessment would not replace the funding generated through sales tax, however the two are combined as revenue sources. Councilmember Taylor confirmed with Mr. Alpert that the sales tax projections are not sufficient to retire the debt on the bonds without having the real property assessment.

Tim Mount of Street Works presented an overview of the master plan and principals applied to the architectural details. He reviewed the plans for phase I.

Councilmember Gill inquired if the street width issues had been addressed per the Fire Marshal's recommendations. Mr. Mount affirmed that they had. Diane Binckley, Planning and Development Director, explained that the minimum width of the north/south street could be 38 feet. She stated that the islands on the preliminary plan had been removed, thus allowing 42 feet from curb to curb. Ms. Binckley stated that the Fire Marshal was supportive of the adjustments.

Councilmember Taylor stated he did not see a feature addressing connectivity to Town Center, as previously discussed. Mr. Alpert replied that the final resolution was to add a pedestrian walk across 117th Street with the option of adding a pedestrian crossing signal. Councilmember Taylor, speaking on Councilmember Rasmussen's behalf as well as his own, stated that a connective element needed to be part of the final plan in order to relieve parking overflow from the AMC Theater. Mr. Alpert acknowledged that there would be pedestrian movement from Town Center to Park Place.

Mayor Dunn commented that Stipulation 20 was agreed upon during preliminary planning, which states "All pedestrian crossings shall be differentiated from the vehicular access routes with a different paving material." Ms. Binckley confirmed that this was accurate. Mayor Dunn stated some of the pedestrian crosswalks on the plan do not reflect different materials at this time, but it is in fact a stipulation that the applicants have agreed to.

Councilmember Taylor confirmed with Mr. Alpert that there would be a pedestrian crosswalk east of the 117th and Nall intersection, which may subsequently require signalization.

City Administrator Scott Lambers suggested that if the City Council desired a pedestrian traffic signal to be incremented when needed, a stipulation should be included in the final planning process requiring the applicant to do so upon request. Councilmember Taylor asked Mr. Alpert if he would agree to this condition and provide 100% of the cost. Mr. Albert stated his consent.

Mayor Dunn stated that the stipulation would be added as No. 36.

Councilmember Bussing asked about the status of the undeveloped land. Mr. Alpert stated the land that is not actually built upon during Phase I would be cleared, seeded, and provided with erosion control.

Councilmember Rawlings inquired if the erosion problem east of the Edgewood Estates would be corrected during phase I of Park Place development. Mr. Alpert verified that phase I included stormwater improvements behind City Hall.

Councilmember Bussing questioned whether the overall development plans were designed to accommodate ultimate build-out. Mr. Johnson responded that the plans included fully developed traffic patterns. Mr. Alpert commented that they have agreed to complete all requested traffic improvements around the parameter of the site as part of the first phase.

Mayor Dunn congratulated the developers of Park Place and stated that she was looking forward to total completion of the project.

Councilmember Bussing moved to approve the final site plan with the addition of Stipulation No. 36, regarding pedestrian signalization when warranted upon monitoring by Staff. The motion was seconded by Councilmember Rawlings.

Councilmember Gill stated his appreciation for the collaborative manner in which Mr. Alpert and Ms. Mann employed to bring the project to the City. Councilmember Rawlings echoed Councilmember Gill's comments. Mr. Alpert stated that he looked forward to seeing the City Council at the groundbreaking.

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

13. OLD BUSINESS

- A. Resolution No. 2389 amending the 2006-2010 Capital Improvement Program [C.I.P.] for the City of Leawood, Kansas

Mayor Dunn reviewed that this topic was initiated during a Work Session discussion, where it was requested that Mr. Johnson obtain recommendations from Bucher, Willis & Ratliff regarding the prioritization of improvements to 143rd Street versus 151st Street. She stated that if 143rd is approved before 151st, a decision would also have to be made for which section to improve first.

Mr. Johnson displayed maps of the two streets.

Councilmember Taylor added that he requested the matter be evaluated by Staff and then ultimately by the traffic engineers. He noted that Staff does not agree with BW&R's recommendations to improve 143rd Street ahead of 151st Street. Councilmember Taylor felt that 143rd Street should go first partly due to the fact that the 151st Street improvement project would require an inter-local agreement with Overland Park. He further supported his position by stating that the development on 143rd Street, including an industrial park, needs to be served.

Per the Public Works Department memo, Councilmember Taylor asked Mr. Johnson why he felt that BW&R's recommendations included assumptions that did not have much of a basis. Mr. Johnson replied that he disagreed with BW&R's opinion that the recent overlay of 151st Street may have improved conditions from a safety standpoint. He stated that the two-inch overlay done in 2004 was purposeful to extend the life of the road only and would not reduce accidents. The existing and future traffic counts were basically the same for both streets. Both streets are developed with residential and commercial. Mr. Johnson stated that there are many similar aspects of the two streets; however, 151st Street has had one fatality accident which puts it at a higher ranking in terms of safety.

Councilmember Taylor asked where the fatality occurred. Mr. Johnson answered that it was approximately three-quarters of a mile east of Nall Avenue.

Mr. Johnson confirmed that the City of Overland Park does not have improvements for 151st Street scheduled in their C.I.P. through 2010.

Councilmember Taylor made a motion to adjust the C.I.P. by scheduling improvements on 143rd Street, from Nall Avenue to Kenneth Road, before improvements to 151st Street.

Mayor Dunn, Mr. Johnson, and Councilmember Taylor discussed which section of 143rd Street should be done first. It was decided that the western section, Nall Avenue to Mission Road, would be phase I.

Councilmember Gulledge seconded the motion. He inquired as to the total cost and timing of the project. Mr. Johnson replied \$21 million dollars, for which federal aide would be applied. Phase I of the construction would begin in 2010 with phase II starting in 2012.

Councilmember Gill confirmed with Mr. Johnson that 50% of the project cost would be supported by government funding. In the scenario that funding became unavailable, Councilmember Gill asked which improvement was strategically more important. Mr. Lambers answered that the funding options for the two phases were not significantly different; however, the application for 151st Street improvements, now scheduled for 2014-2016, could possibly be in jeopardy and require a greater share of local dollars.

Councilmember Gill shared his concern regarding the bottle-neck effect that would be created in close proximity of Prairie Star Elementary School on 143rd Street during transition of phase I and II, as this would invite traffic congestion. Mr. Lambers assured that measures would be taken to avoid this situation by designing the bottle-neck east of the school entrance.

Mayor Dunn confirmed with Mr. Johnson that federal funding is anticipated in 2014 for 151st Street.

Councilmember Filla queried how switching the projects would impact the C.I.P. budget as costs will accelerate by making 143rd Street the priority. Mr. Lambers stated that the increase in expenditures could create the possibility of necessitating a mill-levy increase to be directed to the bond and interest fund if other revenue is not available. He remarked that any decision made tonight would be sound as all of the streets need the improvements.

The motion to schedule 143rd Street improvements ahead of 151st Street improvements was approved following a unanimous vote of 7-0.

14. NEW BUSINESS – None

15. OTHER BUSINESS

- A. Schedule an Executive Session immediately following the regular Governing Body meeting for a period of 15 minutes to discuss information relating to the acquisition of real property

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

The Governing Body recessed into Executive Session at 8:55 p.m. The regular meeting reconvened at 9:10 p.m.

ADJOURN

A motion to adjourn the regular meeting was made by Councilmember Taylor, seconded by Councilmember Gill. The motion was approved following a unanimous vote of 7-0. The meeting adjourned at 9:10 p.m.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk