

## **Minutes**

Audio Tape No. 646

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, May 16, 2005. Mayor Peggy Dunn presided.

**Councilmembers present:** Scott Gullede, Jim Rawlings, Gary Bussing, Mike Gill, Louis Rasmussen, Gregory Peppes, and Debra Filla.

**Councilmembers absent:** James E. Taylor, Sr.

**Staff present:** Scott Lambers, City Administrator  
Patty Bennett, City Attorney  
Joe Johnson, Public Works Director  
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.

### **2. Discuss Special Benefit Improvement District for Villaggio of Leawood-West located south of 135<sup>th</sup> Street and east of Roe Avenue**

Mr. Lambers reminded the Governing Body of a prior work session regarding a proposed development project, Parkway Plaza East and West, for which the Council agreed to provide Special Benefit District [SBD] funding. This work session regarding the Villaggio project is comparable in that the objective is to agree upon a policy issue, not the project itself. The consensus reached tonight concerning the SBD financing will in no way predetermine or prejudice the Governing Body's decisions with regards to voting for the actual project.

Mr. Lambers presented slides of the Villaggio layout plans. He explained that the applicant is requesting to install underground storage facilities to handle stormwater. As part of the first phase, a temporary holding facility will be constructed to alleviate the stormwater problems to the south. During the second phase of the project, it will be determined where the underground facilities will be located. The developers are requesting SBD financing for the underground storage facilities.

According to State Statute, SBD improvements must have a public interest. The Attorney General has ruled that these improvements, assuming that proper contingencies are met, are eligible for SBD financing. Mr. Lambers stated that upon Council concurrence, the SBD financing can go forward. The relationship between the developer and the City will be such that should the installed systems fail to function in the intended capacity, the City will have the authority to go in, remedy the problem, and bill the developer/property owners accordingly. However, after financing has been taken off the books, total maintenance responsibility will be reverted back to the development.

Mr. Lambers anticipated that the Council may see more, or desire to see more, SBD requests in the future because of the cost differential between underground versus surface stormwater improvements. He listed the benefits of the underground improvements as public safety, better engineering management, and aesthetics. As this will consume the capacity of the City's SBD financing for other projects, there must be a balance in desire to see these types of improvements.

Mr. Lambers stated the objective is to agree upon financing underground stormwater management facilities with the SBD mechanism.

Councilmember Gill posed several questions: 1) How much SBD limit is available; 2) How much more City-wide SBD financing is likely to be requested; 3) How much of our available SBD funding would this project utilize; and, 4) What is the cost difference of underground stormwater facilities versus alternative detentions. He also commented on the need for uniform criteria in allocating available resources with City interest as a principle factor.

Mr. Lambers quoted the SBD funding price at \$1.9 million dollars for the stormwater structure. The overall SBD for this project is estimated at \$5-6 million dollars. He stated that this project comes in under the threshold, leaving additional capacity; however, the limit changes from year to year as debt is paid off and/or accrued. Mr. Lambers reported that there is no way to calculate future requests, but it was his opinion that no other projects with as significant stormwater issues as the Villaggio development will occur in the immediate future. Currently, there are no improvement plans for the properties east and south of the Price Chopper Shopping Center, which are known problem areas. The cost for a surface detention area would have to be evaluated by the developer/property owner with loss of land incorporated into the amount.

Mr. Lambers stated that the SBD financing would also be used for the construction of 137<sup>th</sup> Street and Fontana and improvements to 135<sup>th</sup> Street. Future requests would include the continuation of 137<sup>th</sup> Street east to Kenneth Road with the probability of another cross-street as well as 1-2 cross-streets north of 135<sup>th</sup> Street.

Councilmember Bussing arrived at 6:27 P.M.

Mr. Lambers clarified for Councilmember Rasmussen that the underground stormwater facilities will be privately owned and maintained although the City will have an easement. If system malfunction should occur, the City will have the authority to make the proper repairs and bill the cost to the developers.

Councilmember Rasmussen remarked that the underground detention ponds were unquestionably in the interest of the public. He stated that the total stormwater system, including the conduits on the street, should be included in the SBD. In addition, he voiced his comfort in establishing a policy.

Councilmember Peppes arrived at 6:30 P.M.

Mayor Dunn commented that Leawood is rather unique with SBD financing. Mr. Lambers explained that SBDs benefit the public in that improvements are installed at the cost of developers rather than taxpayers.

Mayor Dunn confirmed with Mr. Lambers that the \$1.9 million dollars is included in the \$5-6 million dollar total.

Councilmember Filla inquired about options if the SBD is not allowed. Mr. Lambers answered that the developers would have to reconsider doing the project as it would be unlikely for them to find financing and an alternative surface stormwater detention area would require significant land loss.

Councilmember Filla asked for a description of the underground system versus an aboveground system. Mr. Lambers explained that with the underground pond there would be much more green space. There would be a noticeable 4-5 foot grade differential leading to the area holding the water. With an aboveground system, the loss of green space would be distributed around the project as the water could not be confined to one area.

Councilmember Filla confirmed with Mr. Lambers that the underground versus aboveground concept is comparable in terms of cost to Park Place developments surface parking versus parking structure. However, Mr. Lambers stated that the parking structures did not offer public benefits whereas the underground system will solve an existing storm drainage problem.

Mr. Lambers explained that the property owned by the developers does not experience water run-off problems, it occurs further downstream. Thus, they are providing correction for a problem that they will not experience. Mayor Dunn pointed out that this project will benefit residents to the south who currently experience flooding.

In the event of system failure which necessitates City involvement, Councilmember Rawlings inquired who would be liable for the flooded area to the south. Mr. Lambers responded that the City would be named if litigation were to occur, however the developer will carry additional insurance protection for the City.

Mr. Lambers confirmed with Phil Gibbs of Continental Engineering that the capacity of the underground storage will be for a 10-year rain. Mr. Lambers stated that if the system were to collapse, there would still be a hole to retain the water. He explained that true system failure would be due to blockage of the entryways, causing water to bypass the holding tanks.

Councilmember Rawlings asked where excess water would drain if there was a 10-year rain for two consecutive days. Mr. Gibbs explained that three drainage pipes and a berm will be constructed to provide additional protection to residents.

Councilmember Gill proposed the situation of a 100-year rain. Mr. Gibbs demonstrated the water drainage path via slides. He confirmed that the water would not flood residential areas. Mr. Gibbs explained that a 100-year rain is closer to 2 times the amount of a 10-year rain, rather than 10 times the amount. He stated that half of the water would be stored underground as the tank is designed to hold three inches of water from the whole development.

Joe Johnson, Public Works Director, stated that in the event of excess rain or system failure, the berm will prevent residential flooding by directing the water into parking lot areas.

Councilmember Rasmussen confirmed with Mayor Dunn that public interest and financial capacity are the deciding issues of the project.

Mayor Dunn verified positive comfort levels in putting the project into an SBD with Councilmembers Rasmussen, Gill, Filla, Rawlings, Bussing, Peppes, and Gullledge. She stated that she was also comfortable with the proposal and believed that it would alleviate many problems for the residents of Leawood Meadows.

Councilmember Gullidge inquired if the residents of Leawood Meadows would have more responsibility in terms of taxes. Mr. Lambers stated that typically any property owner who benefits from an SBD improvement is required by State Statute to be included in the assessment. In this case, the developers initially proposed to prepay the assessment of any benefited property owners. However, they have opted to go with the taxable issue which basically precludes the process being necessary. This will prevent the property owners to the south from being involved.

Mayor Dunn stated for the record that Councilmember Taylor recused himself from this issue due to a conflict of interest.

There being no further business, the meeting was adjourned at 6:50 P.M.

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Christy Wise, Recording Deputy City Clerk