

**Minutes**

DVD No. 128

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 Tuesday, September 6, 2005. Mayor Peggy Dunn presided.

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

**Councilmembers absent:** None.

**Staff present:**

Patty Bennett, City Attorney  
Chief Ben Florance, Fire Department  
Diane Binckley, P&D Director  
Kathy Rogers, Finance Director  
Christy Wise, Deputy City Clerk  
Chris Claxton, P & R Director

Shannon Marcano, Assistant City Attorney  
Major Craig Hill, Police Department  
Joe Johnson, Public Works Director  
Deb Harper, City Clerk  
Mark Andrasik, IS Director

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn advised that Nos. 13L and 13M will be heard as the first and second items under New Business. A motion to approve the agenda was made by Councilmember Gill, seconded by Councilmember Peppes. The agenda was approved with a unanimous vote of 8-0.

**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** **Stepfamily Day, September 16, 2005**  
**Payroll Week, September 4-10, 2005**

Mayor Dunn read and presented the Payroll Week Proclamation to Finance Director Kathy Rogers.

**5. PRESENTATIONS/RECOGNITIONS** **Fire Battalion Chief Wayne Harder & Fire Captain John Hinman**

Fire Chief Ben Florance introduced Fire Battalion Chief Wayne Harder and Fire Captain John Hinman to the Governing Body. He recognized and congratulated them for their recent promotions.

**6. SPECIAL BUSINESS**

- A. Request Approval for helicopter landing, in accordance with Code § 11-211, on Wednesday, September 14, 2005 between 5:0 PM and 7:00 PM for the 3<sup>rd</sup> annual Community Block Party to be held at Plaza Pointe Town and Country Bank, located on the southwest corner of 135<sup>th</sup> Street and Roe

Councilmember Gill moved to approve the request, seconded by Councilmember Gullede. The motion carried with a unanimous vote of 8-0.

**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 Appropriation Ordinance Nos. 1032B, 1033A and 1033B  
B. Accept minutes of the August 15, 2005 Governing Body meeting  
C. Accept minutes of the June 14, 2005 Historic Commission meeting  
D. Accept minutes of the May 11, 2005 Leawood Foundation meeting  
E. Accept minutes of the July 12, 2005 Parks and Recreation Advisory Board meeting  
F. Accept minutes of the July 28, 2005 Ironhorse Advisory Board meeting  
G. Accept minutes of the August 19, 2005 Stormwater Management Committee meeting  
H. Approve renewal of Retail Liquor License for Ranchmart Wine & Spirit Shoppe, located at 3748 W. 95<sup>th</sup> Street  
I. Approve payment to Precision Printing, in the amount of \$17,427.50, pertaining to the Fall Activity Guide for the Parks and Recreation Department  
J. Resolution No. 2461 approving and authorizing the Mayor to execute a Maintenance Agreement in the amount of \$35,128.00, between the City and Commercial Waterproofing Company, pertaining to the City Hall courtyard

- K. Resolution No. 2462 approving and authorizing the Mayor to execute an Inter-local Agreement between the City of the Leawood and the City of Overland Park, pertaining to the Public Improvement of Roe Avenue between College Boulevard and Tomahawk Creek Parkway [2005 Arterial Street Program]
- L. Resolution No. 2463 approving and authorizing the Mayor to execute an Inter-local Agreement between the City and Johnson County Board of County Commissioners [BOCC] pertaining to the IRONHORSE Golf Club NC-04-001 Stormwater SMAC Project
- M. Resolution No. 2464 approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$21,000, between the City and Brungardt Honomichi & Company, P.A., pertaining to surveying services for the 2006 Residential Street Reconstruction Program
- N. Resolution No. 2465 accepting and approving the City of Leawood's designated portion of the Johnson County Mitigation Plan
- O. Resolution No. 2466 accepting Public Infrastructure Improvements for the Highlands Creek Subdivision 4<sup>th</sup> Plat [GASB-34]
- P. Resolution No. 2467 approving a Final Site Plan for Nall Valley Shops - Walgreen located north of 151<sup>st</sup> Street and east of Nall Avenue [*from the August 23, 2005 Planning Commission meeting*]
- Q. Resolution No. 2468 approving a Final Site Plan for Bi-State Business Park - Speculative Office/Storage Building located south of 143<sup>rd</sup> Street and east of Kenneth Road [*from the August 23, 2005 Planning Commission meeting*]
- R. Resolution No. 2469 approving a Final Plat for Plaza Pointe, 2<sup>nd</sup> Plat, located south of 135<sup>th</sup> Street and west of Roe Avenue [*from the August 23, 2005 Planning Commission meeting*]
- S. Resolution No. 2470 approving a Final Plat for Village of Camden Woods, 82<sup>nd</sup> Plat located south of 143<sup>rd</sup> Street and west of Kenneth Road [*from the August 23, 2005 Planning Commission meeting*]
- T. Resolution No. 2471 approving a Final Plat for Village of Camden Woods, 83<sup>rd</sup> Plat located south of 143<sup>rd</sup> Street and west of Kenneth Road [*from the August 23, 2005 Planning Commission meeting*]
- U. Resolution No. 2472 approving a Final Site Plan for Parkway Plaza Lot 10 located north of 135<sup>th</sup> Street and east of Briar Street [*from the August 23, 2005 Planning Commission meeting*]

Mayor Dunn noted minor technical changes to item Nos. 7B and 7E. Councilmember Taylor requested to pull item No. 7J. Councilmember Rasmussen requested to pull item No. 7Q.

Councilmember Gulledge moved to approve the remainder of the Consent Agenda, seconded by Councilmember Peppes. The motion was approved with a unanimous vote of 8-0.

- 7J. Resolution No. 2461 approving and authorizing the Mayor to execute a Maintenance Agreement in the amount of \$35,128.00, between the City and Commercial Waterproofing Company, pertaining to the City Hall courtyard

Councilmember Taylor asked why only one bid was received for the project. Public Works Director Joe Johnson ensured that other contractors with this specialty were notified, however only one company expressed interest. Councilmember Taylor suggested updating the list of available contractors.

Councilmember Taylor moved for approval, seconded by Councilmember Gullledge. The resolution was approved following a unanimous vote of 8-0.

- 7Q Resolution No. 2468 approving a Final Site Plan for Bi-State Business Park - Speculative Office/Storage Building located south of 143<sup>rd</sup> Street and east of Kenneth Road [*from the August 23, 2005 Planning Commission meeting*]

Regarding Stipulation No. 12, Councilmember Rasmussen confirmed with Planning & Development Director Diane Binckley that a 20-year time frame is associated with the funds put into an escrow account for placing power and utility lines underground. Ms. Binckley stated that improvements will occur in conjunction with the widening of Kenneth Road. She verified for Councilmember Rasmussen that the City will hold the funds until needed. Mayor Dunn noted the 20-year time line to be on the record with the August 15, 2005, minutes.

Councilmember Rasmussen moved for approval, seconded by Councilmember Gill. The motion carried with a unanimous vote of 8-0.

## 8. MAYOR'S REPORT

- A. Mayor Dunn expressed sympathy for the victims of Hurricane Katrina on behalf of the City of Leawood. She stated that the City is planning to commit resources to the relief effort once FEMA has the organizational structure in place. For individuals wishing to donate, cash is most needed, per President Bush, and can be given to the Salvation Army, Red Cross, or other organizations listed in the *Kansas City Star*.
- B. Attended the Partnership 2000 gathering of students who were visiting from the Gezer Region of Israel, Leawood's Sister-City, and Ramla, Israel, Sister-City to Kansas City, Missouri. The event was sponsored by the Jewish Federation of Greater Kansas City and is a mifgash, an educational and culture exchange. The 21 10<sup>th</sup> grade students are visiting for ten days and are being hosted by parents of teenagers who attend Hyman Brand Hebrew Academy, who in turn visited Israel last year.
- C. Attended the 9<sup>th</sup> Annual Police and Fire Open House in conjunction with the Police Community Partnership. Councilmembers Rawlings and Rasmussen were in attendance along with several hundred people. Mayor Dunn extended appreciation to Chief Mitchell, Chief Florance, and members of the Fire and Police Departments for their efforts.

- D. Attended the 13<sup>th</sup> Annual Fall Breakfast for the Shawnee Mission Education Foundation. Dr. Marjorie Kaplan presented the State of the District report which highlighted the fact that the district ranks among the lowest in Kansas in terms of available per pupil funding. After legislature appropriated new funding this year, the district declined to a rank of 294 out of 300 Kansas districts. However, student achievements continue to surpass State and National peers on standardized tests. Dr. Kaplan mentioned the importance of the upcoming sales tax renewal as the money will be used to increase teacher salaries and make smaller classrooms possible. Mayor Dunn read a resolution passed by the Leawood Chamber of Commerce Board, which has also been embraced by the Johnson County Public Policy Council, supporting a three year renewal of the ¼-cent County-wide sales tax for education.
- E. Reminder for the Kansas City Ballet performance at Ironwoods Park Amphitheater on Thursday, September 8<sup>th</sup> at 6:00 P.M.
- F. Announced production of "The Complete Works of William Shakespeare," by the Leawood Stage Company, which will run September 15-18 and 22-23, in the Oak Room of the Leawood Community Center.
- G. Reminder for the Johnson County Community Sesquicentennial Celebration on Saturday, September 17<sup>th</sup>, at Shawnee Mission Park from 10:00 A.M. to 4:00 P.M. Docents from the Leawood Historic Commission will attend the festival. Mayor Dunn thanked Councilmember Rasmussen for his assistance in serving on the celebration committee and encouraged attendance of the event.

Councilmember Rasmussen advocated early and absentee voting for the September election as it concerns rather important issues.

Councilmember Gill reported receiving an e-mail from Senator John Vratil confirming the Shawnee Mission and Blue Valley school districts' expenditure per pupil average to be in the lower 15% for the State of Kansas. He echoed Councilmember Rasmussen's sentiment that the election is vitally important as it will ensure funding assistance for schools through the ¼-cent sales tax revenue.

## **9. COUNCILMEMBERS' REPORT**

- A. Councilmember Jim Rawlings' request for the Governing Body to have the applicant of Mission Corner appear at a future Work Session in October, 2005, to discuss plan development options

Councilmember Rawlings reviewed that the preliminary plan for Mission Corner was approved by a 5-3 vote with himself voting in the affirmative. As the architect volunteered to present more creative and innovative options for the development, Councilmember Rawlings moved that a Work Session take place on October 17<sup>th</sup> at 5:30 P.M. in order to prevent a total redesign occurring when the Final Plan is presented to the Council.

Councilmember Peppes inquired if Planning Commission members would be included in the Work Session. Mayor Dunn stated that accommodations could be made to possibly include them as well.

The motion was approved with a unanimous vote of 8-0.

- 10. STAFF REPORT** – Joe Johnson provided an update on Roe Avenue construction. He stated that sodding of the north phase will occur this week, surfacing will take place on September 30<sup>th</sup>, striping on October 4<sup>th</sup>, and completion of phase I is scheduled for October 5<sup>th</sup>. Phase I includes the area north of 127<sup>th</sup> Street with phase II being 127<sup>th</sup> Street to 135<sup>th</sup> Street.

The phase II schedule includes completion of base asphalt this week; surfacing and striping on October 18<sup>th</sup>; handrails, streetlights, and irrigation by November 5<sup>th</sup>; and, total completion two weeks following. Mr. Johnson advised that the phase II schedule is more subjective to weather than phase I. Landscaping and sodding may continue through January.

Councilmember Gill confirmed with Mr. Johnson that the roadway through 135<sup>th</sup> Street should reopen before Thanksgiving.

Councilmember Taylor asked when the corrective work to phase I will take place. Mr. Johnson responded that it will be complete by the end of the year and will include landscaping. Phase II corrective work will continue through the first of next year. Mr. Johnson verified for Councilmember Taylor that penalties are \$1,000 per day.

Councilmember Bussing confirmed with Mr. Johnson that a mill and overlay from 119<sup>th</sup> to 127<sup>th</sup> on Mission Road will take place this week.

**11. COMMITTEE RECOMMENDATIONS**

*[from August 19, 2005 Stormwater Management Committee meeting]*

- A. Recommendation of an extension to that certain Construction Agreement dated November 15, 2004, between the City and Wiedenmann & Godfrey Construction, Inc., pertaining to the Dykes Branch Channel Improvement [Phase II] SMAC DB-04-024 Project [CIP # 106]

Councilmember Gulledge moved to approve the recommendation, seconded by Councilmember Peppes.

Mayor Dunn noted that page 1 of 2 in the information provided for this item should refer to a contract extension rather than change order.

Councilmember Rasmussen inquired if the final numbers for phase I had been compared to the original estimate. Mr. Johnson stated that phase I included two change orders related to the sanitary sewer relocation by Johnson County Wastewater [JCUWD]. A third change order is being considered in order to enhance the bridge; however, the need for creek bank stabilization has been eliminated, leaving funds available. The overall project is on target with the contractors bid, which was established in 1998.

Councilmember Rasmussen questioned the process of acquiring easements for phase II. He stated that consent should already be obtained by this point. Mr. Johnson stated that easements are generally not obtained until final designs are complete in order to assure residents of the work to be performed. Mr. Johnson confirmed that clear easement commitments will be obtained for upcoming SMAC projects.

Councilmember Bussing stated in the interest of the public, projects of this magnitude should be sent out for bid in order to avoid the appearance of favoritism. He voiced intent to vote against the proposal for this reason.

Mayor Dunn stated the proposal was evaluated by the Public Works Committee and will save the public hundreds of thousands of dollars. If not for the due diligence associated with the contract extension, she stated that she would agree with Councilmember Bussing. Councilmember Bussing stated that he is not suggesting that impropriety has occurred, however feels that the appearance of the situation may cause citizen concern. Mr. Johnson reported that future phased projects will include a provision in the contract to allow for an extension.

Councilmember Filla commented that Weidenmann & Godfrey were extremely diligent contractors and she has received many positive comments from residents concerning their work ethic. Mr. Johnson added that positive public feedback has been received by the Public Works Department as well. Councilmember Filla stated that it seemed to be in the City's best interest to extend the contract.

Councilmember Gill stated that he was sensitive to Councilmember Bussing's comments; however, intended to vote for the proposal as due diligence will also be served to the County and the extended pricing has already been subjected to a competitive bidding process. He also stated there is value in keeping the current contractors engaged in the ongoing project.

Mr. Johnson informed that the issue was brought before the Johnson County Stormwater Management Advisory Council to ensure further funding, who agreed with the approach.

The motion was approved with a vote of 6-2 (Councilmembers Bussing and Rasmussen opposed). Councilmember Rasmussen stated concerns with the process of obtaining easements.

*[from August 23, 2005 Planning Commission meeting]*

- B. Resolution approving a Final Site Plan and Final Plat for Tomahawk Pointe, First Phase, located north of College Boulevard and west of Mission Road

John Petersen of Polsinelli, Shalton, et al., applicant, stated agreement to the stipulations imposed by the Planning Commission.

Mayor Dunn confirmed with Ms. Binckley that it has been agreed upon for the glass color to match the glass used on the Doctor's Specialty Hospital. The desert rose glass will have a gray background rather than bronze, which will reduce reflectivity.

Councilmember Gill noted the F.A.R. of this building to be 0.26 with the aggregate of both phases at 0.22. He confirmed with Ms. Binckley the maximum F.A.R. for a standalone project to be 0.25. He stated that he would not vote favorably for the phase II building if there is an attempt to increase the committed 0.17 F.A.R.

Councilmember Taylor asked how the standing seam metal and concrete tile would be interfaced, as referred to in Stipulation No. 7. Chuck Peters of Peters & Associates, 9990 College Boulevard, stated that he strongly supports standing seam only in order to integrate with other buildings in the area. He requested that the use of concrete tile be minimal and asked Council to review the issue. Councilmember Taylor asked for elaboration of the Planning Commissions' motives to include the concrete tile. Ms. Binckley stated that in the past, most buildings along Tomahawk Creek have been standing seam only with more recent buildings in other areas using a combination of materials. Staff asked the Planning Commission to make a recommendation regarding the roofing materials. The Planning Commission stated comfort in having a combination, however the applicant is requesting standing seam only.

Councilmember Taylor remarked that standing seam only would provide consistency along the streetscape. He confirmed with Ms. Binckley that an override will be necessary in order to honor the architect's request.

Mr. Petersen disagreed with the need for an override as the stipulation was initiated by Staff after preliminary approval. Mayor Dunn counseled with City Attorney Patty Bennett, who advised that a supermajority will be required as the language in the stipulation is based upon the Planning Commissions' vote.

Councilmember Gullledge verified with Mr. Peters that he is comfortable with the glass color and only has issue with the roofing material. Mr. Peters stated that concrete tile would not provide the continuity or elegance needed to aesthetically fit the area.

Mayor Dunn noted that if a standing seam only roof was not approved, there would be opportunity for a second vote on recommendations as written by the Planning Commission. Mayor Dunn expressed appreciation for Mr. Peters' concerns regarding symmetry along the corridor.

Councilmember Rawlings reviewed the option of using minimal concrete tiles with Mr. Peters, who stated it was preferable to use none at all.

Councilmember Filla confirmed with Mr. Peters that requirements of the homeowners association had been met.

Councilmember Taylor moved to approve the final plan with the condition that Stipulation No. 7 designate standing seam only and omit the use of concrete tile. Councilmember Gulledge provided a second to the motion.

Mayor Dunn reviewed that there are no issues related to the glass color.

Councilmember Gulledge commented that he is in favor of the project, however felt the current plan to be a compromise of the original design.

Mayor Dunn reminded that numerous compromises had been reached by the applicant and members of the homeowners association. She stated appreciation for the public involvement and the applicant's willingness to negotiate.

The motion was approved with a unanimous vote of 8-0.

**12. OLD BUSINESS - None**

**13. NEW BUSINESS**

- L. **Resolution No. 2459** waiving the bidding process in accordance with Charter Ordinance No. 32, to construct and repair improvements to Overbrook Road, from 103<sup>rd</sup> Street to approximately 600 feet north

Councilmember Gill moved to approve the resolution, seconded by Councilmember Rasmussen. The motion was approved following a unanimous vote of 8-0.

- M. **Resolution No. 2460** approving and authorizing the Mayor to execute a Construction Agreement for an amount not to exceed \$200,000 between the City and Seal-O-Matic Inc., pertaining to street repair of Overbrook Road north of 103<sup>rd</sup> Street

Councilmember Gill moved for approval, seconded by Councilmember Rasmussen. The motion was approved following a unanimous vote of 8-0.

Councilmember Taylor expressed appreciation to fellow councilmembers for allowing the shift in items as he will be recusing from the remainder of the agenda due to conflicts of interest. He noted that he could participate in item No. 13E and requested to move it ahead as well. Council concurred to accommodate the request.

- E. **Ordinance No. 2129** granting to Telcove Investment, LLC, a contract franchise to construct, operate, and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise [Roll Call Vote]

Councilmember Rasmussen moved for approval, seconded by Councilmember Taylor.

Councilmember Filla asked for further information on services that the company plans to offer. Assistant City Attorney Shannon Marcano advised that business services only, not residential, will be offered at this point.

Councilmember Gill asked how the business will impact Leawood. Mike DeNatele, representative of Telcove Investment, explained that the business deals with building, operating, and maintaining fiber optic telecommunications. They will offer high speed voice data and internet services to commercial customers only. It is not their intention to provide residential services at all. He reviewed the network functions and offered to leave additional literature for Councils' perusal.

The ordinance was passed with the following roll call vote of 8-0: Yea: Councilmembers Gullede, Bussing, Filla, Rawlings, Peppes, Rasmussen, Taylor, and Gill. Nay: None.

Councilmember Taylor informed that he would recuse from the remaining items and left the Council Chambers.

Mayor Dunn stated that she would recuse from item Nos. 13A through 13D due to conflicts of interest. She turned the meeting over to the presiding officer, Councilmember Bussing, and left the Council Chambers.

- A. **Ordinance No. 2127**, authorizing the issuance and delivery of \$4,090,000, principal amount of General Obligation Improvement Bonds, Series 2005-A, of the City of Leawood, Kansas providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the Bonds as they become due; and making certain covenants with respect thereto [Roll Call Vote]

Ms. Rogers presented the ordinance request. Councilmember Rawlings moved for approval, seconded by Councilmember Rasmussen. The ordinance was passed with the following roll call vote of 7-0: Yea: Councilmembers Gill, Filla, Bussing, Rasmussen, Peppes, Rawlings, and Gullede. Nay: None (Councilmember Taylor and Mayor Dunn recusing).

- B. **Resolution No. 2455**, prescribing the form and details of and authorizing the delivery of \$4,090,000 principal amount of General Obligation Improvement Bonds Series 2005-A, of the City of Leawood, Kansas, authorized by Ordinance No. 2127, of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith

Ms. Rogers reviewed the resolution request. Councilmember Gullede moved for approval, seconded by Councilmember Rawlings. The motion carried with a unanimous vote of 7-0 (Councilmember Taylor and Mayor Dunn recusing).

- C. **Ordinance No. 2128**, authorizing and providing for the issuance and delivery of \$33,200,000 principal amount of General Obligation Temporary Notes, Series 2005-A, of the City of Leawood, Kansas, to provide funds to finance the cost of certain public improvement projects within the City; and making certain covenants with respect thereto [Roll Call Vote]

Ms. Rogers explained the ordinance to the Council. Councilmember Rasmussen moved for approval, seconded by Councilmember Filla. The motion was approved with the following roll call vote of 7-0: Yea: Councilmembers Gullede, Rawlings, Peppes, Rasmussen, Bussing, Filla, and Gill. Nay: None (Councilmember Taylor and Mayor Dunn recusing).

- D. **Resolution No. 2456**, authorizing the issuance and delivery of \$33,200,000 principal amount of General Obligation Temporary Notes, Series 2005-A, of the City of Leawood, Kansas, for the purpose of financing a portion of the costs of certain public improvements in the City; and prescribing the terms and details of said notes and certain covenants and agreements with respect thereto

Ms. Rogers presented the resolution request. Councilmember Filla moved for approval with a second by Councilmember Rasmussen. The motion carried with a unanimous vote of 7-0 (Councilmember Taylor and Mayor Dunn recusing).

Mayor Dunn returned to the Council Chambers.

- F. **Ordinance No. 2130** authorizing the creation of a Transportation Development District in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefore. [Utilities; Church of the Resurrection; CIP # 190] [Roll Call Vote]

Ms. Rogers informed that legislative changes now allow the consecutive approval of ordinances and resolutions pertaining to notes and bonds. Councilmember Gullede moved for approval, seconded by Councilmember Rawlings.

Councilmember Filla asked if there were options other than using a Transportation Development District [TDD] to make the improvements. Ms. Bennett stated that Special Benefit Districts [SBDs] were historically used to bury power lines; however, the improvements to be made at 135<sup>th</sup> and Nall will move the lines out of the City's right-of-way and into the Kansas City Power & Light easement. This relocation removes the project from SBD statutes. However, the TDD statute allows for this when utilities are located within a private easement. Ms. Bennett advised that the assessment will be privately placed and will not contain the sales tax element as associated with the Park Place development.

Ms. Rogers confirmed no differences in the reimbursement process or debt structures between a TDD and SBD for Councilmember Filla. Ms. Rogers advised the other option would be for the development to bear all costs. The costs were believed to be allowed by an SBD when the project was envisioned; however, due to policies regarding placement of the lines, it was necessary to seek corrective alternatives.

Councilmember Filla and Ms. Bennett discussed the fact that this situation is unique and should not set precedence for future projects to use TDDs as a funding vehicle. Ms. Rogers added that the developer was given the option to pay cash, who in turn asked that the TDD be presented to Council. Councilmember Filla stated that the exception should be noted so as not to set precedence. Ms. Rogers advised that a formal TDD policy has yet to be approved by Council, which will also be noted in this particular document. Ms. Bennett predicted future TDD requests for other developments along 135<sup>th</sup> Street, which will need Council consideration, and acknowledged this project to be unique based upon different circumstances.

Mayor Dunn noted the SBD to be a great longtime aid to developers and felt the TDD was a good alternative as they are also funded by assessments. Ms. Rogers added that the TDD will alleviate such problems that were associated with power line placement at the Merrill Lynch building.

Councilmember Gill verified with Ms. Bennett that assessments will be secured by the entire property of the Church of the Resurrection and by property still owned by Cornerstone, LLC of the Cornerstone development. Ms. Bennett felt certain that the assessed property values were in far excess of the \$610,000 requested.

Councilmember Gill clarified with Ms. Rogers that the improvements could normally be financed through an SBD excluding location of the power lines. Ms. Bennett assured Councilmember Gill that legislature passed a law, effective July 1, 2005, which clearly allows TDDs to include undergrounding of utilities. Ms. Rogers added that it was specifically called out in legislation. Ms. Bennett stated that Bond Counsel has verified a comfort level with the funding.

Councilmember Bussing recalled a TDD discussion for another proposed development in which it was informally agreed upon that TDDs should be reserved for unique projects. He agreed with Councilmember Filla in that the TDD should not be used to bury lines for all developments.

The ordinance was passed with the following unanimous roll call vote of 7-0: Yea: Councilmembers Gill, Filla, Bussing, Rasmussen, Peppes, Rawlings, and Gulledge. Nay: None (Councilmember Taylor recusing).

- G. **Ordinance No. 2131** authorizing and providing for the issuance and delivery of Transportation Development District Temporary Notes, Series 2005 of the City of Leawood, Kansas, to provide temporary financing of the cost of a Transportation Development District Public Improvement Project in the City of Leawood, Kansas [Church of the Resurrection; CIP # 190] [Roll Call Vote]

Councilmember Gulledge moved for approval, seconded by Councilmember Bussing. The ordinance was passed with the following roll call vote of 7-0: Yea: Councilmembers Rasmussen, Peppes, Rawlings, Gulledge, Bussing, Filla, and Gill. Nay: None (Councilmember Taylor recusing).

- H. **Resolution No. 2457** authorizing the issuance and delivery of Transportation Development District Temporary Notes, Series 2005 of the City of Leawood, Kansas, to provide temporary financing of the costs of a Transportation Development District Public Improvement Project in the City; and prescribing the terms and details of said notes [Church of the Resurrection; CIP # 190]

Councilmember Bussing moved for approval, seconded by Councilmember Rasmussen. The motion carried with a unanimous vote of 7-0 (Councilmember Taylor recusing).

- I. **Ordinance No. 2132** authorizing the creation of a Transportation Development District in the City of Leawood, Kansas; authorizing the development of certain transportation project improvements relating thereto; approving the estimated costs of such transportation project improvements; and providing for the method of financing therefore. [Utilities; Cornerstone; CIP # 191] [Roll Call Vote]

Councilmember Rasmussen moved for approval, seconded by Councilmember Bussing. The ordinance was passed with the following roll call vote of 7-0: Yea: Councilmembers Gulledge, Bussing, Rawlings, Filla, Peppes, Gill, and Rasmussen. Nay: None (Councilmember Taylor recusing).

- J. **Ordinance No. 2133** authorizing and providing for the issuance and delivery of Transportation Development District Temporary Notes, Series 2005, of the City of Leawood, Kansas, to provide temporary financing of the cost of a Transportation Development District Public Improvement Project in the City of Leawood, Kansas [Cornerstone; CIP # 191] [Roll Call Vote]

Councilmember Rasmussen moved for approval, seconded by Councilmember Rawlings. The motion carried with the following roll call vote of 7-0: Yea: Councilmembers Rasmussen, Gill, Peppes, Filla, Rawlings, Bussing, and Gulledge. Nay: None (Councilmember Taylor recusing).

- K. **Resolution No. 2458** authorizing the issuance and delivery of Transportation Development District temporary notes, Series 2005 of the City of Leawood, Kansas, to provide temporary financing of the costs of a Transportation Development District Public Improvement Project in the City of Leawood, Kansas [Cornerstone; CIP # 191]

Councilmember Gullede moved for approval, seconded by Councilmember Rasmussen. The resolution was approved following a unanimous vote of 7-0 (Councilmember Taylor recusing).

**14. OTHER BUSINESS - None**

**ADJOURN**

The Governing Body meeting was adjourned at 9:10 P.M.

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Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk