

**Minutes**

DVD No. 135

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 19, 2005. Mayor Peggy Dunn presided.

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

**Councilmembers absent:** Scott Gullede and Debra Filla.

**Staff present:**

Scott Lambers, City Administrator  
Chief Sid Mitchell, Police Department  
Major John Meier, Police Department  
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 an amended agenda with a continuance for Item No. 13C. Item No. 7B will also be continued to undergo modifications. Additionally, Councilmember Taylor will provide a report under Item No. 9, Councilmembers' Report.

A motion to approve the agenda was made by Councilmember Rawlings, seconded by Councilmember Gill. The agenda was approved following a unanimous vote of 6-0.

**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.

Mayor Dunn confirmed with a citizen who signed in speak on Item No. 6A that he would prefer to make comments during discussion of the matter.

**4. PROCLAMATIONS – None.**

**5. PRESENTATIONS/RECOGNITIONS County Commissioner Ed Peterson,  
County Update**

Commissioner Peterson reported the yearly budget came in at \$671 million, with an 11-12% expenditure increase. There is \$90 million in the Budget Reserve with no anticipation of spending. The mill levy will be increased by 1.8 mills with 1.5 mills devoted to construction of a new County jail, which will begin in 2006 and end in 2007-2008. The CARS Program will remain at 15.4-million in county contributions.

Commissioner Petersen distributed tables outlining the last ten years of County expenditures compared to total personal income. The tables attribute significant budget changes to five line items: The Bi-State Economic Development Sales Tax, Transfers/Cost Allocation, Wastewater, Sheriff, and Corrections.

Mayor Dunn inquired about the spike in Wastewater for year 2000. Commissioner Peterson stated wastewater changes are driven by construction programs with this particular year having a large amount of activity. A program is being developed to provide consistent funding and reduce spikes.

Councilmember Bussing requested an update on the status of a County soccer facility project being chaired by Commissioner Lindstrom. Commissioner Peterson reported a citizen advisory group has been formed and will come forth with study based recommendations in early 2006.

Councilmember Rasmussen questioned newspaper reports on the Wastewater District's inability to collect bills. He stated discontinuance of service should motivate customer payment. Commissioner Peterson stated there were cost issues associated with disconnecting and reconnecting service as well as the fact that other entities control the actual water flow. The alternative of shutting down sewers carries health concerns. He stated collection efforts are in the process of being filed.

Noting a 250% rise in the Sheriff's budget over the last ten years, Councilmember Gill discussed reasons for the increase with Commissioner Peterson.

Mayor Dunn thanked Commissioner Peterson for the report and asked him to relay appreciation to all the County Commissioners.

**6. SPECIAL BUSINESS**

- A. Resolution No. 2522 approving and authorizing the Mayor to execute a Settlement Agreement and General Release regarding the Grevet v. Leawood litigation, between the plaintiffs, the developer and the City [note: the developer and plaintiffs have reached an agreement regarding the subject tract; the City is not participating in the settlement of this matter, except to consent to an agreement by the plaintiffs and the developer] [Leawood Country Club; 8901 Sagamore]

Councilmember Gill moved for approval, seconded by Councilmember Peppes.

Gordon Henke, 8901 High Drive, plaintiff of the lawsuit, gave a history of the Leawood County Club demolition. He reported recovering memorable items from the site and has corresponded with Historic Commission Chair Beverly Hurley regarding their placement in the Old City Hall building. He also suggested the new arch bridge on 89<sup>th</sup> Street be named “Gray Eyes Crossing” to commemorate the first owner of the site, Wyandotte Indian leader Dr. Gray Eyes. Mr. Henke listed negative economic impacts due to the closure of the Leawood County Club. He asked Council to monitor the redevelopment for positive factors and consider housing for items from the country club.

The motion carried with a unanimous vote of 6-0.

**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. 1040A  
B. Accept Minutes of the December 5, 2005 Governing Body meeting  
C. Accept Minutes of the November 8, 2005 Park and Recreation Advisory Board  
D. Accept Minutes of the November 16, 2005 IRONHORSE Advisory Board  
E. Accept Minutes of the October 10, 2005 I-Lan Sister City Committee  
F. Accept Minutes of the November 7, 2005 I-Lan Sister City Committee  
G. Reappointment of Lora Christian to the Alcohol Planning Council [Drug and Alcohol Council; DAC] for a 3-year term ending 12-31-2008  
H. Approve renewal of Cereal Malt Beverage [CMB] License for Cosentino’s Price Chopper, located at 3700 W. 95<sup>th</sup> Street  
I. Approve quote in the amount of \$334,511, from St. Paul Fire & Marine Company, pertaining to the renewal of the 2006 property and casualty insurance  
J. Approve 7<sup>th</sup> and Final Payment in the amount of \$20,334.95 to O’Donnell & Sons Construction Company, Inc., pertaining to the 135<sup>th</sup> Street & Briar Public Improvement Project [CIP # 193]  
K. Approve 7<sup>th</sup> and Final Payment in the amount of \$4,999.55 to O’Donnell & Sons Construction Company, Inc., pertaining to the Roe Avenue Improvement Project [between 135<sup>th</sup> and 137<sup>th</sup> Street] [CIP # 194]

- L. Approve 7<sup>th</sup> and Final Payment in the amount of \$52,432.22 to O'Donnell & Sons Construction Company, Inc., pertaining to the Parkway Plaza Project, located at 135<sup>th</sup> Street and Roe [CIP # 195]
- M. Approve 2<sup>nd</sup> and Final Pay Request in the amount of \$85,774.17 to O'Donnell & Sons Construction Company, Inc., pertaining to the 2005 Arterial Street Improvement Project
- N. Approve 2<sup>nd</sup> and Final Pay Request in the amount of \$687.50 to Commercial Waterproofing Inc., pertaining to City Hall Courtyard repairs, renovations and maintenance
- O. Resolution No. 2523 approving and authorizing the Mayor to execute Amendment No. 1 to that certain Engineering Contract dated April 18, 2005, between the City and Continental Consulting Engineers, Inc., in the amount of \$28,024.00 pertaining to the Leawood IRONHORSE Golf Club Floodplain Repair Project along Fairway No. 8
- P. Resolution No. 2524 accepting Public Infrastructure Improvements for the Mission Reserve Subdivision, located at 151<sup>st</sup> Street and Mission Road
- Q. Police Department Monthly Report
- R. Fire Department Monthly Report
- S. Municipal Court Monthly Report

Mayor Dunn noted revisions to Item Nos. 7J and 7K had been placed on the dais. Councilmember Rasmussen requested to pull Item Nos. 7C and 7O.

On motion of Councilmember Gill, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved following a unanimous vote of 6-0.

7C. Accept Minutes of the November 8, 2005 Park and Recreation Advisory Board

Councilmember Rasmussen noted the minutes to reflect discussion of obtaining design consultants for restrooms and a bathhouse at Ironwoods Park. He requested clarification that a bathhouse had been approved by the Council.

Parks and Recreation Director Chris Claxton offered to check the Budget Session minutes, however recalled presenting a plan for three restrooms and a bathhouse to the Council. The facilities were on the master plan but were omitted because of financial constraints. Construction of two restrooms and the bathhouse was approved for 2006.

Councilmembers Taylor and Rawlings did not recall bathhouses being part of the discussion.

City Administrator Scott Lambers stated discussion primarily revolved around financing the project rather than if the facilities were to include showers. Councilmember Bussing agreed with Mr. Lambers' recollection.

Councilmember Gill asked Ms. Claxton if there has been customer feedback regarding a bathhouse. She stated approximately 50% of clients have expressed interest in showers. She suggested reviewing minutes from the Parks and Recreation Advisory Board as well as the Budget Session.

Mr. Lambers recommended placing discussion of the matter on the January 3<sup>rd</sup>, 2006 agenda under Other Business.

Councilmember Taylor moved to accept the minutes with a second from Councilmember Rasmussen.

Councilmember Bussing confirmed with Mr. Lambers the discussion will include a report from Ms. Claxton. The motion carried with a unanimous vote of 6-0.

70. Resolution No. 2523 approving and authorizing the Mayor to execute Amendment No. 1 to that certain Engineering Contract dated April 18, 2005, between the City and Continental Consulting Engineers, Inc., in the amount of \$28,024.00 pertaining to the Leawood IRONHORSE Golf Club Floodplain Repair Project along Fairway No. 8

Councilmember Rasmussen stated the proposed channel change on Hole #8 has raised concerns from regulatory agencies that preparation of a mitigation plan will have an impact on the permit approval process, overall schedule, and overall costs. Reports from the Corps of Engineers were requested at an IRONHORSE Advisory Board meeting.

Councilmember Rasmussen moved to deny the resolution for a proposed channel change on Hole #8. Councilmember Taylor seconded the motion.

Phil Gibbs of Continental Consulting Engineers, 9000 State Line Road, Leawood, Kansas, stated the original contract for entire improvements to the golf course was signed on April 15, 2005. Over the next four months 37 drawings were prepared and submitted to the Corps of Engineers outlining repair of erosion problems, creek problems, and flooding problems with adjacent homes along Hole #13 and other areas of the golf course. He stated a permit to work in the waters of the United States must be obtained to perform the repairs on Negro Creek. At this point, 1/3 of the contract has been spent on preparing documents.

The proposed channel changes to Hole #8 was submitted to the Corps of Engineers. The Corps asked over 20 agencies to review and comment on the request. The Environmental Protection Agency [EPA], State Wildlife and Parks, and Corps of Engineers all objected to channel changes along the creek. All stated if the work is done, some type of mitigation will be required. Additional meetings and engineering will need to occur in order to convince the agencies to agree to the changes and a mitigation plan. An estimate of an additional \$28,000 is being asked to perform these measures. Mr. Gibbs asked for clarification if Council desires the work to continue, which will cost a total of \$210,000 not including mitigation.

Mr. Lambers viewed pursuing the project to be in the best interest of the City. He recommended obtaining results from the agencies and then decide whether to proceed. Future disruption of the golf course will be avoided by going ahead with repairs at this time. Mitigation may make the project cost prohibitive, however timing is not a concern as the project has been delayed for one year.

Councilmember Bussing clarified with Mr. Gibbs the majority of the project centers around Hole #8 and will most likely involve mitigation. Approval has not been given for improvements to Fairway #13 as of yet.

Mr. Lambers stated the issue of the creek bank stabilization is outside of the current discussion, which may not occur if property owner participation is not obtained. More data will be gathered before a final decisions regarding creek realignment is made.

Mayor Dunn noted the creek realignment and bank stabilization were two separate projects.

Mr. Gibbs confirmed for Councilmember Taylor that documentation on Hole #8 was submitted to the Corps of Engineers even though this improvement was not part of the original scope of work outlined in the contract. Of the estimated \$280,000 total project cost, \$30,000 is expected to be paid by property owners for their portion of the creek bank stabilization.

Mr. Gibbs informed Councilmember Gill his recommendations would be to assess costs of the channel realignment with mitigation and address erosion problems along the creek. He stated it would be very difficult to make improvements to Hole #8 at a later date should Council decide to put a hold on this portion of improvements.

Mayor Dunn and Mr. Lambers discussed the process of obtaining agreement from Corps of Engineers. Mr. Gibbs will charge a fee for time spent on the endeavor, however will not create a design until approval has been given. Approximately 1/3 of the contract money will be spent for consultation.

Upon requesting his opinion, Mr. Gibbs told Councilmember Rasmussen the creek had very little to do with the bank erosion.

Mr. Gibbs and Councilmember Taylor discussed erosion problems involving the T-box on Hole #8. Councilmember Taylor verified with Mr. Gibbs that approximately \$9,000 of the proposed contract will be spent for consultations with the remaining balance unspent if the channel change is not approved.

If the contract is denied, realignment efforts will halt with focus being put on repairing the T-box.

Councilmember Rasmussen confirmed with Mr. Gibbs that discussions with the Corps regarding Hole #13 are covered in the original contract. Mr. Gibbs informed the state is requesting seven permits.

Discussion took place regarding erosion the creek has caused to pipes owned by the Wastewater District. They are not participating in the creek bank stabilization, however will have opportunity to consider improvements based on our changes. If the Wastewater District decides to make changes after the City has received design approval, there will be a delay in construction while they undergo the same approval process with Corps of Engineers unless there is documented conversations of their declination to participate.

The motion to deny the resolution failed with a vote of 2-4 (Nay: Councilmembers Bussing, Rawlings, Gill, and Taylor).

Councilmember Bussing moved to approve the resolution, seconded by Councilmember Rawlings.

Council will be updated after consultations are complete and a decision to proceed will be made at that time.

The motion carried with a vote of 4-2 (Nay: Councilmembers Rasmussen and Peppes).

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

- A. Attended ribbon-cutting for Bath Junkie, new member of the Leawood Chamber of Commerce. They are located in Overland Park.
- B. Attended the Leawood Chamber of Commerce's Annual Meeting and Hall of Fame Awards along with key staff, councilmembers, and 300 other guests. Mayor Dunn offered congratulations to Reverend Adam Hamilton as well as Mel and Alice Hawk for being inducted into the Hall of Fame for their outstanding commitment and extraordinary service to the community.
- C. Attended Legislative Breakfast with Senator Wysong, Senator Vratil, Representative Colloton, Representative Yoder, Mr. Lambers, and City Attorney Patty Bennett. The Leawood Chamber of Commerce 2006 State Legislative Priorities were reviewed. The priorities were adopted from the Johnson County Public Policy Committee with the addition of fair competition and government regulation in the marketplace, concealed carry and support regional transportation funding. Identical priorities include limitations on financial management of government, life sciences, promote excellence in education, eminent domain, promote affordable health care, continue State funding for State economic development programs, and promote a competitive business climate in Kansas.
- D. Attended a dinner hosted by Jack Chen, the new Director General of the Taipei Economic and Cultural Office in Kansas City. Councilmember Rawlings attended along with the past and current chairs of I-Lan Sister-City Committees.
- E. Attended DARE Graduation Ceremony at Corinth Elementary School with Police Chief Sid Mitchell. Mayor Dunn thanked Officer Randy Wiler for the great job he does with students.
- F. Attended the Johnson/Wyandotte County Council of Mayors December Social with nearly 100% Governing Body participation.

- G. Mayor Dunn congratulated members of the community who received “Difference Maker” honors, an award presented by the Urban League of Greater Kansas City. The organization works to improve race relations, reduce crime, improve public schools and create inclusive workplace environments. Recipients included Leo Morton for his work with minority-owned businesses; his wife, Yvette Morton, for supporting racial harmony; and, Beth and Bill Zollars for their attention to women and children’s issues.
- H. Mayor Dunn thanked Police Chief Mitchell for providing copies of “*The Police Chief - Professional Magazine of Law Enforcement*,” which included an article on the Leawood Police Department, recognizing them as leaders in mobile wireless technology. One remark notes, “The Leawood Police officers can complete reports in the field, which means they spend less time in front of a desk and more time patrolling streets.” Chief Mitchell expresses gratitude to the Governing Body in the article for funding necessary equipment. In turn, Mayor Dunn extended appreciation to Leawood residents who actually provide the funds.
- I. Mayor Dunn thanked Public Works Director Joe Johnson and Public Works crewmembers for doing a great job with recent snow removal.
- J. Reminder for the Employee Appreciation Luncheon on December 20<sup>th</sup> at 11:30 A.M. in the Oak Room. Mayor Dunn encouraged attendance by councilmembers.
- K. The next Governing Body meeting will be held on Tuesday, January 3<sup>rd</sup>, due to observance of New Years Day on Monday, January 2<sup>nd</sup>.
- L. The Governing Body meeting scheduled for January 17<sup>th</sup> will also be held on a Tuesday due to the Martin Luther King holiday on Monday, January 16<sup>th</sup>.
- M. Wished Happy Holidays and a Happy New Year to all.

**9. COUNCILMEMBERS’ REPORT**

Request by Councilmember James Taylor for Public Works Committee to review and advise the Council on the impact on area residents of the City of Overland Park’s proposed improvement project of Nall between 151 Street and the city limits [approximately 154<sup>th</sup> Street]

Councilmember Taylor first complimented the Leawood Police Department and noted a well-spoken guiding principle mentioned in the article, “How we get the job done sets us apart.”

Councilmember Taylor then moved to authorize the Public Works Committee to investigate and make recommendations regarding Leawood’s participation in the Nall Avenue expansion from 151<sup>st</sup> Street to 154<sup>th</sup> Street to ensure proper representation of residents in this area. Councilmember Gill seconded the motion.

Councilmember Gill reported receiving letters from residents which raise legitimate concerns of negative impacts caused by the project.

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

**10. STAFF REPORT** – Mr. Lambers reported that Roe Avenue opened today at 1:00 P.M.



**COMMITTEE RECOMMENDATIONS**

**11. PLANNING COMMISSION**

*[from the November 29, 2005 Planning Commission meeting]*

- A. Resolution No. 2525 approving a Final Site Plan for United Methodist Church of the Resurrection to allow two monument signs, located at 13720 Roe Avenue

Councilmember Taylor moved for approval, seconded by Councilmember Rasmussen. The motion carried with a unanimous vote of 6-0.

- B. Ordinance No. 2148 approving a one-year [1] Special Use Permit [SUP] for Sunrise Senior Living to allow a temporary sales trailer, located south of 115th Street and east of Roe Avenue, within the Town Center Business Park development [Roll Call Vote]

Councilmember Rasmussen moved for approval with a second by Councilmember Taylor.

Councilmember Peppes confirmed with Planner Jeff Joseph that the curb-cut made for the trailer is only temporary and will be filled in after the trailer is removed from the site. There is only one permanent curb-cut on the northeast corner of the development.

Applicant Andy Schlagel stated the trailer will serve as a temporary office and will remain for approximately one year. He displayed a photograph of the model to be used, which is beige in color and handicap accessible.

The ordinance passed with the following unanimous roll call vote of 6-0: Yea: Councilmembers Taylor, Peppes, Rasmussen, Gill, Rawlings, and Bussing. Nay: None. (Councilmembers Gullledge and Filla absent).

**12. OLD BUSINESS – None.**

**13. NEW BUSINESS**

- A. Resolution No. 2520, amending Resolution No. 2264 authorizing the rebuilding and improvement of a certain Leawood Pedestrian Bridge located north of College Boulevard at the north end of El Monte [CIP # 112]

Councilmember Rasmussen moved for approval, seconded by Councilmember Gill.

Mr. Johnson confirmed for Mayor Dunn that the bridge is larger in size and length than other pedestrian bridges with a length of 120-feet and width of 12-feet. The increased cost is attributable to rising steel prices. It is a pedestrian bridge, however City vehicles will be able to cross over when needed.

The motion carried with a unanimous vote of 6-0.

- B. Resolution No. 2521, amending Resolution No. 1683 authorizing the improvement of a certain section of State Line Road, a main trafficway, at the intersection of 92<sup>nd</sup> Street located with the City of Leawood, Kansas [CIP # 157]

Councilmember Bussing moved to approve the resolution with a second from Councilmember Peppes.

Councilmember Rasmussen informed he will vote against the motion as the improvement is a wasteful expenditure. Councilmember Taylor echoed Councilmember Rasmussen's statement.

Councilmember Gill voiced intent to vote in the negative due to the \$90,000 cost increase from an original proposal three years ago.

There was discussion regarding the increased costs and whether the improvements were warranted as well as Kansas City, Missouri's and Missouri Department of Transportation's [MODOT] involvement with the project. To date, Joe Johnson advised that Leawood has spent \$130,000 of the \$330,000 total project costs on design fees and easements.

Councilmember Gill moved to continue the item to the January 3<sup>rd</sup>, 2006 Governing Body meeting in order to review prior records. Councilmember Bussing withdrew his original motion to approve the project in favor of the motion to continue. Councilmember Peppes stated this met with his approval and seconded the motion for continuance.

The motion to continue the item was approved with a unanimous vote of 6-0.

- C. Ordinance authorizing the creation of a Transportation Development District [TDD] 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 and accepting a petition for the creation of the Transportation Development District [TDD] for the Villaggio Development [Roll Call Vote] **-CONTINUED TO THE JANUARY 3, 2006 GOVERNING BODY MEETING**
- D. Schedule Governing Body Work Session at 6:00 P.M. on Tuesday, January 17, 2006 to discuss Governing Body 2006 Near and Long Goals and Objectives

Councilmember Rawlings moved for approval, seconded by Councilmember Bussing. The motion was approved following a unanimous vote of 6-0.

- E. Schedule Joint Governing Body Work Session with Park and Recreation Advisory Board at 6:00 P.M. on Tuesday, January 3, 2006, to discuss revisions to the City of Leawood's Park Master Plan

Councilmember Rawlings moved to approve the Work Session with a second provided by Councilmember Gill. The motion carried following a unanimous vote of 6-0.

- F. Approve Change Order No. 8, for a time extension, between the City and APAC-Kansas, Inc., pertaining to the Roe Avenue Improvement Project [between 124<sup>th</sup> Street and 135<sup>th</sup> Street] [CIP # 110]

Councilmember Taylor moved for approval, seconded by Councilmember Rasmussen.

Councilmember Gill asked if APAC was the same company who caused the delay in opening Roe Avenue. Mr. Johnson confirmed they were the general contractors. In exchange for the extension, APAC has agreed to incur costs of the road opening.

Mr. Lambers stated the contract will be extended until March 31, 2006, at which time all work must be complete.

Councilmember Gill suggested increasing the liquidated damages fee to ensure compliance with the completion date. Mr. Lambers stated this could be done if there is need for another contract extension.

Councilmember Taylor reminded Ms. Bennett of his request to review the contract in order to ascertain if liquidated damages can be collected.

The change order was approved following a vote of 5-1 (Nay: Councilmember Gill).

**14. OTHER BUSINESS – None.**

**ADJOURN**

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

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Debra Harper, CMC, City Clerk

Christy Wise  
Recording Deputy City Clerk