

**Minutes**

DVD No. 134

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, December 5, 2005. Mayor Peggy Dunn presided.

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

**Councilmembers absent:** Mike Gill.

**Staff present:**

Scott Lambers, City Administrator  
Chief Sid Mitchell, Police Department  
Kathy Rogers, Finance Director  
Chris Claxton, P & R Director  
Jeff Joseph, Planner  
Christy Wise, Deputy City Clerk

Patty Bennett, City Attorney  
Chief Ben Florance, Fire Department  
Joe Johnson, Public Works Director  
Mark Klein, Senior Planner  
Deb Harper, City Clerk  
Karl Weinfurter, IS Specialist

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

Mayor Dunn noted the addition of Item No. 9B, a report from Councilmember Taylor.

A motion to approve the agenda was made by Councilmember Peppes, seconded by Councilmember Taylor. The agenda was approved following a unanimous vote of 5-0.

**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 – None.**

**5. PRESENTATIONS/RECOGNITIONS – None.**

**6. SPECIAL BUSINESS**

A. Public Hearing on amendments to 2005 Fiscal Budget

Mayor Dunn opened the public hearing. There being no comments, Councilmember Rasmussen moved to close the public hearing, seconded by Councilmember Taylor. The motion was approved with a unanimous vote of 5-0.

B. Resolution No. 2514 adopting amendments to the 2005 Fiscal Budget for the City of Leawood, Kansas

Councilmember Rasmussen moved to approve the resolution with a second provided by Councilmember Taylor. The motion carried with a unanimous vote of 5-0.

Associated with this amendment as well as an amendment approved two weeks ago, City Clerk Deb Harper advised of a certificate from the County Clerk's Office requiring signatures from the Governing Body. Mayor Dunn granted her request to approach the dais in order to obtain the signatures.

Councilmembers Bussing and Gullledge arrived at 7:35 P.M.

**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. 1039A, 1039B and 1039C
- B. Accept minutes of the November 21, 2005 Governing Body meeting
- C. Accept minutes of the November 14, 2005 Special Call Governing Body meeting
- D. Accept minutes of the November 7, 2005 Governing Body meeting
- E. Approve renewal of Cereal Malt Beverage [CMB] License for Osco Drug Store # 5161, located at 11729 Roe Avenue
- F. Approve renewal of Employee Life Insurance, Long Term Disability [LTD] and Accidental Death & Dismemberment [ADD] Programs for 2006
- G. Approve renewal of Section 125/Flexible Benefit Plan and Addendum
- H. Approve Change Order No. 3 in the amount of \$2,664.20, to O'Donnell & Sons Construction pertaining to the 135<sup>th</sup> Street and Briar Intersection Improvement Project [CIP # 193]
- I. Approve Change Order No. 4 in the amount of \$17,907.54, to O'Donnell & Sons Construction pertaining to the Parkway Plaza Benefit District Project [CIP # 195]
- J. Resolution No. 2513 establishing the 2006 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution No. 2335

- K. Resolution No. 2515 approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$20,000.00, between the City of Leawood, Kansas and Public Finance Consultants [PFC], to provide financial consulting support
- L. Resolution No. 2516 approving and authorizing the Mayor to execute Amendment No. 5, to that certain Engineering Service Agreement dated April 26, 2001, in the amount of \$40,000, between the City and Black and Veatch Corporation, pertaining to the Dykes Branch Channel Improvement Project, [SMAC Project DB-04-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- M. Resolution No. 2517 approving a Final Site Plan for Plaza Pointe Vince Office Building, located south of 135<sup>th</sup> Street and west of Roe Avenue, within the Plaza Pointe development [*from the November 28, 2005 Planning Commission meeting*]
- N. Declaration of Surplus Property [Gas Stove from Ironwoods Lodge]

City Administrator Scott Lambers asked to pull Item No. 7M for discussion. Councilmember Taylor requested to pull Item Nos. 7J, 7K, and 7N.

On motion of Councilmember Taylor, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved following a unanimous vote of 7-0.

- 7J. Resolution No. 2513 establishing the 2006 Fee Schedule for fees not specifically provided for in the Code of the City of Leawood, 2000, and rescinding Resolution No. 2335

Councilmember Taylor pointed out a typographical error on Page 1 of the Fee Schedule. He confirmed with Mr. Lambers that dates listed as 2005 should read 2006. In addition, Councilmember Taylor asked if the recommended fees were comparable to surrounding cities. Mr. Lambers stated an evaluation has not been performed within the last year. He also affirmed no significant increases in the fees from last year. Mr. Lambers advised that an evaluation can be considered at the 2006 Goals and Objectives Work Session. Councilmember Taylor requested discussion of the subject at that time.

Councilmember Taylor moved to approve the resolution, seconded by Councilmember Peppes. The motion carried with a unanimous vote of 7-0.

- 7K. Resolution No. 2515 approving and authorizing the Mayor to execute a Service Agreement for an amount not to exceed \$20,000.00, between the City of Leawood, Kansas and Public Finance Consultants [PFC], to provide financial consulting support

Councilmember Taylor received clarification from Mr. Lambers that financial consultants are being retained in order to aid in the budgeting process. This is not a contract for \$20,000, however authorizes payment up to this amount should there be a need for further services throughout the year.

Councilmember Taylor stated he understood that with the purchase of the new software, the consultants would not be necessary. Mr. Lambers explained the computer upgrades were for internal administrator rather than the budgeting aspect.

Councilmember Taylor moved for approval, seconded by Councilmember Rawlings. The motion was approved following a unanimous vote of 7-0.

Mayor Dunn requested that Item No. 7N be heard before Item No. 7M.

7N. Declaration of Surplus Property [Gas Stove from Ironwoods Lodge]

Councilmember Taylor confirmed with Parks and Recreation Director Chris Claxton that the stove being declared as surplus property is a recent purchase but is now being replaced. Ms. Claxton informed of problems with the gas burners on the stove. The pilots are not self-igniting and must be manually lit. The Public Works Department as well as the Fire Marshal expressed safety concerns regarding potential gas buildup and recommended replacement of the unit.

Councilmember Taylor asked why the problem was not identified sooner. Ms. Claxton stated she could not answer this question.

Councilmember Taylor moved to approve the item with a second from Councilmember Bussing.

Mr. Claxton informed Councilmember Gullede the surplus stove will be sold at Nationwide Auction Systems. He requested a disclaimer be attached to the stove in order to alert the buyer of this potential problem.

Councilmember Filla verified with Ms. Claxton that a new stove has been purchased and installed.

The motion was approved with a vote of 6-1 (Nay: Councilmember Taylor). Councilmember Taylor stated the problem should have been recognized at an earlier date.

7M. Resolution No. 2517 approving a Final Site Plan for Plaza Pointe Vince Office Building, located south of 135<sup>th</sup> Street and west of Roe Avenue, within the Plaza Pointe development [*from the November 28, 2005 Planning Commission meeting*]

Mr. Lambers directed Council to Page 6 of the packet material. He stated two Staff recommended stipulations did not meet with the Planning Commission's approval. He requested consideration of the differing positions.

The first issue involves the use of stucco. Staff was concerned the proposed amount of stucco did not meet with the definition of accent in the Leawood Development Ordinance [LDO] but was more of a predominant feature. Staff requested the building mirror an existing structure and carry a brick façade all the way to the roofline. Mr. Lambers asked that denial of the Staff request be overridden.

The second issue is the use of spandrel glass. Mr. Lambers stated he was not yet certain if Staff's position should be maintained and requested Council to provide him the flexibility to determine which recommendation should go forward. He assured that a decision would be made without delay so as not to hold the applicant in limbo.

Councilmember Taylor noted a feature that was not followed by the architect in the example drawing. He stated the roof design is vertical standing seam running perpendicular to the outside walls, however the example photo shown in the packet depicts Town & County Bank with a horizontal roof material. He stated inconsistency within the project would be a violation of design criteria.

Mayor Dunn confirmed with Planner Jeff Joseph that standing seam is the material used for both buildings. She advised that Town & Country Bank is not on the agenda for approval. Mr. Lambers added the stipulation will be maintained regardless of inconsistencies shown in the picture. Mr. Joseph verified for Councilmember Taylor that standing seam metal is permitted in the development. Councilmember Taylor advised the material shown on the example is not standing seam metal.

Councilmember Rasmussen moved to approve the project with the amount of stucco reduced per the Planning Staff's recommendations and provide the City Administrator authority to make a determination regarding the spandrel glass as well as review the roofing material. Councilmember Filla seconded the motion.

Councilmember Bussing established with Mr. Lambers there were no deviations to the building from final approval of the overall development.

Mayor Dunn commented that high quality projects are striven for with consistent material demands set in place by the LDO. She asked if the developer would like to address the Council. Applicant Bob Sanders with RSA Architecture, 6355 W. 110<sup>th</sup> Street, Overland Park, Kansas, offered a presentation, however Council had no further questions.

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

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

- A. Announced that Mayor Lu of I-Lan, Taiwan, Leawood's Sister-City, was elected County Magistrate Mayor on December 3<sup>rd</sup> and will be sworn into office on December 20<sup>th</sup>. I-Lan City Councilor Huang Ding Ho will take office as the new mayor in March. Mayor Dunn relayed extending congratulations to Mayor Lu and expressing that Leawood looks forward to working with the new mayor of I-Lan.

- B. Attended the Greater Kansas City Chamber of Commerce Annual Dinner. Mayor Dunn offered sincere congratulations to former Kansas City, Kansas Mayor/CEO of the Unified Government Carol Marinovich, who received the award of 2005 Kansas Citizen of the Year.
- C. Conducted the Holiday Lighting Ceremony at Leawood City Hall. Councilmembers Filla, Rasmussen, and Rawlings attended the event along with 300-400 guests. Mayor Dunn stated appreciation to Special Events Coordinator Lindsay Youle for organizing the ceremony; to the Church of the Resurrection Jubilation Ringers, the Corinth Singing Stars, the Leawood Singers, and the Curé of Ars Youth Choir for performing at the celebration; and to Commerce Bank for underwriting the reception.
- D. Attended United Community Services of Johnson County's Annual Breakfast, where the 2006 legislative platform was presented. One priority state position stressed was the recommendation that UCS will oppose any proposal that restricts the state's ability to adequately fund human services. A tax increase will be supported rather than risk the unintended consequences of cutting human service programs.
- E. Mayor Dunn also congratulated the Johnson County Library Board of Directors and Librarian Mona Carmack as the Johnson County Library received the Nation's highest honor for Outstanding Public Service (public service provided by a library or museum).
- F. Attended the Salvation Army's Annual Civic Dinner and Christmas Celebration. Three Leawood citizens were honored with the organization's highest awards. Bob and Ann Regnier received The Others Award, which is presented to an individual or couple who exemplify an extraordinary spirit of service to others. Clarence Roeder was recipient of The William Booth Award, which is given to an individual who reflects the founder's qualities of spiritual dedication and service.

## 9. COUNCILMEMBERS' REPORT

- A. Councilmember Rasmussen's request to direct Staff to amend Section 11-103 of the Code of the City of Leawood 2000, as it pertains to anti-scavenger provisions

Councilmember Rasmussen reported receiving a letter from a constituent whose trash was removed from his property without permission. The anti-scavenger code currently provides protection for recyclable items only.

Councilmember Rasmussen moved to instruct the City Administrator to review the present anti-scavenger law and report within 30 days recommendations of possible changes to include the protection of all trash in order to prevent identify theft via unauthorized trash removal. Councilmember Filla seconded the motion.

Mayor Dunn noted the 30-day period will fall on the January 3, 2006 Governing Body meeting, which will be held on a Tuesday due to the holiday.

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

B. Report from Councilmember Taylor

Councilmember Taylor informed that he distributed a memorandum to other members of the Governing Body on November 21, 2005 regarding his conflict of interest and/or appearance of conflict of interest with matters dealing with the Church of the Resurrection and Cornerstone Development. He reviewed that his company was retained to be the architect and urban planner for this project, however was subsequently replaced by another firm in approximately 2000. Under advice of the City Attorney, he has always recused from matters dealing with these developments.

Councilmember Taylor stated he felt the need to recuse should expire after a certain period of time. The City Attorney directed him to contact the Kansas Attorney General's Office and the Kansas Governmental Ethics Commission. The Ethics Commission concluded that recusals were unnecessary as there is not a conflict of interest or appearance of conflict of interest. Copies of the rulings have been given to the Governing Body, City Administrator, City Attorney, and City Clerk.

Councilmember Taylor declared that in the future, he will involve himself with matters dealing with the Church of the Resurrection and Cornerstone Development.

**10. STAFF REPORT**

A. Update on Roe Avenue Improvement Project by Public Works Director Joe Johnson

Mr. Johnson reported meeting with APAC last week. A change order for a 3-4 week contract extension will be presented at the December 19<sup>th</sup> Governing Body meeting. With the colder weather, APAC has been asked to limit work on Roe Avenue and focus on opening the road. They have agreed to open the road by December 19<sup>th</sup> with traffic control at their expense. The contract extension will span from March 7, 2006 to March 31, 2006. If the change order is approved, a hotline will be prepared in order for residents to receive the update.

Mayor Dunn confirmed with Mr. Johnson the road will not be open to thru traffic until December 19<sup>th</sup>. He stated the company is working on the 135<sup>th</sup> Street tie-in and will be cleaning up the road next week. Temporary striping will be put down with cones set up to designate travel lanes. There will be three lanes each direction from 135<sup>th</sup> Street to 127<sup>th</sup> Street.

Mayor Dunn asked if landscaping and sodding will take place beyond March 2006. Mr. Johnson stated all items must be complete by the end of the contract, which will be the proposed March 31<sup>st</sup> date.

Councilmember Taylor confirmed with Mr. Johnson that liquidated damages of \$1,000 per day will be imposed if all contract items are not complete by March 31<sup>st</sup>. Mr. Johnson assured that APAC is aware of the fines. A formal letter will be mailed tomorrow identifying the imposition of liquidated damages and that traffic control costs will be incurred by APAC upon reopening Roe Avenue.

Councilmember Taylor requested that Ms. Bennett review the contract to ensure that the City has the authority to impose liquidated damages if needed.

## **COMMITTEE RECOMMENDATIONS**

### **11. PLANNING COMMISSION**

*[from the October 25, 2005 Planning Commission meeting]*

- A. Ordinance No. 2145 approving to a Special Use Permit [SUP] for Sprint Wireless Antennae located at 129<sup>th</sup> Street and Mission Road [Roll Call Vote] –*Continued from the November 21, 2005 Governing Body meeting*

Applicant Alicia Martin, 721 N. Poplar Street, Gardner, Kansas, stated the main issue from the last meeting was location of equipment. The Sprint engineers and coverage planning team have determined the most feasible location for this particular system as 129<sup>th</sup> Street and Mission Road. This site has the greatest potential for success in terms of deployment and coverage. Changes in location are not up for consideration by Sprint.

Ms. Martin reported that Sprint has modified the original drawings at the request of the Planning Commission to comply with desires of the Governing Body. She formally requested approval of the Special Use Permit. In addition, she noted that Sprint has prepared written documentation to address other issues mentioned at the last City Council meeting.

Mayor Dunn asked Ms. Martin to share the changes made at the request of the Planning Commission. Ms. Martin stated that after receiving approval of drawings and construction plans from Kansas City Power & Light [KCP&L], Sprint requested to use an aerial messenger wire. In turn, the Planning Commission and some members of the public requested that inquiries be made regarding burying the messenger wire in order to eliminate the need for guy wires. Per KCP&L standards, guy wires would be necessary to offset tension created by the messenger wire. The burial of messenger wires was approved by Sprint engineers and KCP&L.

Stipulation No. 3 requires landscaped screening to the utility box. Ms. Martin informed of a State law suggesting that cities remain neutral and nondiscriminatory against providers who put equipment in the right-of-way. The current status quo of bare utility boxes served as the basis for Sprint's request to waive the stipulation. Mayor Dunn confirmed with Ms. Martin that Stipulation No. 3 was agreed upon at the Planning Commission meeting. A landscape plan will be submitted prior to building permit.

Councilmember Bussing verified with Ms. Martin that alternate locations were considered. She stated Sprint is planning to install a total of 5 booster signals in Leawood with each site selection based on optimal areas for service improvement.

Referring to drawings C3 and C4, Councilmember Taylor noted the bottom of the antenna to be 24-feet from the ground. As the pole is 28-30 feet in height with KCP&L crossbars at the top, he asked how the equipment would be installed within this confine. Engineer John Prock, 385 E. North Street, Peculiar, Missouri, stated the apparatus will be within the communication space and added that Sprint has received approval from KCP&L. Ms. Martin noted Sprint to be bound by the same safety standards that KCP&L requires of their workers. KCP&L would have denied placement of the configuration if there were any questionable safety concerns. Councilmember Taylor suggested engineers on both sides could have missed this detail.

Councilmember Taylor inquired if different antenna configurations were considered as requested at the last Council meeting. Ms. Martin replied other equipment was not considered as the antennas were selected based on ability to provide the best service at this location.

Ms. Martin, Councilmember Taylor, and Councilmember Rasmussen discussed pole length and equipment placement. Mayor Dunn noted the antenna is required to be a minimum of 15-feet above ground. Ms. Martin stated Sprint is not prohibited from using other parts of the pole, commonly referred to as "unusable space," as long as approval is obtained from the pole owner; however, this does not happen very often for safety reasons. To Councilmember Taylor's point that something may have been overlooked, Ms. Martin stated it was her belief that these drawings were approved by KCP&L.

Councilmember Gullede confirmed with Ms. Martin that analysis of the Fire Station #2 location had occurred. She stated there were issues associated with this location including potential for conflicting frequencies between the signal booster and emergency siren. Additionally, there have been two prior denials for telecommunication equipment and towers at this location since 1997.

Councilmember Gullede moved to approve the Special Use Permit. Councilmember Peppes seconded the motion.

Councilmember Gullede confirmed with Ms. Martin the primary purpose of the system is to eliminate dropped service on Mission Road. She advised only a small radius of area will be covered, hence the reason for multiple deployments to cover all services areas where there is opportunity to improve. This location and market is considered a trial to see if there is beneficial gain to service. Ms. Martin agreed to Councilmember Gullede's proposal to condition removal of the equipment if ineffective as long as this fact was unequivocally proven by Sprint engineers.

Regarding safety, Ms. Martin reviewed for Councilmember Gullede that exposure risks are significantly below the maximum allowable. She advised of a document submitted to Staff which was certified by a regulatory compliance official and that contains information such as spherical modeling, RF exposure, and Federal Communications Commission [FCC] limits. She voiced that Sprint continually tries to improve and be mindful of safety standards.

Councilmember Bussing inquired about Councilmember Gill's prior concerns of defining a pole as a structure. Mr. Lambers reported that a utility pole does not fit the language defining tower, which is a newly constructed facility, and is correctly termed as a structure.

Councilmember Rawlings asked if the future booster signal requests mentioned would be in the general metropolitan area or specific to Leawood. Ms. Martin affirmed that consideration will be asked for four more Leawood sites within the next year, however they will be requested as a group rather than individually.

Ms. Martin and Councilmember Rasmussen discussed rental fees paid to KCP&L for use of the pole. She stated the fees are governed by the FCC and are nominal, less than \$20 per year.

Mr. Lambers reviewed with Councilmember Bussing that Nos. 4 and 5 of the performance standards are not required as the pole is defined as a structure rather than tower.

Councilmember Gulledge added the following Stipulation No. 8 to his original motion: If determined that no gain in signal strength is evident, Sprint will remove the equipment. Councilmember Peppes stated the amendment met with his second.

Mayor Dunn recalled the past 127<sup>th</sup> Street and Mission Road cell tower proposals caused quite a bit of angst from citizens. She stated the repeaters were much preferred over cell towers in terms of landscaping and aesthetics. Ms. Martin stated further visual improvements will occur over time.

The ordinance passed by the following roll call vote: Yea: Councilmembers Gulledge, Rawlings, Peppes, Filla, and Rasmussen. Nay: Councilmembers Bussing and Taylor (Councilmember Gill absent). Because of the changes made to the Planning Commission recommendations, approval of this item requires a 2/3 majority vote. Mayor Dunn stated she votes in the affirmative, making the total vote 6-2.

***[from the November 28, 2005 Planning Commission meeting]***

- B. Resolution No. 2518 approving a Final Plat and Final Site Plan for Shops at 119<sup>th</sup> Street, located on the southeast corner of 119<sup>th</sup> Street and Roe Avenue

Councilmember Rasmussen moved to approve the resolution, seconded by Councilmember Filla.

Councilmember Taylor noted there were no front elevations of the main inline building included in the packet.

Applicant Jeff McMahon of RED Development, 4717 Central, Kansas City, Missouri, introduced Phil Crisara of Nelson Architects, who displayed the elevation.

Councilmember Gulledge confirmed with Mr. McMahon there were no deviations on the plan from preliminary approval.

Mr. Crisara, 905 Congress Avenue, Austin, Texas, presented the front elevations and reiterated it was identical to the preliminary design. He reviewed material selections and the color pallet chosen for the project.

Mayor Dunn asked if the material pallet was similar to the Crate & Barrel in Denver, Colorado. Jimmy Turner, architect for Crate & Barrel, 1250 Techny Road, Northbrook, Illinois, stated the pallet was exactly the same.

Mr. Turner described the exterior of the Crate & Barrel building for Councilmember Taylor as mostly white with some beige.

Mr. Crisara confirmed for Councilmember Taylor that materials used on the Crate & Barrel building would not be repeated on the main inline structure, however would be similar and complimentary. He assured that design features illustrated on the elevation would remain the same upon signing tenants for the development.

Councilmember Bussing asked for justification of the 0-foot internal parking setback deviation request. Senior Planner Mark Klein stated the original 20-foot setback criteria was developed for the purpose of separating buildings. The 0-foot setback is commonly used for major commercial sites, i.e. Cornerstone and Parkway Plaza, with the intent of avoiding numerous medians between properties of the development. Mr. Klein illustrated the parking design for Shops at 119<sup>th</sup> Street.

Mr. Klein explained for Councilmember Bussing the wording of deviation No. 4, “a maximum of 5, but not less than 4, signs shall be permitted on building “B” (Crate & Barrel),” was due to the applicant’s desire to request a fifth sign before final approval. Mr. Klein affirmed that sign ordinances are fairly specific.

Councilmember Bussing and Mr. Klein discussed the nature of deviation No. 2, “The development shall be permitted 64.6% parking areas along 119<sup>th</sup> Street, 62.3% paved areas along Roe Avenue and 95% paved areas along Tomahawk Creek Parkway.” Mr. Klein stated it was evident the development would not meet the 40% parking area standard, thus was granted the deviation. Councilmember Bussing remarked the development ordinance was written to prevent masses of concrete. Mr. Klein stated the deviation was discussed and approved during preliminary.

Councilmember Filla recalled prior explanation from former Planning & Development Director Diane Binckley regarding exchanging space used for multiple landscaped medians for larger pedestrian walkways.

Mayor Dunn confirmed with Mr. Klein that all deviations were approved at the time of preliminary site approval except for the use of Barge corrugated metal.

Councilmember Peppes asked if the stipulation allowing five signs was worded in the same manner on the preliminary application. Mayor Dunn and Mr. Klein verified that it was exactly the same wording.

Mayor Dunn asked if the center would have a name other than Shops at 119<sup>th</sup> Street. Mr. McMahon responded that a marketing firm has been hired to assist with choosing a name for the development, which should occur by the end of the year.

The motion to approve the resolution carried following a unanimous vote of 7-0.

- C. Ordinance No. 2146 a Preliminary Site Plan for Parkway Plaza, located on the northwest corner of 135<sup>th</sup> Street and Roe Avenue [Roll Call Vote]

Councilmember Rasmussen moved to pass the ordinance with a second from Councilmember Gullledge.

Dan Foster of Schlagel and Associates, representative of applicant R.H. Sailors Company, stated agreement to the proposed stipulations and requested approval of the project.

Mayor Dunn noted the Staff Comment on Page 13, which references Stipulation No. 19, suggests that trash enclosures are to be “attached” to buildings while the actual stipulation uses the word “integrated.” Mr. Joseph stated the stipulation can be changed to include the word “attached.”

Councilmember Taylor asked how landscaping on 133<sup>rd</sup> Street, west of Briar Street, would be handled. Mr. Joseph answered the existing trees will be saved in addition to new plantings. The landscape plan will be reviewed during final application. Councilmember Taylor reported that another project along 133<sup>rd</sup> Street caused the upsetting of several neighbors as proper screening was promised by developers, however plantings never occurred. He urged Staff to provide measures to ensure the problem is not repeated.

Mayor Dunn stated an agreement on the number of evergreen tree plantings had not been reached during the October 25<sup>th</sup> Planning Commission meeting. Mr. Foster informed that several concerns presented by the property owners have been resolved since that time with completion of some plantings. Dialogue will continue on a daily basis until all issues are settled.

Councilmember Taylor suggested a friendly amendment to the motion conditioning Staff approval of the landscape plan. Mr. Joseph and Mayor Dunn discerned that Stipulation No. 14 currently expresses this requirement.

Mr. Lambers advised of a Staff supported change from the original plan. The structure on the northwest corner was a condominium but is now two office buildings. There are tenants for both buildings. Mr. Lambers added there were also minor beneficial changes to the overall plan.

Mr. Foster pointed out placements of the 3-story and 1-story buildings for Councilmember Taylor on the site plan drawing. He confirmed the previously planned condominiums were four 3-story buildings.

Mr. Lambers confirmed for Councilmember Taylor that a new traffic study had been submitted which indicated the need for intersection improvements.

Mr. Joseph presented an overview of the modifications.

Councilmember Bussing noted that considerable time was spent encouraging mixed use for a neighboring development, however this project is excluding a significant residential component. He questioned whether this was the best decision for the property.

Mr. Foster stated as the plan evolved, it was apparent that condominiums would not be marketable at this corner location as the buildings were isolated from the rest of the development with no access to amenities. When a corporate headquarters opportunity arose, it was felt to fit with the mixed use concept as the other properties will be small offices, retail, and residential.

Councilmember Bussing requested to see the original plat. He stated the condominiums were to provide a buffer from the retail buildings for residents north of 133<sup>rd</sup> Street. Mr. Foster noted the new plan would benefit residents as a 1-story rather than 3-story building will overlook the neighborhood and activity will be predominantly daytime as opposed to evening. He did agree with Councilmember Bussing that it was a much different use characteristic than the condominiums.

Mr. Foster pointed out other modifications of breaking larger office and retail buildings into smaller buildings. Councilmember Bussing stated the changes went against the rationale of approving the original plan as the desire for the plat was to have greater mass with larger buildings. Mr. Foster argued the plan concept was to create a village atmosphere with emphasis on architectural style and arrangement of buildings rather than building mass.

Councilmember Bussing inquired about the bonus corner feature. Mr. Foster stated it would be similar to the corner of Briar and 135<sup>th</sup> Street with open landscaping and monuments.

Councilmember Taylor stated the modification has broken the consistency of residential use with neighboring developments, has significantly changed the character of the project, and will dictate more traffic as evidenced in the traffic study. He voiced nonsupport of the project.

Councilmember Gullledge agreed with the changes. He asked why this location was of interest to the corporate headquarters. Kevin Wilkerson, 7400 College Boulevard, Suite 250, Overland Park, Kansas, stated that Demdaco, a company based in Stillwell, Kansas, selected this location because of the available amenities and close proximity to residential components. The owner of Demdaco currently resides in the subdivision north of this property. Mr. Wilkerson affirmed this location to be the only viable option for the headquarters in Leawood. Overland Park and Lenexa locations have also been considered. Councilmember Gullledge agreed that attracting a corporate headquarters into the City is a unique opportunity.

Councilmember Gullledge asked if there were any issues associated with the Interact meeting. Mr. Joseph reported screening concerns from one resident, who was assured that landscaping will be evaluated upon final approval. There were no concerns regarding building size or use.

Mr. Foster noted the largest 3-story building will be farthest removed from the residential components. In addition, reducing the structures from four residential buildings to two office buildings will benefit the traffic impact.

Mayor Dunn confirmed with Mr. Foster the changes produced an improved level of service [LOS] per Bucher, Willis & Ratliff's traffic model.

Councilmember Gullede expressed favor with the project as Demdaco would be an asset to the City of Leawood.

Councilmember Bussing voiced concern with the piecemeal approach of changing overall development plans. He stated he would prefer to have the developer re-present the plan as a conclusion regarding material changes within the project should have adequate discussion and thought.

Councilmember Gullede inquired if there were time constraints for the project. Mr. Wilkerson quoted a need to have the preliminary and final overall development as well as individual site plans approved within 60-90 days as Demdaco has sold their current building. Mr. Foster reminded there would be opportunity to address specific details during final approval.

Mayor Dunn reported that David Suttle, project architect, gave an eloquent explanation of embracing the changes at the Planning Commission meeting.

Councilmember Bussing stated he would prefer a continuance on the matter in order to assess how the changes will affect the overall project. Mr. Foster offered to discuss each component in detail.

Mr. Foster reviewed the pedestrian amenities for Councilmember Filla. She stated it behooves the City to be flexible in taking advantage of the opportunity to have a corporate entity.

Mr. Wilkerson added that a tremendous amount of thought was given by the developer for these changes with no fewer than twenty site plans submitted before his approval was given.

Councilmember Taylor confirmed with Mr. Joseph that the Demdaco site as well as the overall project satisfactorily met the 60/40 rule.

Councilmember Gullede pointed out bonuses received as a result of the changes on Page 11. He said the changes were on the cutting edge and was very pleased with the plan.

Mayor Dunn advised an override will not be needed as no changes were made. She confirmed for Ms. Harper that Stipulation No. 19 regarding trash enclosures will be left as written with understanding from the developer that "integrated with building" is synonymous with "attached."

The ordinance passed with the following roll call vote of 5-2: Yea: Councilmembers Gullede, Rawlings, Peppes, Rasmussen, and Filla. Nay: Councilmembers Bussing and Taylor (Councilmember Gill absent).

- D. Resolution No. 2519 approving a Final Site Plan for Ironhorse Centre Building 6, located on the southeast corner of 151<sup>st</sup> Street and Nall Avenue

Councilmember Rasmussen moved for approval, seconded by Councilmember Rawlings.

Mayor Dunn verified with Mr. Lambers that Stipulation No. 31 should be deleted as Stipulation No. 20 addresses the same issue. This will change the total number of stipulations to 36.

Applicant Sandy Price with 360 Architecture stated agreement to all stipulations and requested approval of the project.

Councilmember Bussing complimented Fred Merrill on the beautiful project, particularly the art work. Mayor Dunn noted the exquisite use of cultured stone and other building materials.

Mr. Lambers advised the building is extremely contemporary in appearance which is somewhat inconsistent with the character of this location. Future buildings will need to be transitioned in order to prevent Building 6 from being overly prominent. The applicant has agreed to this concept.

Mayor Dunn confirmed with Mr. Lambers that an override is necessary due to removal of Stipulation No. 31.

Mr. Lambers further added that although the design is contemporary, building materials used are consistent with the location.

The motion to approve the resolution carried with a unanimous vote of 7-0.

**12. OLD BUSINESS – None.**

**13. NEW BUSINESS**

- A. Ordinance No. 2147 appropriating the amounts set up in each fund in the budget for fiscal year 2006, providing for the payment of all claims and charges against the accounts provided for therein; and approving and ratifying the payment of all claims against the accounts [Roll Call Vote]

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

**14. OTHER BUSINESS – None.**

**ADJOURN**

The Governing Body meeting adjourned at 9:40 P.M.

---

Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk