

Minutes

DVD No. 147

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, August 7, 2006. Mayor Peggy Dunn presided.

Councilmembers present: Mike Gill, Lou Rasmussen, Jim Rawlings, Gary Bussing, Debra Filla, Gregory Peppes, and James Azeltine.

Councilmembers absent: Scott Gullede.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Major John Meier, Police Department
Kathy Rogers, Finance Director
Chris Claxton, P&R Director
Mark Klein, Senior Planner
Deb Harper, City Clerk
Karl Weinfurter, IS Specialist

Patty Bennett, City Attorney
Chief Sid Mitchell, Police Department
Captain Dale Finger, Police Department
Joe Johnson, Public Works Director
Jeff Cantrell, Neighborhood Serv. Admin.
Jeff Joseph, Senior Planner
Christy Wise, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn stated the agenda will include discussion regarding the IRONHORSE Golf Course as Item No. 6F as well as a report from Councilmember Gill under Item No. 9, Councilmembers' Report. A motion to approve the agenda was made by Councilmember Gill; seconded by Councilmember Peppes. The agenda was approved following a unanimous vote of 7-0.

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

- A. Ordinance No. 2168, authorizing the issuance and delivery of \$170,000 principal amount of taxable Transportation Development District Special Obligation Bonds, Series 2006 [The Resurrection Project] of the City of Leawood, Kansas; providing for the levy and collection of special assessments for the purpose of paying the principal of and interest on the bonds as they become due; and making certain covenants with respect thereto [CIP # 190] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Councilmember Gill expressed appreciation to legal counsel Bill Hess, City Administrator Scott Lambers, and Finance Director Kathy Rogers for preparing the comprehensive information included as packet material. Mayor Dunn concurred with the remark.

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

- B. Resolution No. 2600, prescribing the form and details of and authorizing the delivery of \$170,000 principal amount of taxable Transportation Development District Special Obligation Bonds, Series 2006 [The Resurrection Project] of the City of Leawood, Kansas, authorized by Ordinance No. 2168 of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith [CIP # 190]

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 7-0.

- C. Ordinance No. 2169 authorizing the issuance and delivery of \$490,000 principal amount of taxable Transportation Development District Special Obligation Bonds, Series 2006, [The Cornerstone Project] of the City of Leawood, Kansas; providing for the levy and collection of special assessments for the purpose of paying the principal of and interest on the bonds as they become due; and making certain covenants with respect thereto [CIP # 191] [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Gill; seconded by Councilmember Filla. The ordinance passed with the following unanimous roll call vote of 7-0: Yea: Councilmembers Rasmussen, Azeltine, Peppes, Rawlings, Filla, Gill, and Bussing. Nay: None. (Councilmember Gullledge absent).

- D. Resolution No 2601, prescribing the form and details of and authorizing the delivery of \$490,000 principal amount of taxable Transportation Development District Special Obligation Bonds, Series 2006 [The Cornerstone Project] of the City of Leawood, Kansas, authorized by Ordinance No. 2169 of the City; providing certain covenants and agreements with respect thereto; and providing for execution of certain agreements in connection therewith [CIP # 191]

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Gill. The resolution was approved following a unanimous vote of 7-0.

- E. **PUBLIC HEARING** Consider the 2007 Fiscal Budget for the City of Leawood

Mayor Dunn opened the public hearing for comments. There being no individuals present to consider the issue, Councilmember Rasmussen moved to close the public hearing; seconded by Councilmember Azeltine.

Mayor Dunn noted members of the professional Staff, Councilmembers, and members of the Budget and Finance Committee discussed the budget extensively during three consecutive nightly sessions. The mill levy will remain flat for 2007. She extended appreciation to Finance Director Kathy Rogers and all those involved with the budgeting process for their diligent efforts.

The motion carried following a unanimous vote of 7-0.

- F. Discussion of IRONHORSE Golf Course- Direction given to City Administrator to enter into negotiations with Orion Management Solutions, Inc., for 2007, 2008 and 2009

A motion was made by Councilmember Gill to direct the City Administrator to enter into negotiations with Orion Management Solutions, Inc., for the purpose of reaching a contract agreement for 2007, 2008, and 2009. The scope of the contract will take into account the fact that the course will close in 2007 to undergo green reconstruction and reopen in the spring of 2008. Operations other than maintenance, oversight of the construction project, and marketing efforts will not be conducted during 2007. The contract should reflect less than a full year of operations in 2008 and a full year in 2009. The motion was seconded by Councilmember Bussing.

As a point of order, Councilmember Azeltine suggested postponing a motion until citizen comments are heard. Councilmember Gill withdrew the motion and Councilmember Bussing withdrew the second to the motion.

Jim Rochel, 15422 Ironhorse Circle, spoke in favor of retaining Orion as the management company for the golf course and for keeping the clubhouse, driving range, and Par No. 3 open during the reconstruction process in order to maintain continuity with players. He is also in favor of reciprocal agreements being arranged with local courses. He noted the extensive children's programming offered at the golf course with the last three Kansas State champions all being trained at IRONHORSE Golf Course. Mr. Rochel also requested consideration for correcting problems with the pond at T-box No. 11 as significant problems with algae and increased mosquitoes have caused health concerns for the neighborhood. He presented a list of twenty neighbors who would support the installation of a fountain to aerate the pond.

Bill Munholland, 4500 Ironhorse Drive, spoke in favor of continuing basic operations at the golf course in terms of practice facilities.

Gary Gamso, 3609 W. 122nd Street, Triple Crown member and Men's Golf Association member, spoke in favor of continued operations at the golf course during the spring and summer months of closure in order to keep golfers engaged and avoid losing memberships.

A motion was made by Councilmember Gill to remake his withdrawn motion; seconded by Councilmember Bussing.

Councilmember Gill stated he shared the sentiments of citizens in that the management company has done a spectacular job with the golf course and also credited members of the IRONHORSE Advisory Board for their involvement. His support for curtailing operations is due to the significant costs associated with keeping them open. The most optimistic operating expense figure to keep portions of the course open, excluding revenue, is \$100,000 with possibility of the actual cost being double this amount. Sources of revenue from the driving range, merchandise sales, and food sales cannot sustain the operating expense. As a fiduciary of the City of Leawood, Councilmember Gill stated the costs outweigh public benefits especially when the use of other facilities is an option. There is already a huge expenditure of taxpayers' money associated with maintaining the course during closure at an estimated cost of \$560,000 with the greens renovation project costing \$1.1-million.

Additionally, Councilmember Gill stated the City should move forward with obtaining reciprocal deals for membership holders. He invited those with suggestions in this area to contact him. Orion will aid in the investment of a marketing plan for 2008 to include continuity of relations with members.

Councilmember Rasmussen clarified that Par No. 3 will be an area used for dumping dirt during construction. In terms of playing golf, operations availability will be restricted to the practice tee.

Mayor Dunn reviewed that a creek bank stabilization project and a major stormwater project will take place in addition to the greens renovation in 2007.

Councilmember Azeltine expressed favor with retaining Orion Management Solutions, Inc., and allowing certain elements of the golf course, such as the clubhouse, to remain open in order to maintain semblance of community. He also stated support for continuation of the IRONHORSE Advisory Board.

Skip Talley, 13801 Alhambra, confirmed that Councilmember Gill is a patron of IRONHORSE Golf Course. He then asked why other Leawood parks were not held to the same profit/loss standard as IRONHORSE.

Councilmember Gill responded it is not the nature of the City parks to charge revenue. At the time the golf course was submitted to public vote, a pact was made with taxpayers that an objective of the golf course would be to cover costs of operations and debt service. The Governing Body is duty-bound to honor this public mandate, which is why the reinvestments are being made.

Mayor Dunn noted the City has invested additional public dollars to the golf course on an ongoing basis for operations, maintenance, and debt service.

Stan Koslowski, 4920 W. 159th Terrace, Stillwell, Kansas, spoke in favor of retaining the current management company and with allowing certain facilities to remain open. He suggested allowing Triple Crown members the opportunity to choose the reciprocal location.

Mark Griffith, 9135 W. 131st Place, Overland Park, Kansas, spoke in favor of keeping Orion as the managing company for the golf course.

Shell Roufa, 2000 W. 123rd Terrace, member of the Conductor's Club, requested consideration be given to exploring a business plan that would allow the practice facility to remain open.

Mayor Dunn clarified it has always been the intention to keep the IRONHORSE Advisory Board intact.

At the request of Councilmember Azeltine, Councilmember Gill restated the motion as:

“Direct the City Administrator to negotiate a three-year contract with Orion Management Solutions, Inc., for years 2007, 2008, and 2009. The scope of 2007 will include maintenance of the golf course, oversight of construction, and development of a marketing plan for reopening in 2008. The scope of 2008 will be to fully implement the marketing plans and reopen for play in the spring. The scope of 2009 will be for a fully operational course during the entire year. The details and terms of the contract will reflect these key points and be consistent with the contract the City has historically had with Orion.”

Councilmember Gill verified that marketing efforts should include obtaining a reciprocating agreement with an area golf course. Mayor Dunn noted the latest IRONHORSE Advisory Board minutes reveal that Orion is currently working on such a plan.

Councilmember Azeltine confirmed with Mayor Dunn the motion would not preclude operations for certain elements of the golf course occurring at a later time if the City decides to do so.

A formal amendment to the motion was offered by Councilmember Azeltine to include continued management of the clubhouse at IRONHORSE Golf Course by Orion Management Solutions, Inc., in the interest of revenue. The motion died for lack of a second.

Councilmember Rasmussen reminded the details of the 2008 contract will depend upon the business plan and budget for that year, which will not be available until 2007, and are at the discretion of the City Administrator.

Councilmember Peppes stated he understood the benefits of keeping the clubhouse open; however, as a representative for all Leawood taxpayers, felt that total closure of all facilities to avoid further costs is the right thing to do.

The motion carried with a vote of 6-1 (Nay: Councilmember Azeltine stated he does not believe all possibilities for keeping elements of the golf course open have been explored).

Mayor Dunn commented decisions regarding the golf course are not taken lightly. She extended gratitude to the citizens of Leawood who are putting forth the \$1.1-million to reconstruct the greens and reminded the budget will take a significant hit during the year of closure as the City will lose \$1-million in green fees. Mayor Dunn stated it is her hope that current members return to IRONHORSE following the renovation process. The approved course of action is strictly an economic decision with the realistic number to remain open being \$225,000.

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. 1056A and 1056B
- B. Accept Minutes of the July 17, 2006 Governing Body meeting
- C. Accept Minutes of the June 13, 2006, Joint Governing Body/Budget & Finance Work Session
- D. Accept Minutes of the May 17, 2006 IRONHORSE Advisory Board
- E. Accept Minutes of the May 23, 2006 Leawood Arts Council meeting
- F. Approve Certified Cost Summary in the amount of \$3,340,000 for Roe Avenue Improvement Project [between 124th Street and 135th Street] [CIP # 110]

- G. Approve Certified Cost Summary in the amount of \$310,000 for Pedestrian Bridge at El Monte north of College Boulevard & Mission Road Improvement Project [CIP # 112]
- H. Approve Certified Cost Summary in the amount of \$2,400,000 for Accelerated Residential Street Program, Phase I [CIP # 200]
- I. Approve purchase in the amount of \$35,560 from Challenger Teamwear pertaining to the purchase of soccer uniforms
- J. Approve 2nd and Final Pay Request in the amount of \$184,209.94 [includes \$108,372.50 for Slurry Seal and \$75,837.44 for 95th Street to Musselman & Hall Contractors, LLC, pertaining to the 2006 Slurry Seal Program
- K. Approve Change Order No. 5(J) in the amount of \$33,388.01 to Wiedenmann & Godfrey Construction Inc., pertaining to the Dykes Branch Channel Improvement Project, [SMAC Project DB-02-024] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- L. Approve Change Order No. 1 in the amount of \$1,700.00, to Danco Painting Co, Inc., pertaining to water damage repair project at Leawood City Hall
- M. Approve Change Order No. 2 in the decreased amount of \$38,349.25, to O'Donnell & Sons Construction Co., pertaining to the Villaggio Improvement District [CIP # 197/198]
- N. Approve Change Order No. 3 in the amount of \$959,151.00, to O'Donnell & Sons Construction Co., pertaining to the Villaggio Improvement District [CIP # 198]
- O. Approve renewal of Microsoft Licensing coverage in the amount of \$38,063.50, between the City and Microsoft Corporation via Software House International, Inc., pertaining to the yearly license renewal
- P. Resolution No. 2629 authorizing the payment of the Appraisers' Award in the amount of \$124,645.00, to the Johnson County District Court for permanent and temporary construction easements relating to the Dykes Branch Improvement Project [SMAC Project DB-04-024, Phase II] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road
- Q. Resolution No. 2630 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,282,439.20, between the City and J. M. Fahey Construction pertaining to the 2006 Street Mill & Overlay Program
- R. Resolution No. 2631 approving and authorizing the Mayor to execute an Inter-local Agreement between the City of Leawood and the City of Overland Park pertaining to maintenance for traffic signals located at various locations throughout the City
- S. Resolution No. 2632 approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$71,160.00 between the City and Patti Banks Associates, pertaining to the Cornerstone Tract A Water Feature [CIP # 192]
- T. Resolution No. 2633 accepting and approving the Annual Report regarding the Leawood Public Art Impact Fee and approving an increase in the rate of such impact fee, pursuant to Code § 12-601 et seq – ***Continued from the February 20, 2006 April 17, 2006, and June 5, 2006 Governing Body meetings***

- U. Resolution No. 2634 approving a Final site Plan for Cornerstone Claddaugh Irish Pub and Restaurant, located on the southeast corner of 135th Street and Nall Avenue *[from the July 25, 2006 Planning Commission meeting]*
- V. Resolution No. 2635 approving a Final Site Plan and Final Plat for GlenAbbey of Leawood, located north of 143rd Street and east of Nall Avenue *[from the July 25, 2006 Planning Commission meeting]*

Councilmember Rasmussen requested to pull Item No. 7P, Mayor Dunn pulled Item No. 7T, and Councilmember Azeltine requested to pull Item Nos. 7Q and 7S for discussion. On motion of Councilmember Bussing, seconded by Councilmember Peppes, the remainder of the Consent Agenda was approved following a unanimous vote of 7-0.

- 7P. Resolution authorizing the payment of the Appraisers' Award in the amount of \$124,645.00, to the Johnson County District Court for permanent and temporary construction easements relating to the Dykes Branch Improvement Project [SMAC Project DB-04-024, Phase II] between 83rd Street and Wenonga Road south to 86th Street and Overhill Road

Councilmember Rasmussen voiced his intent to vote against the item as the proposed easement costs have dramatically increased from projected amounts.

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Azeltine.

Councilmember Gill confirmed with City Attorney Patty Bennett and Public Works Director Joe Johnson that the City is responsible for the total \$124,645.00 as SMAC does not pay for easement acquisitions and there are no assessments associated with the project.

Mayor Dunn noted the Public Works Department has worked diligently to obtain dedicated easements. Mr. Johnson reviewed 54 properties are located within the project and condemnation proceedings were necessary for three properties in each of the two phases. Mr. Lambers stated the project has resulted in a procedure change in that easements will be 100% secured prior to beginning future projects. Acquired easements will be assessed against property owners in the future.

Councilmember Gill left the Council Chambers.

Mayor Dunn extended appreciation to Mr. Johnson for performing the tremendous amount of work this project has required. Of the 14-17 homes in the floodplain, all but two were removed and now have an 80-90 year flood protection.

On behalf of some citizens affected by this project, Councilmember Filla relayed there was not necessarily a direct benefit to certain individuals who lost significant lot space. For future projects, Councilmember Filla suggested investigating an equation to ensure fair distribution of assessments based upon a cost/benefit ratio.

The resolution was approved following a vote of 5-1 (Nay: Councilmember Rasmussen for reasons stated. Councilmember Gill not seated for the vote).

- 7Q. Resolution No. 2630 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$1,282,439.20, between the City and J. M. Fahey Construction pertaining to the 2006 Street Mill & Overlay Program

Mr. Johnson clarified for Councilmember Azeltine the mill & overlay program is not a capital improvement project and is reflected only in the budget document rather than in the Capital Improvement Program [CIP]. A motion to approve Item No. 7Q was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0 (Councilmember Gill not seated for the vote).

- 7S. Resolution No. 2632 approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$71,160.00 between the City and Patti Banks Associates, pertaining to the Cornerstone Tract A Water Feature [CIP # 192]

Mr. Lambers informed Councilmember Azeltine that the actual water feature will go through the planning process and come before the Governing Body for approval at a later date. The proposed resolution is for design aspect only. A motion to approve the resolution was made by Councilmember Azeltine; seconded by Councilmember Rawlings. The motion was approved following a unanimous vote of 6-0 (Councilmember Gill not seated for the vote).

- 7T. Resolution No. 2633 accepting and approving the Annual Report regarding the Leawood Public Art Impact Fee and approving an increase in the rate of such impact fee, pursuant to Code § 12-601 et seq – *Continued from the February 20, 2006, April 17, 2006, and June 5, 2006 Governing Body meetings*

Mr. Lambers explained the proposed fee increase is reasonable given the costs of art pieces. Expanding the requirement to include redevelopment activities is a significant policy change and requires discussion. Mr. Lambers recommended proceeding with the increase for new construction but not with the additional proposal. The current Madden McFarland Interiors expansion project would be affected by inclusion of redevelopments as they are in the midst of obtaining approval to renovate their business. The Governing Body should consider fairness and equity before approving the resolution. Alternative funding mechanisms for this program should be explored in the future once the current source of revenue starts to diminish with fewer new construction projects.

Mayor Dunn confirmed with Mr. Lambers that a building extension would trigger a payment of the impact fee on the additional square footage.

A motion was made by Councilmember Bussing to approve an increase in the Public Art Impact Fee to \$.15 per square foot on new development only and exclude consideration of redevelopment at this time. A second to the motion was provided by Councilmember Peppes.

Mr. Lambers informed Councilmember Rasmussen it would be appropriate to request discussion regarding redevelopment in the future.

Dr. Ann Kenney, Chair of the Arts in Public Places Initiative [APPI], reported the Public Art Impact Fee provides approximately \$20,000 in revenue per year at \$.10 per square foot. The amount has been fairly consistent over the past three years. Mr. Lambers restated the revenue will diminish as City build-out occurs. The City currently augments the impact fee revenue with \$50,000 per year, which is reflected in the budget as a cultural art line item.

Councilmember Gill returned to the Council Chambers.

Councilmember Filla verified with Mr. Lambers that very few future redevelopment cases are anticipated as the City is in a new construction mode. Mr. Lambers stated redevelopment is a more complicated arena than new construction and will require defined standards. Dr. Kenney stated the committee hopes to integrate renovations into the impact fee requirement sometime before there is a decline in new construction. Councilmember Filla agreed the topic merits further discussion.

Mayor Dunn clarified the impact fee applies only to commercial buildings.

The motion carried following a unanimous vote of 7-0.

8. MAYOR'S REPORT

- A. Attended the Leawood Lion's Club meeting during the official installation of officers. Leawood resident Gary Flick is the new head of the organization, otherwise known as the "Big Lion." Neighborhood Services Administrator Jeff Cantrell remains treasurer of the Lion's Club.
- B. Participated in the Volunteer Center of Johnson County program honoring Tom Tivol as Volunteer of the Year. Mayor Dunn offered congratulations to Mr. Tivol on behalf of the City of Leawood for the recognition.
- C. Attended ribbon cutting and grand opening for the AesthetiCare Medi-Spa & LipoDissolve Center.
- D. Attended fundraiser hosted by the Leawood Stage Company at Ironwoods Park prior to the production of "Oklahoma." Councilmembers Rawlings, Gill, and Azeltine were also present. Mayor Dunn extended congratulations and appreciation to Bill Ellwood, Chair of the Leawood Stage Company; Mary Tearney, Chair of the Arts Council; April Bishop, Cultural Arts Coordinator; and members of the Parks & Recreation Department, Public Works Department, and Police Department for their involvement with the fantastic production. She stated the event was a terrific example of collaboration through successful public/private fundraising partnerships.
- E. Mayor Dunn shared an article from the *Star Magazine* section in *The Kansas City Star* featuring Jim Cosgrove as the children's entertainer, "Mr. Stinky Feet," while performing in the Courtyard of Leawood City Hall. She commented that events such as this truly create community.

9. COUNCILMEMBERS' REPORT – Report from Councilmember Gill

Councilmember Gill reported representing Leawood at the following events in Mayor Dunn's absence:

1. Attended the grand opening for Mission Bank on 135th Street.
2. Attended the Blue River Basin meeting, which is a group sponsored by Katherine Shields and Annabeth Surbaugh and serves the purpose of addressing flooding concerns of the entire metropolitan area. The group is in the preliminary stages of analyzing the flood basin of the Little Blue River. Mayors and county chairs of most surrounding communities are involved with the effort. The committee will possibly use Leawood's stormwater ordinance as a model for detention requirements.

Mayor Dunn thanked Councilmember Gill for attending both functions on her behalf.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the July 11, 2006 Planning Commission Meeting]

- A. Resolution No. 2636 approving a Final Site Plan for Park Place California Pizza Kitchen, located north of 117th Street and east of Nall Avenue –***CONTINUED FROM THE JULY 17, 2006 GOVERNING BODY MEETING***

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill.

Jeff Alpert of Park Place Developers, LLC, 2912 W. 113th Street, stated the restaurant will be a great addition to Park Place. It is the philosophy of his company to allow retailers to express brand individuality through storefront designs. They are very comfortable with the building proposed by the developers of California Pizza Kitchen.

Clint Coleman, head developer of California Pizza Kitchen, 6053 W. Century Boulevard, Los Angeles, California, distributed photographs of an existing restaurant to the Governing Body and provided a brief presentation.

Mayor Dunn confirmed with Mr. Coleman the restaurant will not allow smoking.

Councilmember Bussing verified with Mr. Alpert that the temporary east surface parking lot will be replaced by a permanent parking structure during the second phase of development. There will be some type of connection provided between the parking structure and restaurant.

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

12. OLD BUSINESS – None.

13. NEW BUSINESS

- A. Resolution No. 2623, determining it necessary and advisable and ordering the resurfacing and repair of certain residential streets or portions thereof within the City of Leawood, Kansas pursuant to K.S.A. § 12-614 et seq.

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill.

Mayor Dunn reviewed for Councilmember Peppes that prior action was taken in deciding not to redirect the creek as part of the creek bank stabilization project at IRONHORSE Golf Course. Notification was sent to affected property owners.

Councilmember Bussing confirmed with Mr. Johnson that Pawnee Street will undergo reconstruction this year.

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

- B. Resolution No. 2624, authorizing the improvement of park property of the City by installation of creek stabilization enhancements at Ironhorse Golf Course; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to Charter Ordinance No. 33 and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; and expressing the intent to reimburse costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill.

Referring to Mr. Rochel's concern with the pond on Hole No. 11 at IRONHORSE Golf Course, Mayor Dunn confirmed the pond is not in the vicinity of the creek bank stabilization project. Mr. Lambers stated the IRONHORSE Advisory Board can review the situation and request that aeration of the pond be placed in the CIP if necessary.

Councilmember Gill noted the fountain and bubblers in the pond on Hole No. 6 have done a great job in clearing the water. Mr. Lambers stated the same would be required for the pond in question. Councilmember Azeltine stated the mosquito population at the pond is a health hazard and he has received many calls regarding the issue.

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

- C. Resolution No. 2625, authorizing the improvement of a certain section of Nall Avenue, a Main Trafficway, between 143rd Street and 151st Street within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. § 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; and expressing the intent to reimburse costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions

A motion to approve Item No. 13C was made by Councilmember Azeltine; seconded by Councilmember Gill. The motion carried following a unanimous vote of 7-0.

- D. Resolution No. 2626, authorizing the improvement of a certain section of Nall Avenue, a Main Trafficway, between 151st Street and 159th Street within the City of Leawood; providing for issuance of General Obligation Improvement Bonds of the City to pay the costs thereof pursuant to K.S.A. § 12-689 and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; and expressing the intent to reimburse costs of the project so incurred from proceeds of General Obligation Bonds; and authorizing and improving certain related matters and actions

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Bussing. As Leawood ends at 154th Street, Mayor Dunn noted the project costs to include only our portion of this area. The motion was approved following a unanimous vote of 7-0.

- E. Resolution No. 2627, authorizing the sale by the City of Leawood, Kansas of \$6,050,000 General Obligation Bonds and \$26,625,000 Tax Exempt General Obligation Temporary Notes of the City, and \$6,300,000 Taxable General Obligation Temporary Notes to provide funds to finance the costs of certain public improvements within said City; approving the form of Notice of Bond Sale and Preliminary Official Statement to be used in connection therewith; and authorizing and directing the City Finance Director to advertise such sale in the manner prescribed by law

A motion to approve Item No. 13E was made by Councilmember Gill; seconded by Councilmember Filla. The item was approved following a unanimous vote of 7-0.

- F. Resolution No. 2628, amending Resolution No. 2520 authorizing the rebuilding and improvement of a certain pedestrian bridge located approximately at College Boulevard and El Monte, within the City of Leawood; and authorizing and approving certain related matters and actions [CIP # 112]

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Azeltine. The resolution was approved following a unanimous vote of 7-0.

- G. Resolution No. 2637 pledging the intentions of the Governing Body of the City of Leawood, Kansas, if the City is authorized by the electorate to levy an additional four-tenths of one percent [.4%] City Retailers' Sales Tax

Mr. Lambers stated the resolution applies to the intent of using proceeds from the sales tax towards construction of the Justice Center, as will be stated on the ballot. Mayor Dunn noted the electorate will be given the option of either utilization of property tax or an additional sales tax to finance the Justice Center. The facility will be built even if the sales tax increase is not approved. Mr. Lambers informed the election cannot be promoted with taxpayers' dollars and does not anticipate a campaign by the City. If the City chose to have a campaign, such an endeavor would typically be taken on by an outside group with outside funding.

The proposed sales tax will run for five years or until \$10-million is collected, however will not go beyond five years if this goal is not achieved. Additional funding sources for the Justice Center include a reserve fund from the ¼-cent education sales tax at \$3.8-million and proceeds from the future sale of a City-owned tract of land at an estimated \$2.5-million. The intention is to pay cash for the project with no issuance of debt.

A benefit of funding the Justice Center through the sales tax option will be contributions made by non-Leawood residents. The decision to add a fire substation and community center to the site has not been finalized, although the footprint for the Justice Center will be minimized to allow space for the two structures.

Councilmember Bussing expressed concern the knowledge of having an estimated \$16-million set aside in five years will create a de facto budget.

Mr. Lambers stated research is being performed on construction costs for existing justice centers, however the data will not be available before implementation of the sales tax. He assured the square footage and facility will be appropriate for a city the size of Leawood.

Mayor Dunn pointed out the construction costs will also include infrastructure needs for the site, which is estimated to require \$5-million to \$6-million. Mr. Lambers stated the Justice Center is a \$10-million facility with the additional money identified to be used for infrastructure.

Councilmember Azeltine stated support for the sales tax proposal as a significant amount of money will be saved by avoiding additional general obligation debt.

A motion to approve the resolution was made by Councilmember Azeltine; seconded by Councilmember Rasmussen.

Mr. Lambers informed a site plan of all three proposed structures will be developed for Governing Body review. The site plan will go through the planning process following the election.

Councilmember Gill asked if the \$10-million is an overestimation of what is needed given the other funding sources, could the sales tax be curtailed for a shorter length of time. Mr. Lambers responded the sales tax revenue will be utilized first, followed by reserves from the current sales tax, and then proceeds from the land sale. He stated confidence in that the entire \$10-million will be needed.

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

- H. Resolution No. 2638 directing the publication of Notice of an election to be held on November 7, 2006, regarding a proposed levy of an additional four-tenths of one percent (.4%) City Retailers' Sales Tax

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Filla.

Councilmember Bussing verified with Mr. Lambers the total city sales tax levy is currently 1.125%. Retail operations located within a Transportation Development District [TDD] will include an additional 1% sales tax.

The motion carried following a unanimous vote of 7-0.

- I. Ordinance No. 2177C amending Chapter 11, Article 3 of the Code of the City of Leawood, 2000, by amending Section 11-306 entitled "False Alarms; Fees Required" and adding new Section 11-312 entitled "Control Panel Standard Incorporated By Reference" and new Section 11-313 entitled "Enhanced Call Verification" all pertaining to nuisance alarm systems and repealing existing § 11-306 [Roll Call Vote]

A motion to pass the ordinance was made by Councilmember Rasmussen; seconded by Councilmember Azeltine.

Referring to the memorandum from Alarm Coordinator Jim Cogswell, Police Chief Sid Mitchell stated the current ordinance has dramatically reduced the amount of false alarms responses by the Police Department. The proposed amendment will be of further benefit in this area.

Councilmember Gill expressed concern the enhanced call verification clause will delay response times. Chief Mitchell stated the clause will add less than 30 seconds to a necessary dispatch and has become normal procedure across the country.

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

Discussion Only

- J. Ordinance amending § 16-4-2.2 of the Leawood Development Ordinance, [Detached Structures] pertaining to above ground swimming pools [Roll Call Vote]

Mr. Lambers stated the matter is being brought to the Governing Body's attention due to a citizen inquiry. Direction is needed whether to proceed with a policy change to allow above ground swimming pools.

Mayor Dunn relayed concerns from absent Councilmember Gulledge related to the placement of deck structures around the temporary pools. She also informed that deed restrictions of homeowners associations would supersede any action taken by Council.

Councilmember Gill stated he is not in favor of changing the current ordinance. Councilmembers Rawlings and Rasmussen echoed this statement.

Councilmember Azeltine expressed interest in the passage date of the current ordinance. It was determined to have been in place since 1992.

A consensus was obtained to leave the current ordinance as is with Councilmembers Filla, Bussing, and Peppes also stating they were not interested in an amendment.

- K. Schedule a Governing Body Executive Session at 6:30 P.M., on Tuesday, September 5, 2006, to discuss a personnel matter; City Administrator's 6-month review

Mayor Dunn noted the session will take place prior to the Governing Body meeting on a Tuesday due to the Labor Day Holiday.

A motion to approve scheduling of the Executive Session was made by Councilmember Gill; seconded by Councilmember Rasmussen. The motion carried following a unanimous vote of 7-0.

Mayor Dunn informed the review will be a non-written, informal evaluation.

14. OTHER BUSINESS

- A. Building Permit Review Process

Mr. Lambers stated the memorandum provided for this item delineates the issue of possible additional activities the existing Building Permit Task Force could address such as set-backs, heights, massing, and a full-blown architecture review board.

Councilmember Rawlings, Chair of the Building Permit Task Force, stated the committee is awaiting further direction from the Governing Body.

Councilmember Bussing confirmed with Mr. Lambers that modifications to the Leawood Development Ordinance [LDO] are currently going through the planning process and include a reference to residential architecture review. The proposed modifications will be presented to the Planning Commission in August and to the Governing Body in September.

Councilmember Bussing suggested considering changes to the LDO prior to discussing further actions of the Building Permit Task Force.

The permit review ordinance passed at the July 17, 2006, meeting has been published and will go into effective on September 1, 2006. Notification has been sent to all homeowner associations [HOAs].

Councilmember Azeltine reiterated comments from a previous meeting that a comprehensive review of the entire LDO is needed, which would include the issue at hand.

Mayor Dunn received agreement from Councilmember Rawlings that further meetings of the task force will be postponed until the Governing Body has discussed the matter following the LDO amendments.

Meg Gilmore, 9010 High Drive, member of the Building Permit Task Force, indicated favor with exploring the possibility of an Architectural Review Board [ARB]. In response to the memorandum from City Attorney Patty Bennett advising against the creation of an ARB, Ms. Gilmore relayed a statement from the president of the Leawood Estates Homes Association, Ginny Moore:

“While the goal of an Architectural Review Board would be to achieve remodels and rebuilds that are attractive and in character with existing neighborhoods, these goals can only be met if specific requirements for architectural design are developed, implemented, and enforced. The job of the building task force should be to investigate how other communities have approached these issues and determine whether or how Leawood might be able to address these issues as well. Architectural Review Boards have worked successfully in many other communities and have withstood legal challenges. It behooves the Building Permit Task Force to further investigate the ARB concept and any other ideas to see if they might be workable in Leawood.”

Ms. Gilmore stated design guidelines have been established by Leawood Estates Homes Association, however there is no legal recourse to enforce them other than taking court action. She distributed copies of the guidelines to the Governing Body.

Citizen Cheryl Naegler, who signed in to speak, was recognized and declined to comment.

Councilmember Filla stated appreciation for the outline of issues provided by Mr. Lambers. She informed there was a clear consensus by the task force of other items to be discussed including consistency within the review process for residential structures. Residential homes should abide by a set of standards as is asked of commercial buildings in order to maintain quality throughout the City. Councilmember Filla encouraged fellow councilmembers to consider the issues identified in Mr. Lambers' memo.

Mayor Dunn reminded the ordinance passed in July will allow homeowner associations to review plans with an established set of guidelines. She also reiterated the ordinance is not mandatory and will include only those HOAs who desire notification. Mayor Dunn agreed it would be appropriate for the LDO amendments to go through the planning process before further action is taken by the Governing Body.

Mr. Lambers informed he initiated the Planning Commission review of the architecture/construction standards section of the LDO.

A motion to place discussion of the Building Permit review process on a future agenda following action taken by the Planning Commission regarding amendment of §16-2-10 of the LDO was made by Councilmember Bussing; seconded by Councilmember Peppes.

The Planning Commission will hear this topic during one of the August meetings.

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

ADJOURN

The Governing Body meeting adjourned at 10:00 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk