

Minutes

DVD No. 175

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, November 5, 2007. Mayor Peggy Dunn presided.

Councilmembers present: Lou Rasmussen, Gary Bussing, Jim Rawlings, Scott Gulledge, Geggory Peppes, Debra Filla, and James Azeltine.

Mayor/Councilmembers absent: Mike Gill.

Staff present:

Scott Lambers, City Administrator
Chief Ben Florance, Fire Department
Kathy Rogers, Finance Director
Chris Claxton, P&R Director
Mark Klein, Asst. to the Planning Director
Deb Harper, City Clerk

Patty Bennett, City Attorney
Major Troy Rettig, Police Department
Joe Johnson, Public Works Director
Sheila Huseman, HR Generalist
Jeff Joseph, Senior Planner
Scott Smith, Internet/WAN Specialist

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted an amended agenda with the continuation of Item No. 7Q to the November 19th Governing Body meeting. She also announced the addition of reports from Councilmembers Rawlings and Rasmussen as Item No. 9A and 9B, respectively, as well as an item from City Administrator Scott Lambers under Item No. 13A.

A motion to approve the agenda as amended was made by Councilmember Rasmussen; seconded by Councilmember Rawlings. The motion carried 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.**

Alicia Jennings, 9015 High Drive, stated that she is a member of the Northeast Johnson County Climate Protection Committee that was formed approximately eight months ago.

She requested that the Governing Body appoint a volunteer citizen environment committee to work on environmental issues in Leawood for a period of one year. She proposed three goals for the committee: education, citizen action, and community cooperation. After one year of focusing on these goals, the environment committee will have reduced energy consumption, produced healthier citizens, and increased community involvement. She stated it is a privilege to live in Leawood; however, a greener, healthier Leawood would simply be the best.

Ms. Jennings clarified for Councilmember Azeltine that the proposed volunteer committee will disband after one year.

Leigh Smith, 8401 Belinder Road, stated support for the committee suggested by Ms. Jennings. She provided an update on the Mayors' Sustainability and Climate Protection Conference, which took place last Friday at Rockhurst University. Ms. Smith shared that she has been very passionate about this subject for some time and attended a training course with Al Gore in Nashville. She has since become a volunteer spokesperson for The Climate Project and has witnessed a groundswell of interest on these issues over the last year. She thanked the Governing Body for previously expressing interest in moving toward a more sustainable and greener environmental surround for Leawood and for investigating ways to reduce the City's government energy consumption. She also applauded efforts of searching for low-cost and no-cost changes that will not only save taxpayers' money through responsible conservation and energy efficiency, but will also help to mitigate the effects of climate change. Noting that approximately one dozen mayors signed the Climate Protection Agreement at last Friday's conference, she urged Mayor Dunn to do so as well. Ms. Smith supplied the City Clerk with background and supplemental information on The Climate Project.

R.R. Lam, 12620 Cherokee Lane, stated he inadvertently placed his name on the sign-in sheet and declined to comment.

4. PROCLAMATIONS – None.

**5. PRESENTATIONS/RECOGNITIONS Certificate of Achievement for Excellence
in Financial Reporting**

Mayor Dunn presented Finance Director Kathy Rogers with the certificate, which was awarded by the Government Finance Officers Association of the United States and Canada for the City of Leawood's Comprehensive Annual Financial Report for the Fiscal Year ending on December 31, 2006. Mayor Dunn congratulated and thanked Ms. Rogers and her Staff for continually achieving such high standards on the City's behalf.

Ms. Rogers thanked the Governing Body, Mr. Lambers, and all Department Heads for their contributions in helping the City to receive the award.

6. SPECIAL BUSINESS

- A. Ordinance authorizing the issuance and delivery of \$835,000 principal amount of Transportation Development District Special Assessment Bonds, Series 2007 [the Villaggio Project], of the City of Leawood, Kansas; authorizing execution and delivery of a Trust Indenture in connection therewith; 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 [Roll Call Vote] – ***CONTINUED TO THE NOVEMBER 19, 2007 GOVERNING BODY MEETING***

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. 1088B, 1089A, and 1089B
B. Accept minutes of the October 15, 2007 Governing Body meeting
C. Accept minutes of the September 12, 2007 Parks and Recreation Advisory Board meeting
D. Accept minutes of the August 29, 2007 Public Works Committee meeting
E. Accept minutes of the July 7, 2007 Arts Council meeting
F. Accept minutes of the July 10, 2007 Historic Commission meeting
G. Accept minutes of the August 17, 2007 Stormwater Committee meeting
H. Accept minutes of the September 14, 2007 Stormwater Committee meeting
I. Approve insurance bid with Sun Life to provide life and long-term disability insurance
J. Approve insurance bid with Blue Cross Blue Shield to provide for health insurance
K. Authorize implementation of M&I Debit Cards for flexible spending accounts
L. Approve creation of Amphitheater Expansion Steering Committee
M. Approve Mayoral Appointment of Dan Heiman to Planning Commission for a term to expire May 2011
N. Approve purchase in the amount of \$44,885.00 from ICOP Digital, Inc., for the purchase of digital mobile video recorders for police units
O. Approve 10th and Final Payment in the amount of \$16,162.14 to Holiday Sand and Gravel Company, pertaining to the greens reconstruction project at Ironhorse Golf Course, 15400 Mission Road
P. Approve Change Order No. 1 in the amount of \$9,286.00 to Barge-Turley, pertaining to the pertaining to storm sewer repairs at 8745 High Drive
Q. Approve Change Order No. 5 in the amount of \$455,867.00 to Continental Construction Company, pertaining to Parkway Plaza Improvement Project [CIP # 80195]
R. Approve Change Order No. 5, in the amount of \$644,636.15, to O'Donnell & Sons Construction, pertaining to the Villaggio Improvement Project [CIP # 80403]
S. Approve Change Order No.4 in the amount of \$38,565.00 to Dennis Johnson, pertaining to the fence for IRONHORSE Golf Course [CIP # 13030]

- T. Resolution No. 2901 calling for a public hearing to be held on Monday, December 3, 2007, at 7:30 P.M., to consider amendments to the 2007 Fiscal Budget
- U. Resolution No. 2902 approving a Final Site Plan for a tenant finish for Imagery, located on the southeast corner of 105th Street and Mission Road, within the Mission Farms development [*from the October 23, 2007 Planning Commission meeting*]
- V. Resolution No. 2903 approving and authorizing the Mayor to execute a Service Agreement between the City and Securitas Security Services USA, to provide School Crossing Guard Services
- W. Resolution No. 2904 accepting Public Infrastructure Improvements through private development located at Sunrise Assisted Living, 11661 Granada, in accordance with the GASB-34 Guidelines of reporting inventory of assets [storm sewers]
- X. Resolution No. 2905 establishing a fee, not specifically provided for in the Code of the City of Leawood, 2000, specifically for the 2008 Special Programs at IRONHORSE Golf Course, in accordance with the Open Records Act, K.S.A. § 45-215, et seq
- Y. Declaration of surplus equipment from Parks and Recreation Department

Mayor Dunn pulled Item Nos. 7L and 7S for discussion. Councilmember Azeltine requested to pull Item No. 7X and Councilmember Filla asked the same for Item No. 7E.

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

- 7E. Accept minutes of the July 7, 2007 Arts Council meeting

Referring to the Porch Lights art piece, Parks & Recreation Director Chris Claxton informed Councilmember Filla that Dennis Reynolds and his design group are in the process of submitting samples for different elements of the project. Construction is expected to begin within the next 2-3 weeks.

As Council-Liaison to the Leawood Arts Council, Councilmember Rasmussen stated it was his understanding that the project would be complete by the end of the year. Ms. Claxton stated she is uncertain of the reasons for delay; however, the fact that Mr. Reynolds has transferred his employment from Leawood to Des Moines, IA, has been a contributing factor. He has conveyed that he still hopes to complete the project by the target date.

Mayor Dunn noted that the end-of-year completion date was simply a goal and not a stipulation. Given the many trials and tribulations associated with bringing the project to fruition, Councilmember Rasmussen expressed disappointment with the delay. Ms. Claxton assured that the project is moving forward with Mr. Reynolds being directly responsible for its implementation through a contract with a subsidiary company.

A motion to accept the minutes was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 7-0.

7L. Approve creation of Amphitheater Expansion Steering Committee

Per the memorandum from Ms. Claxton, Mayor Dunn noted that the individuals appointed for the committee have been meeting as an Ad hoc guidance group for the last seven years. There is the possibility of more names being added to the list of proposed members including the appointment of Councilmember Rasmussen as the Council-Liaison. Complete information for Leawood resident Vincent Dean, who will be a regular committee member, was distributed subsequent to the delivery of Councilmembers' packets.

A motion to approve Item No. 7L was made by Councilmember Filla; seconded by Councilmember Rawlings.

Referring to the Master Plan mentioned in the third paragraph of the memorandum, Councilmember Azeltine received confirmation from Ms. Claxton that funding for the expenditure was set in place during the last budget cycle. A figure of \$95,000 was funded beyond the park bond authority for restrooms and concessions in the area of the amphitheater.

With the formal formation of the committee, Councilmember Rasmussen stated that he anticipates a future City Council presentation of recommendations from the consultant hired to create the Master Plan. The presentation should include a schedule of implementation, the possibilities of both public and private financing, and other issues associated with the completion of the amphitheater.

Mayor Dunn clarified with Ms. Claxton that two Master Plans were funded within the budget: one for the amphitheater and one for public art that was requested by the Arts in Public Places Initiative [APPI]. The latter will not require the assistance of a consultant.

Councilmember Bussing stated that he does not question the need for a group to provide technical assistance during master planning and future construction phases of the facility; however, he would be more comfortable in approving another committee if the mission statement was more clearly defined. When creating a committee, it is incumbent upon the Governing Body to provide directive tasks regarding the intent of the group and, more importantly, a termination of the committee when particular requirements have been met. He stated intent to vote against the proposed committee as presented this evening and requested the submittal of a more specific document identifying role and scope.

Mayor Dunn pointed out that the first task of reviewing RFQs and conducting interviews is listed in the memorandum. Ms. Claxton stated an effort could be made to spell out other tasks if the Governing Body so desires.

Councilmember Azeltine concurred with Councilmember Bussing as a temporary task force such as this should be assigned specific duties in order to delineate completion. He suggested continuing the item.

Noting no willingness from the motion-maker or the second to withdraw the motion, Mayor Dunn conveyed expectation that a delineation of tasks will be presented for review in the future if the committee is approved.

Councilmember Filla reported that the duties of the committee will be complete when the amphitheater is ready to undergo construction.

The motion to approve the creation of the Amphitheater Expansion Steering Committee carried following a vote of 5-2 (Nay: Councilmembers Bussing and Gulledge).

- 7S. Approve Change Order No. 4 in the amount of \$38,565.00 to Dennis Johnson, pertaining to the fence for IRONHORSE Golf Course [CIP # 13030]

Mayor Dunn explained that she pulled the item due to contact with citizens who wished to speak on the issue. Additionally, she also wanted to recognize members of the IRONHORSE Advisory Board present in the audience including Chair Dick Fuller and new member Leo Morton.

Mr. Lambers reviewed that several years ago, the City Council made a decision that the perimeter of the golf course was to be fenced and the gates on existing fence structures were to be removed. The rationale for removing the gates was to prevent golfers from entering private property as well as to prevent unwanted trespass upon the golf course. The City's interests will be best served by installing the fence, particularly as it relates to individuals accessing the facility when not in use. Although the matter is part of the current renovation project at IRONHORSE, it has also been part of an ongoing effort that was funded several years ago to complete total perimeter fencing and to eliminate previously existing gates.

Tom Williamson, 15313 Rosewood, requested to defer his comments until remarks have been made by citizen Mark Bodine.

Mark Bodine, 15325 Rosewood, speaking on behalf of several adjacent property owners, spoke in opposition to the proposed fence. They have all enjoyed being a neighbor with the City golf course, which has required a healthy mutual respect from both sides. The homeowners recognize that golfers and balls will occasionally come onto their property. They also respect the fact that the golf course is not a public park for personal use and have consciously not caused any issues to necessitate the erection of a fence that will obstruct the view that they have come to cherish. From a historical perspective, Mr. Bodine stated that the City-owned property between the out-of-bounds marker on the golf course and the homeowners' property line has never been maintained by the City. The neighbors have installed sprinklers, watered, mowed, and fertilized this area for the last 13 years. Following a survey performed by the City, the fact that the fence will be placed in a location originally thought to be residential property is also upsetting. He requested consideration for this issue.

With an aerial view perspective of the proposed fence location, Mr. Bodine demonstrated his cause and expressed further concern that maintenance will not be performed on the property previously cared for by the residents if the fence is erected. If not property maintained, there is risk that the area will become an unwanted habitat for animals. On a final note, as citizens of Leawood, the residents do not believe that the fence is economically warranted. Rather than adding the project to the overall construction currently occurring at the golf course through a change order, he stated the fence should be presented as a general budget item. Mr. Bodine concluded his remarks by stating that the addition of a fence will cause maintenance issues for the City and will create a distinct difference of appearance for the residents. He asked that the City provide the same mutual respect to the residents that they have extended since the creation of IRONHORSE.

To Councilmember Azeltine's question, Mr. Bodine stated that he has never witnessed any vandalism to Green No. 12, which is nearest to his property, in the 13 years that he has resided in his home. He has heard that someone accessed this green during the construction process and an orange security fence has been placed around the area.

Tom Williamson, 15313 Rosewood, stated that in the eight years he has lived in his home, he has mowed, weeded, watered, and fertilized the adjacent City-owned property leading to the out-of-bounds markers. He voiced opposition to the erection of the proposed fence along Green No. 12 and Fairway No. 13. Unless the fence is extended across the creek, the intent of thwarting trespassers will not be successful. He has never witnessed anyone causing damage to the greens. Mr. Williamson displayed photographs of his backyard view before and after the construction of a 9-ft. berm. Placement of the fence will further impede the view that was the determining factor in his decision to purchase this home.

Barb Freeland, 15333 Rosewood, spoke in opposition to the proposed fence as she does not believe it is necessary given the previous construction of a stone wall and the berm.

Judy Watts, 15309 Rosewood, stated she and her husband have maintained 50-ft. of golf course property for the 13 years that they have resided in their home in order to keep it as attractive as their own lawn. She is opposed to the fence for aesthetic reasons and is also concerned that the 25-ft. strip of land behind the fence will not be kept in good condition. Ms. Watts agreed with Ms. Freeland in that there is no need for a fence as there are already two barriers between the residences and the golf course. If erected, she requested that the location of the fence be moved closer to the berm so that she may continue to maintain the area of green expanse.

Ms. Claxton informed that Staff has always been given directive to place the fence in the proposed location, which is the property line. Other installations of fencing along the course have been done in this manner with the landscaping beyond the out-of-bounds marker being left as a rough area.

Golf Course Superintendent Pete Spratlin confirmed that the residents had been maintaining areas beyond their property lines prior to his 10-year employment at the golf course. He admitted that he did not know the exact whereabouts of the property line, therefore the status quo was continued. It has always been the intent to phase-in fencing in this location. There are police reports confirming that vandalism has occurred on Green Nos. 12, 13, and 15. The recent relocation of the creek has made golf course property more accessible to trespassers.

Mr. Spratlin informed that there are very strict guidelines associated with maintaining the levee and will require additional manpower to do so, which will be budgeted as needed. Via site plan drawings, he demonstrated the location of the proposed fencing and the areas that will be maintained by City employees. A gate will be installed in the portion of the fence tying into the creek to allow employees access to the northern portion of the levee. He confirmed for Mayor Dunn that future maintenance will be drastically improved, more residential in appearance, and will include mowing the grass at 4-inches or less, fertilization, and weed-eating of the fence. As many of the trees were removed during the overall construction project, it will be much easier to utilize the City's larger mowing equipment.

Councilmember Rasmussen verified with Mr. Spratlin that specific instructions exist for maintaining the greens, fairways, and roughs with natural flora and fauna encouraged for the remainder of the City property. Since purchasing the golf course property, the City Council has tried to accommodate the environmentalists, the golfers, and the residents. Mr. Spratlin reaffirmed that the occurrence of vandalism has required the involvement of the Leawood Police Department as well as the Leawood Municipal Court. To the best of his knowledge, Mr. Spratlin stated that the policy regarding the phased fencing planned for the entire golf course has been in effect since 1999.

Ms. Claxton informed Councilmember Azeltine that the IRONHORSE Advisory Board has also been aware of and has held discussions regarding the phased fencing since 1999. However, this specific area has not been recently debated as it was not originally planned to be part of the project. The \$38,565 funding for the fence is shown as a budgeted item within the Capital Improvement Program [C.I.P.] for 2007. The change order is being requested in order to add the work to the current construction project.

After receiving confirmation from Ms. Claxton that notice was not given to the surrounding neighbors regarding placement of the fence, Councilmember Azeltine commented that the residents abutting the golf course should have received the common courtesy of proper notification rather than finding out through a surveyor who was staking the fence. Mayor Dunn noted that meetings with the homeowners occurred regarding the SMAC project and placement of the berms. Councilmember Azeltine stressed that the City should have made a better effort at communication with the citizens on the fence issue. The bigger problem, however, is the fact that such an outstanding item was placed upon the Consent Agenda without discussion at the committee level prior to Governing Body presentation.

Dick Fuller, Chair of the IRONHORSE Advisory Board, 10309 Sagamore Road, asserted that it has been clearly understood since the original design stages of the golf course that a complete perimeter fence would be established in phases in order to mutually protect the residents as well as the City property. In 1999, following the installation of fencing in areas of the adjacent property then owned by developers, the City began the process of budgeting \$15,000 to \$30,000 per year in the C.I.P. towards completion of the structure.

Councilmember Azeltine extended respect and appreciation to Mr. Fuller and the other committee members who volunteer their services to the City. However, the current issue is a perfect example of the flawed process by which the City utilizes such groups. The Governing Body did not use the committee in a way to properly interface with the citizens. He furthered that the turn of events in question has been extremely disrespectful to the associated constituents.

Councilmember Rasmussen asked why it was decided to construct the fence at this point in time versus executing a separate contract in accordance with the phasing program. Ms. Claxton responded that as the current projects calls for the erection of a fence atop a wall behind one of the residential homes, it is the opportune time to utilize the crews already set in place and prevent future disruption of the area. It will be very difficult to access the site location at a later date without going through the yards of the property owners.

Ms. Claxton verified for Councilmember Rasmussen that the City advertises public hearings concerning the Capital Improvement Program. The phased fencing has been part of numerous C.I.P.s.

Public Works Director Joe Johnson demonstrated the location of the berms and planned fencing on the site plan drawing for Councilmember Gulledge. The design is in accordance with State dictated maintenance of the levees. Mr. Spratlin stated that grass planted on top of the berm will also be maintained by the City at 4-inches or less.

Councilmember Gulledge noted that the property owners have already lost their view due to the height of the berm. As suggested by Ms. Watts, he recommended erecting the fence closer to the berm in order to minimize the loss of land within their backyards. If the land is turned over to the residents, attention would need to be given regarding the issue of liability in the happenstance that an accident occurred on the property and agreements would also be necessary to allow the City access to the property.

Mr. Johnson informed that the fence must be placed either on the property line or not at all due to the slope of the land. The structure cannot be relocated to the foot of the berm because the City must have access to the levee in order to provide maintenance on a continuous basis. He added that efforts were made to shorten the height of the levee as much as possible; however, as jurisdictions with levees are governed by the State of Kansas, the design was based upon required standards associated with the floodplain.

At Councilmember Rawlings' request, Mr. Johnson pointed out the homes that will be provided floodwater protection by the reconstruction. It was reaffirmed that a fence cannot be placed upon the levee per the Corps of Engineers and Kansas Law.

Mr. Johnson confirmed Councilmember Bussing's recollection that a meeting took place in 1999 with all of the homeowners at the time of preliminary engineering design. He and Brett Haugland of Continental Engineers have subsequently met with residents on an individual basis in order to answer questions. Mr. Spratlin stated he has also conversed with all of the property owners, however not regarding any specific issues.

Councilmember Azeltine stated there are three golf courses within a 10-minute distance of City Hall that have not installed fences between the facility and residential homes. As pointed out, there are already several barriers to obstruct potential vandals. The construction of a fence would simply be a case of overkill. He again raised issue with the presumptuousness in which the fence was staked prior to Governing Body approval, the lack of notice given to the citizens, and placement of the item upon the Consent Agenda.

Mr. Lambers objected to Councilmember Azeltine's remarks by reminding that the phased fencing has been an ongoing project for seven years, is an extension of City Council policy, and has continuously been included in the C.I.P. Therefore, placing the item upon the Consent Agenda is very appropriate in form.

Mayor Dunn and Councilmember Azeltine further discussed issued associated with the item.

A motion to call for the question was made by Councilmember Rasmussen; seconded by Councilmember Peppes.

Councilmember Filla stated it would make sense to alter the plan for 100% perimeter fencing around the golf course given there are already natural barriers in this specific area. She then made a motion to deny the appropriation request; seconded by Councilmember Azeltine.

Mitch Borota, 15321 Rosewood, demonstrated the location of his residence on the site plan drawing, which is directly behind Green No. 12. He reported that he has never been contacted by anyone from the City regarding the fence. The addition of this structure will create a substantial loss of landscaped property in his back lot. It will also cause issues related to the manner in which golfers attempt to retrieve their golf balls. Mr. Borota also stated confidence that a service road created for crew access has invaded his personal property and will require resolution in some manner.

Ms. Freeland added that she and her husband had no knowledge of the long-term goal to create phased fencing around the golf course until one week ago. The intent was not disclosed by the developer upon their purchase of the property 13 years ago.

Noting Mr. Spratlin's comment that the exact property line was not ascertained until the fence was recently staked, Councilmember Azeltine stated the residents should not be paid back for maintaining the City property over the course of many years by the construction of an unneeded and unsightly fence.

Mr. Lambers informed Councilmember Rawlings that the policy regarding the perimeter fencing was a previous City Council decision with the intent to enclose the golf course and eliminate access through residential gates that were installed by developers.

City Attorney Patty Bennett confirmed Councilmember Rasmussen's recollection that the City Council made it a point that every plat in the subdivision next to IRONHORSE be subject to three conditions running with the land: that a fence be placed upon the property line, the inclusion of a 25-ft. offset, and the condition that the liabilities associated with living next to a golf course were recognized by the people. Councilmember Rasmussen then remarked that at no fault to the City, the City Engineers, or the County, this particular subdivision was plotted by the developers with a 2.5-ft. error. It is very sad that the City is now expected to pay the price for the lack of due diligence performed by the property owners at the time of purchase as they should have had knowledge of these issues. He then called for the question.

Following installation of the proposed portion of fencing, Mr. Spratlin advised Mayor Dunn that there are two more phases left to complete the perimeter of the golf course. The majority of the existing fencing has been paid for by surrounding developers per stipulations governed by the City Council.

Mayor Dunn restated the motion as: to deny Change Order No. 4 in the amount of \$38,565.00 to Dennis Johnson, pertaining to the fence for IRONHORSE Golf Course.

The motion failed with a vote of 3-4 (Nay: Councilmembers Peppes, Bussing, Rawlings, and Rasmussen).

A motion to approve Item No. 7S was made by Councilmember Bussing; seconded by Councilmember Rasmussen. The motion carried following a vote of 4-3 (Nay: Councilmembers Filla, Azeltine, and Gullledge).

Mayor Dunn stated appreciation to the residents for attending and expressing their views at the meeting. She then requested that the members of the IRONHORSE Advisory Board stand and be recognized. After thanking them for their hard work on behalf of the City, Mayor Dunn suggested that better communication efforts be made between the committee, City Staff, and the citizens. The citizens should be given a list of the committee members' phone numbers and they can also call her directly with future concerns.

- 7X. Resolution No. 2905 establishing a fee, not specifically provided for in the Code of the City of Leawood, 2000, specifically for the 2008 Special Programs at IRONHORSE Golf Course, in accordance with the Open Records Act, K.S.A. § 45-215, et seq

Skip Talley, 13801 Alhambra, stated it is his understanding that the maintenance portion of golf course operations has been transferred to the City. The reorganization of these duties will cost taxpayers roughly \$200,000 per year for additional salaries and benefits. He doesn't understand why the Governing Body wishes to extract these duties from the contract with Orion Management Solutions when they have had full confidence in the company for a number of years. Maintenance of the golf course should be left under the care of Orion for continuity purposes.

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

Mayor Dunn stated her appreciation for the addition of a fee for 9-hole play.

Councilmember Bussing inquired as to the number of rounds played by Triple Crown Club members over the last full calendar year. Shane Gardner, General Manager of Orion, stated the overall figure for rounds fell between 4,500 and 5,000. As some of this number includes "starts," meaning 3-4 holes played in the evening, rather than full rounds, a better identification method will be devised with the aid of City Staff for the upcoming season. Of this estimate, roughly 120 rounds corresponded with Triple Crown Club members.

Mr. Gardner advised Councilmember Azeltine that the portion of Tee-times allocated for the general public will be based upon membership option sales.

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

8. MAYOR'S REPORT

- A. Mayor Dunn called attention to the distributed Climate Protection Agreement, which was circulated at the October Council of Mayors Meeting by Mission Mayor Laura McConwell. As alluded to earlier, the agreement was signed by a few mayors last Friday at Rockhurst University. She invited the scheduling of a Work Session in order to discuss Leawood's participation in the endeavor if a majority of the Governing Body so desired.

A motion to schedule a Work Session at 6:00 P.M. on November 19th, 2007, in order to discuss the Climate Protection Agreement as well as to debate the formation of a citizen task force for environmental issues as suggested by Ms. Jennings was made by Councilmember Filla; seconded by Councilmember Rawlings.

Mayor Dunn advised Councilmember Peppes that a task force will not be appointed during the Work Session, but discussion will take place regarding the Governing Body's desire to do so. She noted that the subject of the committee is separate and unrelated to the agreement.

Mr. Lambers stated that material will be distributed prior to the Work Session covering both sides of the issue in order to provide a balanced perspective and will include a summary of the Federal Government's reasons for refusing to sign the Kyoto Protocol. The meeting will be designed to address the citizens' request and provide direction as to how he should proceed with decisions regarding the agreement. A subsequent meeting on the topic will most likely be necessary. Signing the resolution will require sanction by the City Council because of the potential implications pertaining to City government, development within the City of Leawood, and what is expected to be encouraged or imposed upon the citizenry. Endorsing the agreement will have a very broad impact that goes beyond the current directive of researching green initiatives pertaining to City functions.

Mr. Lambers affirmed for Mayor Dunn that the agreement does indeed relate to the Governing Body goal set last January of a green procurement policy. Aspects of alternative environmental-friendly construction of new buildings, such as the future Justice Center, will also need to be explored.

The Work Session was approved following a vote of 6-1 (Nay: Councilmember Rasmussen).

- B. Attended a reception hosted by the International Visitors Council of Greater Kansas City for four Israeli artists from the Gezer Region and Ramla, whose visits were sponsored by the Jewish Federation's Partnership 2000. In response to a question regarding their favorite element of the greater metropolitan area following a tour, all of the artists announced that they were most impressed with the public art.
- C. Met with David Leichman, who was visiting for a few days from Pinat Shorashim in Kibbutz Gezer, along with some other representatives of the Jewish Federation.
- D. Announced that the Leawood Lions Club hosted another successful Pancake Breakfast in the Community Center of City Hall. Mayor Dunn thanked all those who attended and supported the event.
- E. Attended the Metropolitan Organization to Counter Sexual Assault's [MOSCA] Johnson County Fall Forum along with City Administrator Scott Lambers, Police Chief John Meier, and some other members of the Leawood Police Department.
- F. In company with Mr. Lambers, attended a retirement reception for Prairie Village City Administrator Barbara Vernon. Mayor Dunn congratulated Ms. Vernon on her 30 years of service to the City of Prairie Village and wished her well in all future endeavors.

- G. Congratulated Leawood residents and philanthropists Jerry, Margaret and Lewis Nerman for partially funding the new Nerman Museum of Contemporary Art at Johnson County Community College. The museum is an incredibly beautiful addition to the campus.
- H. Announced that United Community Services of Johnson County has published their Children and Youth Trends Report, which draws attention to the well-being of children in the community. There are 133,065 children and youth under the age of 18 in Johnson County. The report provides information that reflects current conditions including a dramatic 92% increase in child poverty between years 2000 and 2006, quality early childhood education not being available to most low income families, and the fact that more than 1-in-7 public school students received a free or reduced-cost lunch during the 2006-2007 school year. A positive of the report was a 15% decline in juvenile crime between years 2000 and 2006. Mayor Dunn noted that United Community Services celebrated their 40th Anniversary last week. She thanked them for performing such good research and capably providing information to local government entities for review and possible action to remediate areas of concern.
- I. Mayor Dunn shared an article from the October 26, 2007, edition of *The Kansas City Business Journal* regarding the Leawood Chamber of Commerce and economic development in Leawood.
- J. Reminder that an Art Exhibit and Reception will take place at M&I Bank on Friday, November 9th at 5:30 P.M. The event is cosponsored by the Leawood Arts Council and M&I Bank and will feature artists Cathy Broski, Mike McMullen, Robert Quackenbush, and Ellen Wolf.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Rawlings – Regarding a property disturbance issue associated with DB-04-024, which was presented at a prior Governing Body meeting, the Stormwater Management Committee has since met with Mr. and Mrs. Hack. The Hack's requested that the City correct seven items upon their property of which four have been remediated, two were denied, and one was approved by the committee. With the aid of slides, Councilmember Rawlings demonstrated how the Hack's received the largest disruption upon their property with 20,000 square feet being affected by the project. A stone wall was constructed by the City as part of the plan. The Hack's are requesting that the wall be extended another 15-ft. to the east in order to gain more usage of their backyard. The committee approved the request with a vote of 7-1.

A motion to approve the recommendations of the Stormwater Management Committee to allow the City to extend the stone wall in the backyard of 8308 Cherokee Lane for an additional expense not to exceed \$12,000 was made by Councilmember Rawlings; seconded by Councilmember Azeltine.

Mr. Johnson verified for Councilmember Rasmussen that the Hack's granted an easement to the City for the stormwater project.

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

- B. Councilmember Rasmussen – A motion to refer the selection of an engineer for the C.I.P. Project relating to Roe Avenue from 140th Street to 143rd Street to the Public Works Committee was made by Councilmember Rasmussen; seconded by Councilmember Peppes.

Mr. Johnson clarified for Councilmember Azeltine that the project was approved in the most recent C.I.P. with the design process to begin in 2008 and construction slated for 2009.

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

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PLANNING COMMISSION

[From the October 9, 2007 Planning Commission meeting]

- A. Resolution No. 2906 approving a Final Site Plan for Capitol Federal, located on the northeast corner of 151st Street and Nall Avenue, within the Nall Valley Shops development

Senior Planner Jeff Joseph stated that Staff is not supportive of the changes in the logo that occurred between the preliminary and final site plan. Mr. Lambers added that the changes made by the applicant are not of the quality consistent with Leawood's development standards. The Planning Commission did not agree with concerns expressed by Staff and approved the project as presented.

Referring to the second Staff Comment listed on page 8 of the Staff Report, Mr. Joseph explained for Councilmember Rasmussen that the statement, "the Planning Commission was satisfied with the public amenity and hence the stipulation was removed," is in regards to allowing a deviation to the 60/40 rule if a significant amenity was presented with the final plan. Staff is in accordance with the Planning Commission that the public amenity is satisfactory. The logo is the only remaining issue.

Applicant Scott Bixler with Wilson, Darnell, Mann Architects, Wichita, KS, addressed concerns related to the signage. He displayed a sample of the logo, which is constructed of a vinyl material that will give the appearance of etched glass when mounted next to the non-reflective glass of the elevation. The feature will be installed from the inside of the building so as to prevent weathering. There is no visual difference between the vinyl and etched glass materials, although the latter is five times more expensive to produce.

The Planning Commission was very comfortable with the proposal. Mr. Bixler recognized that the rendering was not modified to reflect the architectural element and explained the differences as shown in the packet material. The actual size of the logo will be approximately 5'10" in diameter.

Mr. Joseph advised Mayor Dunn that there is not a current size restriction for logos as they are usually considered under the signage criteria. The maximum height of signage allowed for this particular development is 18-inches. Noting that logos were not previously allowed, Mayor Dunn commented that consideration should be given to setting a size limitation in place.

Mr. Lambers stated that although logos are now being allowed, they are looked at very critically in terms of appropriateness in size and material. As Staff would not have recommended the material proposed on the final plan during the preliminary process, it was felt that the modifications should be brought to the Governing Body's attention. There are no other issues associated with the rest of the plan.

At Councilmember Rawlings' request, Mr. Lambers explained the distinctions between the original logo and the modified logo. The preliminary design included a three-dimensional architectural feature that was more elaborate, contained depth, and was much nicer in appearance versus the now proposed etching. Mr. Bixler offered to add more depth to the logo constructed of the vinyl material.

A motion to approve the Final Site Plan with an amended stipulation requiring the applicant to present a Revised Final Site Plan to the Planning Commission and City Council with an alternative rendering for a logo more in keeping with the preliminary plan was made by Councilmember Rawlings; seconded by Councilmember Rasmussen.

It was determined that the project will be able to move forward excluding the logo until an alternative is presented through a Revised Final Plan. A super-majority vote will be required to approve the motion overriding the Planning Commission's recommendations.

Mayor Dunn reiterated her concerns with the large size of the logo and suggested that Staff review the issue. Councilmember Filla echoed Mayor Dunn's statement.

In order to avoid the need for a Revised Final Plan, Mr. Bixler voiced agreement to Councilmember Azeltine's suggestion of reverting back to the logo design as presented on the approved Preliminary Plan. Mayor Dunn stated that she would be interested in viewing an alternative design as an actual depiction was not presented at the preliminary level.

Mr. Joseph clarified that Stipulation No. 5 referred to on page 8 of the Staff Report was removed and is not included in the proposed resolution.

Councilmember Azeltine proposed a continuance on the item to allow the applicant opportunity to revise the logo design and still bypass the need for a Revised Final Plan. Mr. Bixler stated preference with the current motion in order to move forward with the project.

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

- B. Ordinance No. 2274 approving a Revised Preliminary Site Plan, Revised Final Site Plan, and Revised Final Plat for Estates of Old Leawood, located at 8901 Sagamore [Roll Call Vote]

On behalf of Leawood Country Club Partners, applicant Bill Whitaker, 6832 El Monte, Prairie Village, KS, 66208, requested approval of the revised plans and plat. The lot lines have been changed in order to decrease the density from 27 to 23 homes. All other components of the plan have remained the same.

Mayor Dunn and Mr. Bixler discussed the possibility of substituting the Versalock material planned for the retaining wall with another material that has been used at Parkway 133 within the Parkway Plaza Development. It was determined that much of the tiered stone wall will be camouflaged by extensive landscaping, therefore the Versalock will remain in place.

A motion to pass the ordinance was made by Councilmember Bussing; seconded by Councilmember Gulledege.

If approved, Mr. Bixler informed Councilmember Azeltine that the process of beginning the project will start tomorrow with the submittal of drainage and wastewater plans. Groundbreaking will occur as soon as the necessary approvals are obtained from the various agencies. A Soil Disturbance Permit for the erosion control plan will take 1-2 weeks to obtain, following which work will commence on the retaining wall.

Councilmember Bussing applauded the decision to reduce the density and stated that he hopes the project will begin as soon as possible.

Mr. Bixler verified for Mayor Dunn that although the pedestrian trail system within the development is intended to serve the residents of north Leawood, it will be open to the general public.

Mark McGrory, 9006 High Drive, as a resident abutting the property, also applauded the development and stated he is anxious for the project to begin. He noted that three amenities within the project (swimming pool, tennis courts, and walking trail) are to be made available to nearby residents. He requested that the City Council require the developer to install the walking trail simultaneous with the infrastructure. The citizenry shouldn't have to wait for the project to become profitable before the developer adds the amenity.

Mayor Dunn called attention to Stipulation No. 30, "Building permits for no more than 5 houses shall be issued prior to the completion of the amenities within Tracts A and B." Assistant to the Planning Director Mark Klein confirmed that the issue was resolved at the Planning Commission level as the trails are within Tract B. The trails will be installed before the houses are constructed.

In terms of Stipulation No. 38 regarding the playground, Councilmember Filla requested that specifications as seen in correspondence between Mr. Whitaker and resident Martha Conrardt for the planned Empire States Park at 97th Street and Roe Avenue be reflected in the record. Mr. Lambers suggested that the applicant present a Revised Final Plan revealing the details of the playground once it has been agreed upon by the neighbors.

Mr. Whitaker informed Councilmember Filla that it will take 6-7 months to build the infrastructure before any homes can be sold. The goal is to build the amenities as quickly as possible under the safest conditions. She suggested that the trails be built concurrently with the streets with delayed pedestrian access until it is deemed safe. Mr. Lambers interjected that requiring the trails upon completion of the infrastructure does not provide a clear line of demarcation as does the current stipulation.

Councilmember Filla offered a friendly amendment to require a Revised Final Plan for the playground at 97th Street and Roe Avenue as well as to add the language "or when the streetlights are completed, or whichever comes first" to Stipulation No. 30.

Mr. Lambers confirmed that there will be two unlocked gates within the development. Gates will not be installed on the pedestrian bridge.

As a tremendous amount of landfill will be brought in to build the homes upon, Councilmember Filla asked how the City can duly protect itself against future problems such as flood control issues. Mr. Lambers stated that the developer must provide a soil compaction test signed by their engineer, which will in turn be evaluated by the City Engineer.

As the motion-maker, Councilmember Bussing stated he is agreeable to the portion of the friendly amendment dealing with the playground issue, but he does not wish to incorporate the additional requested language into Stipulation No. 30. Councilmember Gullede stated that this meets with his second to the motion.

Mayor Dunn expressed hope that the project is expedited and very successful. She wished Mr. Whitaker luck with the home sales.

The ordinance passed with the following roll call vote of 6-1: Yea: Councilmembers Rasmussen, Peppes, Azeltine, Rawlings, Bussing, and Gullede. Nay: Councilmember Filla. (Councilmember Gill absent).

[From the October 23, 2007 Planning Commission meeting]

- C. Resolution No. 2907 approving a Revised Final Site Plan for TGI Friday's, located north of 119th Street and east of Roe Ave., within the Camelot Court development

Mitch Kerns, owner of Meridian Restaurant Group and TGI Friday's franchise in Kansas City, 4200 Somerset, Suite 155, Prairie Village, KS, provided a presentation with a material sample board, elevations, and colored renderings.

A motion to approve the resolution was made by Councilmember Gulledge; seconded by Councilmember Bussing.

Mr. Joseph informed Mayor Dunn that there are no neon elements within the plan.

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

12. OLD BUSINESS – None.

13. OTHER BUSINESS

- A. Request from Hereford House Restaurant to use southern portion of City Hall parking lot overflow parking for customers during holiday season from Thanksgiving to New Year's

Mr. Lambers advised that the Hereford House Restaurant has asked to use the southern portion of the City Hall parking lot for valet parking during the upcoming holiday season. The City will not charge an associated fee.

A motion to approve the request was made by Councilmember Filla; seconded by Councilmember Rawlings.

The parking lot will be utilized per availability as there are times when events at City Hall require most of the spaces. A calendar of events will be provided to the restaurant and a specific area will be designated for their use.

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

14. NEW BUSINESS

- A. Charter Ordinance No. 38 exempting the City of Leawood, Kansas, from the provisions of § K.S.A. 12-1696, 12-1697(a), 12-1698(e) and 12-16,101 which relate to the levy of a transient guest tax, to the maximum rate thereof, and to the purposes for which transient guest tax revenues may be spent; providing substitute and additional provisions on the same subjects relating to the levying of a transient guest tax; and repealing Charter Ordinance No. 31 [Roll Call Vote]

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

ADJOURN

There being no further business, Mayor Dunn adjourned the meeting at 10:50 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk