

Minutes

DVD No. 162

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, April 2, 2007. Councilmember Azeltine led the meeting as Presiding Officer.

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

Mayor and Councilmembers absent: Peggy Dunn, Scott Gullede, and Debra Filla.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Kathy Rogers, Finance Director
Chris Claxton, P&R Director
Jeff Cantrell, Neighborhood Serv. Admin.
Jeff Joseph, Senior Planner
Christy Wise, Deputy City Clerk

Patty Bennett, City Attorney
Chief John Meier, Police Department
Joe Johnson, Public Works Director
Mark Andrasik, IS Director
Mark Klein, Asst. to the Planning Director
Deb Harper, City Clerk
Jack Reece, IS Specialist

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Rasmussen; seconded by Councilmember Gill. Councilmember Bussing informed that he would not be giving a report under Item No. 9A. The motion to approve the agenda as amended carried 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.**

Debra Smith, 11600 Tomahawk Creek Parkway, No. 41, requested that Staff contact her to answer the question of what percentage of Leawood homeowners are members of homeowners associations. She also asked for information regarding improvement responsibilities of the City and of homeowners associations (i.e. road repair, pavement).

Robert Kiersznowski, 4525 W. 131st Street, stated concerns regarding insufficient sign postings for public hearing notices related to the development of Mission Road from 133rd Street to 135th Street. Residents in south Leawood are currently undergoing a tremendous amount of anxiety due to proposed projects. Citizens have not been properly notified of their opportunity to participate in the process. The Leawood Development Ordinance [LDO] gives specific guidelines for the posting of such signs; however, those placed for a recent case heard by the Planning Commission did not meet the requirements. He reported no signs were posted along 133rd or 135th Streets. The sign at the corner of Mission Road and 135th Street was placed on the back of a “For Rent” sign, giving the wrong impression to passersby. The notice on the “For Rent” sign was for the rezoning request with nothing displayed for the special use permit [SUP] application. Mr. Kiersznowski provided the City Clerk with pictures of the described signage. He requested that the Planning Commission hold another public hearing for the SUP application.

Councilmember Rasmussen asked that Staff review the matter for a possible defect in the notification process of public hearings. Based upon the findings, he stated there may be merit to Mr. Kiersznowski’s request to repeat the process.

Mr. Azeltine asked Staff to investigate the situation and follow-up with Mayor Dunn.

4. PROCLAMATIONS **Public Safety Telecommunicators Week, April 8-14, 2007**

Mr. Azeltine presented the proclamation for Public Safety Telecommunicators Week to Police Chief John Meier. Chief Meier introduced and expressed appreciation to Communications Officers Kallie Meiers and Fran Doll.

5. PRESENTATIONS/RECOGNITIONS – None.

6. SPECIAL BUSINESS

- A. Resolution No. 2765 authorizing the City to acquire certain easements through the City’s condemnation authority, located in the Woods of Ironhorse, adjacent to the Ironhorse Golf Course, for purposes of constructing storm drainage improvements in accordance with SMAC project # NC-04-001; IRONHORSE Golf Club Stormwater Project [CIP # 80172]

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill. The motion carried following a unanimous vote of 6-0.

- B. Resolution No. 2766 expressing intent for the issuance of General Obligation Bonds of the City of Leawood, Kansas pursuant to K.S.A. § 12-6a.01 et seq. to provide funds to pay the costs acquisition of interests in property and construction of stormwater and erosion control improvements along the west side of Ironhorse Golf Course within the City, and for the issuance of Temporary Notes of the City pending the issuance of said Bonds; expressing the intent to reimburse costs of the project so incurred from proceeds of such Temporary Notes and General Obligation Bonds; and authorizing and approving certain related matters and actions [CIP # 80172]

A motion to approve Item No. 6B was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The resolution was approved following a unanimous vote of 6-0.

- C. Resolution No. 2767 finding as to the advisability and authorizing the construction of improvements to the intersection of 135th Street and Fontana Street, located within the City of Leawood Kansas; and accepting a Petition for an Improvement District, pursuant to K.S.A. § 12-6a01 et seq

A motion to approve the resolution was made by Councilmember Gill; seconded by Councilmember Rasmussen. The motion was approved following 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. 1073B, 1074A, 1074B, and 1075A
- B. Accept Minutes of the March 5, 2007 Governing Body meeting
- C. Accept Minutes of the March 5, 2007 Governing Body Work Session
- D. Accept Minutes of the March 12, 2007 Governing Body Work Session
- E. Accept Minutes of the February 13, 2007 Parks and Recreation Advisory Board meeting
- F. Accept Minutes of the December 13, 2006 Ironhorse Advisory Board meeting
- G. Accept Minutes of the January 9, 2007 Historic Commission meeting
- H. Accept Minutes of the November 8, 2006 Leawood Foundation meeting
- I. Approve Purchase in the amount of \$36,720.00, to Dell Computers for the purchase of computers
- J. Approve Purchase in the amount of \$23,594.00 to Gades Sales Co., Inc., for traffic signal equipment to be placed at 115th & Town Center Drive and 117th & Nall, pertaining to the Park Place Benefit District [CIP # 80196]
- K. Approve Co-Op Bids in the amount of \$376,409, for the purchase of capital equipment for the Public Works and Parks and Recreation Departments
- L. Approve Change Order No. 1 in the amount of \$812.50 to Kincaid Construction, Inc., for Town Center Drive Storm Sewer Improvements; pertaining to the Park Place Benefit District [CIP # 80196]

- M. Approve Fifth and Final Pay Request in the amount of \$18,110.27 to Kincaid Construction, Inc., for storm sewer improvements pertaining to the Park Place Benefit District [CIP # 80196]
- N. Approve Twenty-Seventh and Final Pay Request in the amount of \$69,715.29 to APAC-Kansas, Inc., pertaining to the Roe Avenue Improvement Project [CIP #110]
- O. Resolution No. 2768 calling for a pre-budget Public Hearing to be held on Monday, April 16, 2007, at 7:30 P.M., regarding the 2008 Fiscal Budget for the City of Leawood, Kansas
- P. Resolution No. 2769 approving and authorizing the Mayor to execute a Maintenance Agreement in the amount of \$88,400 between the City and Custom Lighting Services for street and traffic lights located throughout the City
- Q. Resolution No. 2770 approving and authorizing the Mayor to execute a Construction Agreement in the amount of \$928,549.27, with APAC-Kansas, Inc., pertaining to the 2007 Residential Mill & Overlay Project
- R. Resolution No. 2771 approving and authorizing the Mayor to execute an Inter-local Agreement between the City and the Board of Johnson County Commissioners [BOCC] pertaining to the Stormwater Management Advisory Council I-Lan Park SMAC Project TM-04-800, located at 12601 Nall Avenue
- S. Resolution No. 2772 approving and authorizing the Mayor to execute Amendment No. 1 to that certain Right-of-Way Maintenance Agreement, dated April 3, 2006, in the original amount of \$54,604.20 between the City and S&F Mowing and R&R Mowing, pertaining to extending the term of the agreement
- T. Resolution No. 2773 approving and authorizing the Mayor to execute Amendment No. 3 to that certain Purchase and Service Agreement dated May 5, 2003, in the amount of \$100,275.00, between the City and Tyler Technologies, Inc., [formerly known as Eden Systems, Inc., pertaining to the Integrated Finance Software System [Eden Project] for Permits and Inspections modules
- U. Resolution No. 2774 approving a Final Site Plan for Villas of Highlands Ranch, located north of 138th Street and east of Chadwick. *[from the February 27, 2007 Planning Commission meeting]*
- V. Resolution No. 2775 approving a Final Site Plan for Parkway Plaza Retail 9 Wall Signs, located northwest corner of 135th Street and Roe Ave *[from the March 13, 2007 Planning Commission meeting]*
- W. Fire Department February Monthly Report
- X. Municipal Court February Monthly Report
- Y. Police Department February Monthly Report
- Z. Declaration of Surplus Property; Plotter/Scanner printer

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

8. MAYOR'S REPORT – None.

9. COUNCILMEMBERS' REPORT

- A. Report from Councilmember Bussing - **TABLED**
- B. Report from Councilmember Rasmussen - Councilmember Rasmussen briefly reviewed the results of the March 28th, 2007, Public Works Committee Meeting. At Mayor Dunn's request, the Committee discussed the 143rd Street project. A number of area residents attended and had their questions answered.

The Public Works Committee also addressed pavement standards in commercial parking lots. A possible solution to the current collapse of pavement could involve placing several feet of concrete around the median islands, areas around trash enclosures, etc. Staff will develop and present a proposal to the Governing Body in the future.

Another agenda item pertained to timing standards of demolition. The Public Works Committee approved recommendations from Staff, which will be presented at the next City Council meeting.

Lastly, discussion took place regarding stormwater increment. Due to the significant redevelopment occurring in north Leawood, different areas are now being flooded by stormwater. It was suggested to have Mayor Dunn direct the Building Permit Task Force to consider a standard for occupancy of the lot.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the February 20, 2007 Planning Commission meeting]

- A. Resolution approving the Planning Commission's recommendation to approve a Final Site Plan and Final Plat for Siena, located on the southeast corner of 137th Street and Mission Road, and to direct staff to develop appropriate stipulations

Staff Comment: If the resolution is approved, this item should be remanded to the Planning Commission for consideration of any proposed stipulations developed by staff.

Mr. Lambers informed that Staff is not in support of the application, therefore the Staff Report does not contain any stipulations.

Due to Staff's strong recommendation, Councilmember Gill informed he will be making a motion to remand the item at the appropriate time. It was decided to proceed with the presentation, Council discussion, and citizen comments in the usual fashion.

Attorney Larry Winn, 6201 College Boulevard, representing Oddo Development Company, apologized for being unable to accommodate certain residents of the Tuscany Reserve subdivision, who could not attend the meeting as it is the first night of Passover. He stated the main item of discussion should be compliance of the final development plan as it relates to the approved preliminary plan.

Mr. Winn quoted portions of §16-3-13 of the LDO: “A final development plan that contains minor changes or no changes from the approved preliminary plan may be approved by the Planning Commission and Governing Body, without requirement for additional hearing or notice. A final development plan that contains substantial changes from the approved preliminary plan may only be approved upon submission of a new preliminary plan.” The developer has submitted a final plan that is a virtual replica of the approved preliminary plan. Minor revisions have been made in order to comply with ordinance changes that have occurred in the five years since preliminary plan approval.

Mr. Winn noted that during the preliminary plan stage, the Planning Commission and Governing Body are directed to consider certain elements:

1. Whether the development is designed, located, or proposed to be operated so that public health, safety, and welfare are protected.
2. Whether an identified community need exists for the proposed use.
3. Whether the development will impair the use, enjoyment, and value of neighboring properties.
4. The degree of harmony between the architectural quality of the proposed project and the surrounding neighborhood.

Mr. Winn stated favorable determinations were made for each of these directives during preliminary plan approval. He furthered that §16-3-4 of the LDO states, “Approval of the preliminary development plan shall be considered an act of rezoning subject to the procedural requirements for rezoning as set forth in Article 5. A final development plan is intended only to provide final additional details or minor changes but shall otherwise conform to the approved preliminary development plan.”

The general principal of law, as well documented in *Rathkopf's Law of Zoning and Planning*, states, “Where there is approval of a preliminary plan, a final plan conforming thereto and setting forth all of the information required, endorsements, and the like by planning rules, must necessarily be approved.”

Mr. Winn stated Staff's opinion is that there has been a change in the general area of this project, thus perhaps the existing zoning is no longer timely. He challenged that the only changes have been development that is in accordance with the Master Plan vision for the 135th Street Corridor. The zoning of this project has been multi-family for 20 years. He advised if there is concern about the current zoning being unreasonable, the City can petition for rezoning in the same way an applicant would. Another solution would be to change the Master Plan.

When the property was originally zoned in 1988, the developer made a commitment to existing neighbors that the project would not become taller in height than the proposed plan. The structures have remained 2-story buildings.

Mr. Winn reviewed the economics associated with the three phases of Sienna. The higher density apartment buildings are to compensate for the large estate and single-family lots within other sections of the development. He confirmed for Councilmember Gill that the single-family lots contain a deed restriction that waives the property owners' rights to protest or complain about this phase of the development. Mr. Winn stated there have been no threats of litigation against any of the property owners. The restriction was intended to serve as notice for the multi-phased project. Councilmember Gill questioned the appropriateness of the waiver. Mr. Winn stated this type of waiver is commonly included in deed restrictions when associated with developments of this kind.

Councilmember Rasmussen and Mr. Winn discussed reasons why development of the property has not occurred until this time, including the availability of sanitary sewers and schedule of street enhancements.

City Attorney Patty Bennett verified for Councilmember Rasmussen that if the final plan request is denied, the City Council may direct Staff to institute a petition reestablishing the zoning as agricultural.

Mr. Winn stated as Staff did not present the Planning Commission with stipulations, which is highly unusual, it would make sense to remand the project with instructions to attach stipulations.

Architect Bill Prelogar with Nearing, Staats, Prelogar & Jones, 3515 W. 75th Street, Suite 201, Prairie Village, KS, reviewed plan modifications that have occurred for LDO compliance purposes. The number of attached garages has increased to meet the requirement of one garage space per apartment unit. Along with this change, there has been a reduction in on-street parking spaces in order to maintain the net overall green space presented in the approved preliminary plan. The second change includes the relocation of a trash compactor, which is now attached to the clubhouse. Buildings have been slightly rearranged for the purpose of bringing the distance between them into compliance with the LDO.

Additionally, the amount of stone veneer has dramatically increased in order to bring the current design into closer conformance with desires of Staff. Referring to Resolution No. 1603, which granted zoning for the project approximately five years ago, Mr. Prelogar noted a stipulation requiring a minimum of 4% stone and 96% stucco. Currently, there is approximately 40% stone on the duplexes, front elevations of the multi-family complexes, and the front of the clubhouse.

Mr. Prelogar clarified that the final plan is of improved quality compared to the preliminary plan. He stated the comment in the Staff Report regarding requests to consistently increase density with each application is factually inaccurate. Mr. Azeltine noted the comment to say, "The original request in 1988 was approved by the Planning Commission and City Council for 68 duplex units and 152 units in the apartment complex for a total of 220 units. In the year 2000, the plan was revised and the Planning Commission and City Council approved for a 272 unit apartment complex and 20 unit duplex buildings for a total of 292 units." Mr. Prelogar confirmed the validity of this information and explained that the developer also added land area at the time of the unit increase. The current density is identical to the plan approved five years ago.

Regarding a comment stating the roofing material is not appropriate for this kind of development in the City of Leawood, Mr. Prelogar suggested a stipulation requiring the use of Tamko Heritage 50 in lieu of the proposed Tamko Heritage II. The former is on the City's approved list of laminated composition shingles. Senior Planner Jeff Joseph verified that the list applies to residential development only.

Mr. Prelogar agreed that the Staff Comments pertaining to landscaping, signage, and parking are accurate. To remedy Staff's objection to wall pack lighting on the exterior of the duplexes, there has been agreement to use the same type of lighting proposed for the multi-family units.

Councilmember Rasmussen noted that the City's definition of "private street" has changed significantly to the point where having such a street requires extraordinary rationale. Mr. Prelogar stated the private street within the multi-family development will be under the ownership of the community. Councilmember Rasmussen stated there have been private streets in the past for which the City had to devise a methodology to take over because the community resisted paying for maintenance. Mr. Prelogar stated the resolution approving the preliminary plan stipulates that the streets will be private.

Councilmember Rasmussen called attention to the fact that portions of the development are gated. Mr. Prelogar stated the applicant is prepared to accept a stipulation omitting gates from the development. The plan was presented as a gated community in both 1988 and 2000. Councilmember Rasmussen stated the City Council's attitude towards gated communities has also changed over the last five years. Mr. Prelogar expressed understanding of the change.

In summary, Mr. Prelogar stated the applicant has presented a final plan to the City in conformance with the 34 stipulations set out in Resolution No. 1603 and is prepared to accept further stipulations in areas concerning to Staff. He then requested approval of the project.

Councilmember Bussing asked why the project would be good for the present state of the 135th Street and Mission Road area. Mr. Winn reminded that the appropriateness of the land use was determined five years ago.

Mr. Winn informed Councilmember Gill that he does not recall a reconfiguration of land taking place for the purpose of building more single-family homes during preliminary plan approval in 2000.

Mr. Winn stressed the fact that the Master Plan remains in place. A fairly classic land use pattern in Johnson County has been to buffer single-family areas from the activity of a busy street, such as 135th Street, with town homes, villas, condominiums, and multi-family residences.

Mr. Prelogar displayed a map of the entire 80-acres owned by the Oddo's at the time the three phases were zoned in 2000. The 1988 zoning dealt only with the northern portion of the property. He described the surrounding developments of Siena including Tuscany Reserve to the east, Mission Corner to the north, and Villaggio East to the west. To the question of why this is a good project, he stated this is exactly the type of transitional development that should exist between high intensity commercial uses and single-family uses.

Councilmember Gill asked if a traffic study had been prepared as was stipulated during preliminary plan approval. Mr. Prelogar responded that Staff specifically waived the requirement for a traffic study. Councilmember Gill stated his motion to approve the project five years ago was based upon good faith representation from the applicant that a traffic study would be performed.

Based upon the fact that the required traffic study has not been executed, Councilmember Gill made a motion to deny the application. The motion was seconded by Councilmember Rasmussen.

Ms. Bennett suggested an Executive Session for a period of 10 minutes in order to discuss matters subject to the attorney-client privilege.

A motion to recess into Executive Session for a period of 10 minutes in order to discuss matters subject to the attorney-client privilege was made by Councilmember Rasmussen; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 6-0.

The Governing Body recessed into Executive Session at 8:45 P.M.

The Governing Body reconvened into regular session at 8:55 P.M.

Councilmember Gill withdrew his motion to deny the application pending input from the public. Councilmember Rasmussen agreed to withdraw his second to the motion.

CITIZEN COMMENTS:

1. David Ackerman, 3350 W. 138th Terrace, stated he and his wife were one of the first homeowners in the Tuscany Reserve subdivision. They have lived in Leawood for 22 years and have witnessed the results of well planned and high quality residential and commercial developments throughout the southern part of the City. He counts on, and expects, that these standards are applied to every parcel up for development. The Siena Phase II site plan is not the right project for this property, which is adjacent to neighborhoods of the caliber for which Leawood is known. He requested that Council vote against the proposed development.

2. Nate Harber, One Hallbrook Place, representing Donna and David Ackerman, stated he would like to reconfirm and affirm the wisdom of Staff's recommendations as written in the Staff Report. He added that a traffic study would be extremely appropriate given there will be 292 new residences in close proximity of a school. Following a review of concerning points in the Staff Comments, Mr. Harber urged denial of the project as it does not fit the character of the community.
3. Steve Johns, 12949 Granada Lane, President of The Woodlands Homeowners Association, spoke in opposition to the proposed project on behalf of himself and his wife, Candice, as it is not consistent with surrounding communities and the residential nature of Leawood. He stated fault with the current notification process as it is too limited. Notifying only those residences within a 500-ft. radius of the project does not allow sufficient opportunity for nearby communities to participate in the development process. Mr. Johns stated support for denying or remanding the project with additional involvement of all affected homeowners.
4. Mark Wilkerson, 12813 Granada Road, opposed the project. He has two young children attending Mission Trail Elementary School and has safety concerns related to increased traffic the development will cause.
5. Loretta Chudy, 3608 W. 141st Street, spoke on behalf of herself and her husband, Tom, who is Co-President of the Mission Prairie Homeowners Association. She voiced objections related to the loss of green space imposed by large developments. Ms. Chudy read a quote from area developer Rick Oddo, who expressed concerns with overly dense projects at a Planning Commission meeting for a neighboring project. She also highlighted a portion of the Staff Report, page 8, pertaining to minimal hardships that would be imposed if denial of the project occurs.
6. Mary Holcomb, 13220 Falmouth, President of the Wilshire Place Homes Association, stated concerns related to the notification process and parking. She suggested notifying all residences within a school district if a certain school is to be affected by such a project. She also relayed that every neighbor she has spoken to is against the project and would appreciate a vote of denial.
7. Mike Milich, 14111 Mohawk, spoke in opposition to the project. He stated the development is not a fit for Leawood and asked that it be denied in order to protect the community.
8. Ryan Ricker, 14115 Mohawk Lane, representing himself and his wife, Kristen, spoke in opposition to the project due to concerns with density and decreased property values.
9. Christy Glazure, 3451 W. 138th Terrace, stated her home will immediately back up to the project. The proposed private street will be five feet away from her property line and there are no trees or berms planned to screen the view from her home. She requested denial of the project or, in the least, that issues associated with the private street be addressed.

Mr. Lambers confirmed for Councilmember Gill that streets are allowed to be placed directly next to property lines. In reviewing the site plan, 15-ft. is the closest distance any street is to adjoining property.

A motion to deny the final site plan and final plat for Siena was made by Councilmember Gill; seconded by Councilmember Rasmussen.

Councilmember Gill stated the basis for his motion includes the *Golden Criteria* listed in the Staff Report and the fact that three stipulations agreed to five years ago have failed: a traffic study, conformance to ordinances as they exist today, and the assurance that the final plan would be of high quality. He acknowledged the applicant's offer to come into compliance where needed, however this should have been done prior to submittal of the plan. The plan does not presently make sense for the area. The most telling fact of the proceeding is the fact that the single-family property owners were required to waive their rights to oppose the multi-family project. Councilmember Gill stated this is an explicit acknowledgement by the developer that there would be a problem.

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

[from the February 27, 2007 Planning Commission meeting]

- B. Resolution No. 2776 approving a Final Site Plan for Village of Seville Lot 6, located at the northwest corner of 133rd Street and State Line Road

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill. The resolution was approved following a unanimous vote of 6-0.

- C. Resolution No. 2777 approving a Final Plat for Gardens of Villaggio Lots 1 through 4, located north of 137th Street and east of Roe Ave

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Peppes. The motion carried following a unanimous vote of 6-0.

[from the March 13, 2007 Planning Commission meeting]

- D. Resolution No. 2778 approving a Final Site Plan for St. Michael the Archangel Catholic Church, located north of 143rd Street and east of Nall Ave

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

Councilmember Bussing verified with Mr. Joseph that all Staff Comments found on page 6 were included as stipulations.

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

12. OLD BUSINESS – None.

13. OTHER BUSINESS

A motion was made by Councilmember Gill to investigate the adequacy of public notice for the Mercedes-Benz dealership application within the Westside of Mission development; to repeat the notice if there is an issue with conformance; and to consolidate the mixed-use development rezoning request and special use permit [SUP] application on the same Planning Commission agenda as determined by Staff. The motion was seconded by Councilmember Bussing.

Mr. Lambers stated having the two items heard on the same evening will not cause a problem. The SUP approval process will dictate when the matter will come before the City Council. The applicant will be notified that enough time must elapse between approval of the SUP at the Planning Commission level and City Council presentation to meet the statutory requirements for a protest period.

Councilmember Gill explained he would like for the two related matters to be heard on the same evening in order to minimize the personal inconvenience of interested citizens.

Ms. Bennett informed under the bylaws, the Planning Commission sets their own agenda; however, a request from the City Council may be entertained.

A friendly amendment was made by Councilmember Rasmussen to change the setting of the Planning Commission agenda from a directive to a request. Councilmembers Gill and Bussing stated agreement with the friendly amendment.

Councilmember Rasmussen confirmed with Mr. Lambers that the motion will not adversely affect the rights of any of the interested parties.

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

14. NEW BUSINESS

A. Resolution No. 2779 accepting an Amended Petition for establishment of an Improvement District within the City of Leawood, Kansas pursuant to the provisions of K.S.A. § 12-6a01 et seq. providing for construction of stormwater improvements to that parcel of land bounded by Mission Road and Roe Avenue and 135th Street and 137th Street within the City for the creation of a Special Benefit District [SBD] for the construction of stormwater detention and improvements to that parcel of land bounded by Mission Road and Roe Avenue, and 135th Street and 137th Street, also known as the Villaggio Development, located within the City of Leawood, Kansas; and accepting an Amended Petition for establishment of an Improvement District, pursuant to K.S.A. § 12-16a01 et seq. [Villaggio Development] [CIP # 198]

A motion to approve the resolution was made by Councilmember Rasmussen; seconded by Councilmember Gill. The resolution was approved following a unanimous vote of 6-0.

- B. Resolution No. 2780 approving the transfer of Economic Development Sales Tax to the Public Safety Fund for the New Justice Center located at Tomahawk Creek Parkway and 117th Street

A motion to approve Resolution No. 2780 was made by Councilmember Gill; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 6-0.

ADJOURN

The Governing Body meeting was adjourned at 9:35 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk