

Minutes

DVD No. 178

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, December 17, 2007. Mayor Peggy Dunn presided.

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

Mayor/Councilmembers absent: Scott Gulledege.

Staff present:

Scott Lambers, City Administrator
Chief John Meier, Police 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
Gene Hunter, Fire Marshal
Joe Johnson, Public Works Director
Rolland Grigsby, Plans Reviewer
Jeff Joseph, Senior Planner
Jack Reece, IS Specialist

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

Mayor Dunn noted an amended agenda with the addition of Item No. 15B and modifications to Item No. 14A. Information regarding Item No. 8A has also been placed upon the dais. A motion to approve the agenda as amended was made by Councilmember Rawlings; seconded by Councilmember Peppes. 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.**

4. PROCLAMATIONS – None.

5. PRESENTATIONS/RECOGNITIONS Recognition of Jeff Cantrell, Neighborhood Services Director

Mayor Dunn presented an Outstanding Service Award to Neighborhood Services Director Jeff Cantrell in honor of his dedicated service to the City of Leawood, Kansas, from May 21, 1998 to December 7, 2007. The award was accepted on his behalf by Kelly and Reid Cantrell, Mr. Cantrell's wife and son, as he is attending a City Council meeting in Louisburg, Kansas, in his new role as City Administrator.

6. SPECIAL BUSINESS

- A. Appeal of administrative decision regarding the issuance of a residential building permit for property located at 11114 Alhambra [Appellant: B & F Homes, LLC]

Brad Bond with B&F Homes, 13334 Pawnee, explained that issuance of this particular building permit has been delayed due to the City's 35-ft. height restriction. He requested the opportunity to discuss the application as it pertains to the residence in this given location.

Architect Scott Bickford, 8600 W. 110th Street, provided a presentation via site plan drawings and elevations of the proposed home on Lot 8 of The Woods subdivision, which will sit upon a 20-ft. uphill slope with existing structures on Lots 7 and 9. Due to the topography, two terraces will be built to raise the driveway and courtyard near the front entrance. The house is designed to be within the 35-ft. height requirement from the point near the front door. The issue is where to determine the height, as the house is not within the requirement when measured from the lower front yard with the severe slope.

Mr. Bickford clarified for Councilmember Filla that all three lots have Alhambra addresses. Mr. Bond stated they have made every design provision possible to accommodate the challenging grade. The numbers on the drawing indicating the ridge measurements of each lot are relative to sea level and were provided for comparison purposes.

Councilmember Rasmussen reported that he has visited the site and is in favor of granting the permit as it is a reasonable exception to the requirement given the terrain. The proposed structure will fit in nicely with the surrounding homes.

A motion to approve the petition of appeal for the building permit application was made by Councilmember Rasmussen; seconded by Councilmember Rawlings.

Mayor Dunn confirmed with Mr. Bond and Mr. Bickford that The Woods Homes Association is in agreement with the design.

Councilmember Bussing verified with City Administrator Scott Lambers that approval of the request will not create future problems for Staff in terms of managing the ordinance. At the time of this particular amendment to the Leawood Development Ordinance [LDO], it was envisioned that certain factors would require exceptions to the height limitation. Such requests must be approved by the Governing Body as Staff does not have the administrative authority to do so.

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

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. 1091B and 1092A
- B. Accept minutes of the December 3, 2007 Governing Body meeting
- C. Accept minutes of the November 19, 2007 Governing Body Work Session
- D. Accept minutes of the August 8, 2007 Leawood Foundation meeting
- E. Approve renewal of Cereal Malt Beverage [CMB] license for Cosentino's Price Chopper located at 3700 W. 95th Street
- F. Approve renewal of Cereal Malt Beverage [CMB] license for Conoco #445, located at 4821 W. 135th Street [formerly Zipz!]
- G. Approve quote in the amount of \$250,746 from Traveler's for the 2008 Property and Casualty Insurance
- H. Approve 17th and Final Pay Request in the amount of \$175,111.10, to O'Donnell & Sons Construction, pertaining to the Villaggio Improvement Projects [CIP # 197, \$120,391.82; CIP # 198, \$54,719.28]
- I. Approve Change Order No. 1 in the amount of \$28,097.10, to Miller Paving & Construction, LLC, pertaining to the 2007 Storm Drainage Improvement Project; Phase 1, [Project # 77001, \$6,462.33; Project # 77002, \$17,982.14; and Project # 77003, \$3,652.63]
- J. Approve Fifth [5th] & Final Pay Request in the amount of \$59,336.24, to Miller Paving & Construction, pertaining to the non-SMAC Stormwater Project located at 92nd & Mission Road [Project # 77001]; non-SMAC Stormwater Project located at 84th Place Channel [Project # 77002]; and non-SMAC Stormwater Project located at 85th & Reinhardt Lane, [Project # 77003]
- K. Approve Third [3rd] and Final Pay Request in the amount of \$18,993.00 to APAC-Kansas, Inc., pertaining to the 2007 Residential Mill & Overlay Project [# 70002]
- L. Approve Sixth [6th] and Final Pay Request in the amount of \$2,475.00, to BHC Rhodes, pertaining to the 2008 Reconstruction Program [survey]
- M. Approve Change Order No. 1 in the amount of \$54,545.50 to Miller Paving & Construction, LLC, pertaining to the Nall Avenue Improvement Project [117th Street and Town Center Drive] [CIP # 196], Phase 3
- N. Resolution No. 2922 adopting the reporting requirements relating to Other Post Employment Benefits [OPEB] in accordance with the criteria established by the Governmental Accounting Standards Board [GASB-45]
- O. Resolution No. 2923 accepting Public Infrastructure Improvements through private development located at 10505 Mission Road, Manors at Mission Farms, and Mission Farms, 3rd Plat, in accordance with the GASB-34 Guidelines of reporting inventory of assets
- P. Resolution No. 2924 approving and authorizing the Mayor to execute a Renewal of Engineering Services Agreement in the amount of \$15,000.00, between the City and Olsson Associates pertaining to on-call engineering services

- Q. Resolution No. 2925 approving and authorizing the Mayor to execute an Independent Contractor Agreement in the amount of \$16,962.00, between the City and Simplexgrinnell pertaining to the installation of sprinkler heads at IRONHORSE Golf Course
- R. Resolution No. 2926 approving a Final Site Plan for Ingredient of Park Place, located at the northeast corner of 117th Street and Nall Avenue, within the Park Place development [*from the November 27, 2007 Planning Commission meeting*]
- S. Declaration of IRONHORSE Golf Course Maintenance surplus property
- T. Municipal Court October Monthly Report
- U. Fire Department Monthly Report
- V. Police Department Monthly Report

Mayor Dunn noted that revised information regarding Item No. 7L has been placed upon the dais. Councilmember Rasmussen requested to pull Item Nos. 7G and 7N.

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

- 7G. Approve quote in the amount of \$250,746 from Traveler's for the 2008 Property and Casualty Insurance

Councilmember Rasmussen disclosed that he is not related to anyone associated with the two entities providing competitive quotes, nor does he own stock or debt instruments with the companies. He stated that not accepting the lowest bid from the new company One Beacon on the basis that they have no reviewable history is an unjustifiable reason for rejection.

A motion to approve the purchase of property and casualty insurance for 2008 from One Beacon was made by Councilmember Rasmussen. The motion died for lack of a second.

City Attorney Patty Bennett informed that One Beacon just recently had their forms approved by the Kansas Insurance Commission. Although they may be a good company, she did not want to recommend that the City be their first customer.

Monte Giddings with Gliem & Giddings, insurance broker for the City, 26755 W. 103rd Street, Olathe, Kansas, stated that One Beacon is an A-15 company, is brand new on the market, and has not written a single piece of business in Kansas to date. There is always somewhat of a risk when a new carrier is retained. Voicing neutrality on the issue, Mr. Giddings stated that Traveler's is a longstanding business with a known quantity. He informed Councilmember Gill that Traveler's also holds an AM Best rating of A-15. One Beacon is an onshore publicly held insurance company. Mr. Giddings stated he did not have information regarding the company's stock trading symbol.

Mr. Lambers reiterated that Staff's position is related to the fact that One Beacon does not have any customers in Kansas and the City has had a good track record with Traveler's. Consideration of a bid from One Beacon will be entertained next year when references are available.

Mayor Dunn confirmed with Mr. Lambers that the bid from Traveler's is a \$61,000 reduction from the previous year. An ever greater savings will be demonstrated in the 2008 Budget as \$400,000 was actually allocated for this item in anticipation of increased costs. It is Staff's opinion that spending the \$17,000 difference between the two bids is in the best interest of the City.

Councilmember Rasmussen commented that denying the lowest bidding company, who has all of the necessary qualifications to do business within the State of Kansas, the right to have a customer based upon the fact that it is a new business is very unsavory.

Councilmember Azeltine agreed with Councilmember Rasmussen's opinion in principle, however assumes that there are other driving factors behind the recommendation. He added that he is still troubled by the fact that the City does not have a standing committee to examine such issues in detail prior to Governing Body presentation.

A motion to approve Item No. 7G was made by Councilmember Azeltine; seconded by Councilmember Filla.

To Councilmember Gill's inquiry, Mr. Giddings stated he knows of no problems with One Beacon.

Mayor Dunn remarked that she is delighted with the \$61,000 savings in reduced premium costs that will occur in 2008. She thanked Mr. Giddings for his efforts in bringing the package to the City.

The motion carried following a vote of 6-1 (Nay: Councilmember Rasmussen).

- 7N. Resolution adopting the reporting requirements relating to Other Post Employment Benefits [OPEB] in accordance with certain criteria established by the Governmental Accounting Standards Board [GASB-45]

Councilmember Rasmussen reviewed that at the May 21, 2007, Governing Body meeting, it was discovered that an expenditure of \$10,000 would be necessary in order to hire an actuarial firm to analyze the City's health insurance plan as it relates to retirees. The fact that the City has any liability was a surprise since health insurance benefits are authorized on an annual basis and are not offered to retirees. He clarified that the health benefits in question pertain to early retirees, which is another encouragement for early retirement. In 1998, the State Legislature passed a statute establishing retiree health benefits for cities that offer plans for active employees. The law is a classic illustration of an unfunded mandate enacted by the State.

Citing from the GASB-45 pronouncement, "If retirees are allowed to pay the same healthcare premium as active employees, they are in fact enjoying an implicit rate subsidy," Councilmember Rasmussen deduced that taxpayers are paying the implicit rate subsidy for individuals retiring before the age of 65. The state statute reads as follows: "Each such retired employee who elects to continue such coverage may be required to contribute to the employee group health benefit plans, including administrative costs thereof, but such contributions shall not exceed 125% of the premium costs for other similarly situated employees." He noted that an assumption by the actuarial is that the City may accept only an additional 2% of the premium costs. The question is why the full 125% is not allowed.

Councilmember Rasmussen reminded that during the previous Governing Body meeting, Staff was instructed to have the consultant inform how to minimally reduce the obligation of the tax payers. Councilmember Filla stated her recollection differed in that Staff was asked to ascertain the impact of GASB-45 while the criteria of whether to offer the insurance was not discussed.

Mr. Lambers informed Councilmember Rasmussen that there are three options available to eliminate or reduce the liability being enforced by the State Legislature:

1. Have the State remove the requirement that cities and other political subdivisions provide the coverage. This option is not realistic.
2. Clarify that the 125% fee can be used to offset benefit costs. As the statute includes the language "administrative costs," the interpretation has been that the 25% surcharge is not to cover costs for service but is only applicable towards administering healthcare benefits. The 2% fee was derived based upon the 10-12 participating individuals with the City of Leawood.
3. Request a change that would require the participant to pay an age-based related charge. If this were to occur, the implicit liability would cease to exist. An approach such as this is clearly a more viable and fair option.

Mayor Dunn clarified with Mr. Lambers that option No. 3 would require a change on the legislative level and could not be imposed by the City.

Councilmember Rasmussen reported sending correspondence regarding the issue to Senator John Vratil, Representative Pat Colloton, and Representative Kevin Yoder on May 30, 2007. A response from Senator Vratil suggested that the City Council can request the representatives to change, eliminate, or interpret the statute in order to minimize the affect. Representative Colloton replied that she would like to review the historical basis of the statute passed in 1998. He received information today noting the most recent action on the statute in which the City of Overland Park wished to set up a trust fund in order to finance the requirement. However, the recommendation being discussed this evening is a means to reduce the assets of the company. As previously indicated, this type of unfunded mandate also adversely affects the City's credit rating.

A motion to approve the resolution with the caveat that a letter be written to Senator Vratil and Representatives Colloton and Yoder requesting the introduction of legislation to change the mandate to an age-based related fee was made by Councilmember Rasmussen. The motion was seconded by Councilmember Azeltine.

Councilmember Gill asked who interpreted the language of the statute to mean that the surcharge may apply only towards administrative expenses. Mr. Lambers informed that he attended a presentation by an entity before the Northeast Kansas Administrators and Managers Association where it was indicated that an opinion regarding the language was expressed at the state level. Councilmember Gill questioned the intent of the surcharge as it would more logically apply to a cap for age differentials.

Finance Director Kathy Rogers stated it has always been her understanding that the 25% was a generous allocation provided by legislation for administrative fees. Staff is merely advocating the ability to adjust accounting methods for the depreciation. If the 125% was to be fully funded, the remaining unused 23% would be held in a trust fund as there are no costs to allocate the money toward.

Councilmember Gill voiced opposition to the motion as he is not willing to place additional insurance burdens upon valued retired City employees.

Councilmember Filla noted that the annual expected costs for the retirees and their spouses are approximately \$2,000. Ms. Rogers confirmed that certain criteria must be met, such as being employed for ten years within the health insurance system, to deem an individual eligible for the post-retirement benefits. The expectations are available for employees to review. She then explained how the actuarial calculated the present value of benefits at \$3,000,000. As the funding will not be paid out, it will be a paper entry balance sheet item similar to amortization.

In order to increase the 2% administrative fee, Ms. Rogers informed Councilmember Azeltine that efforts could be made to track the time spent to review the benefits with the employee upon severance and to submit the initial paperwork to CobraServe. Following this process, CobraServe handles the billing and collection of payments. The compliance date for full requirement is the end of 2008; however, if approved this evening, the City will comply early in 2007 by booking the annual entry against the City's net overall assets of approximately \$280 million. The cost effectiveness of charging a higher percentage rate was not analyzed nor were any of the other seven methods of accrual that are allowed by GASB-45 standards for Actuarial Accrued Liability [AAL].

Councilmember Azeltine withdrew his second to the motion. He stated that Representative Colloton's advice of researching the legislative history should be taken in order to assess other options. Ms. Rogers noted that the 2008 report will contain the same figures unless a different methodology is requested. The motion died for lack of a second.

Councilmember Rawlings indicated that the 2% surcharge has been the standard throughout the insurance industry for a very long time. The figure has historically been viewed as a reasonable administrative cost.

A motion to approve Item No. 7N was made by Councilmember Bussing; seconded by Councilmember Filla.

Councilmember Rasmussen commented that the City should not make it a policy to encourage early retirement. Mayor Dunn reminded that the process is mandated by the state.

To Councilmember Azeltine's concern regarding future increased liabilities affecting the City's bond rating, Ms. Rogers informed that Leawood's responsibility of payment is fortunately not that substantial when compared to other cities who offer matching retirement healthcare benefits. The affect would be recognized, however, if the City were dismantled and taken over by another entity.

Councilmember Azeltine stated that he supports post-retirement benefits but would like to have more due diligence performed by assessing the other possible methods of accrual.

Ms. Rogers verified for Councilmember Rasmussen that it will be necessary to obtain an actuarial consultant every other year once the requirement goes into effect. Following disclosure of the 2007 figures to Moody's Rating Agency, they advised that the unfunded mandate could possibly cause adverse effects upon the City's credit rating.

The resolution was approved following a vote of 4-3 (Nay: Councilmembers Rasmussen, Azeltine, and Peppes).

8. MAYOR'S REPORT

- A. Attended the Leawood Chamber of Commerce Board of Directors meeting at which the 2008 Legislative Agenda was unanimously approved. Mayor Dunn noted changes that were made to the provided draft copies of the agenda. The last page of the document contains the Johnson County Public Policy Council's 2008 State Legislative Platform, of which the Leawood Chamber President Kevin Jeffries participates and attends meetings.
- B. Attended the Lathrop & Gage Annual Kansas Legislative Forecast Breakfast with City Administrator Scott Lambers. The panelists on the dais included Senator John Vratil, Representative Jeff King, and Majority Leader of the House Ray Merrick. They provided a briefing on the 2008 Legislative initiatives.
- C. Attended the Leawood Chamber of Commerce Annual Luncheon along with several hundred other individuals. The keynote speaker was Dave Kiersznowski, CEO of Demdaco, Inc., which is headquartered in Leawood. Another highlight of the event was the induction of two recipients into the Leawood Chamber of Commerce Hall of Fame: Doug Harris, Principal of Leawood Elementary School; and Randy Wiler, Leawood DARE Officer. Mayor Dunn congratulated the two men for receiving the honor and recognized all that they do for the youth within the community.
- D. Attended the Johnson & Wyandotte Counties Council of Mayors Holiday Dinner at the Overland Park Sheraton Hotel with almost near perfect attendance by the Governing Body. Mayor Dunn also relayed appreciation to the spouses of the Councilmembers for their attendance.

- E. Attended the Annual Employee Appreciation Luncheon in the Oak Room of the Community Center, which was hosted by the Department Heads. Councilmember Azeltine was also present at the luncheon. Public Works Director Joe Johnson prepared his famous barbeque and entertainment was provided by comedian David Naster, brother of Human Resources Assistant Debbi Naster. Mayor Dunn extended gratitude to City Administrator Scott Lambers, the Department Heads, and every employee for the hard work performed daily on behalf of the City. She also congratulated Training Chief Tim Stamm of the Fire Department on the extraordinary honor of receiving the 2007 Employee of the Year Award.
- F. Mayor Dunn recognized and applauded Mr. Johnson and the road crews of the Public Works Department for making the streets safe for travel during the recent inclement weather events. She relayed that she has received many comments of appreciation from the citizenry.
- G. Mayor Dunn expressed gratitude to Mr. Lambers, a number of Department Heads, and other employees who partook in the activity of assisting the Leawood Lions Club with bell ringing for the Salvation Army. The Lions have reported that they have had an extremely successful season.
- H. Reminder that the next Governing Body meeting will take place in the New Year on January 7, 2008.
- I. Mayor Dunn wished everyone a Happy Holiday Season with their families and friends.

9. COUNCILMEMBERS' REPORT

- A. Councilmember Gill – Councilmember Gill reported that the Leawood Fire Department once again participated in the Red Bag Program, an all-volunteer effort that distributes thousands of gift bags to children and families in need. They repeated the model of efficiency in logistics that was demonstrated last year with their contribution being enormous and greatly appreciated.
- B. Councilmember Rasmussen – As Council-Liaison to the Amphitheater Expansion Steering Committee, Councilmember Rasmussen reported that a subcommittee met and reviewed applications for a design consultant. A selection was made and will be presented to the full committee this week. The item will appear on the first 2008 City Council agenda.

Councilmember Bussing noted that a document regarding the role and scope of the committee was recently distributed, to which he responded with comments. He was under the impression that these issues would be discussed prior to further action taken by the group. Mayor Dunn stated this could also be addressed during the next Governing Body meeting. It was clarified that the document in question is a memorandum from City Clerk Deb Harper regarding the objectives of the committee.

10. STAFF REPORT – None.

COMMITTEE RECOMMENDATIONS

11. PARK & RECREATION ADVISORY BOARD

[From the December 10, 2007 Park and Recreation Advisory Board]

- A. Approve recommendation of Ankeny Kell Architects, as Consultant for Feasibility Study for future Community Center

A motion to approve the recommendation was made by Councilmember Peppes; seconded by Councilmember Gill.

Noting that the packet information states, "The purpose would be to determine if the citizens of Leawood would support moving forward with plans to construct a community center," Mayor Dunn confirmed with Parks & Recreation Director Chris Claxton that a clear-cut question will also be provided to ascertain whether the residents are willing to pay for the public amenity. The consultant has been made aware that this is a very important aspect of the survey.

Councilmember Azeltine called attention to the phasing of the feasibility study. The projected costs for phase I at \$19,900 and phase II at \$27,300 exceeds the approved budget of \$30,000. Ms. Claxton explained that a funding source for the remainder of phase II will be determined at a later date if it is felt prudent to continue past phase I. Components of the study were separated with phase I designed to provide the most valid information. Depending upon the initial response, it may not be necessary to proceed with the second phase. Councilmember Azeltine stated this technique is somewhat unorthodox as it will give the consultant incentive to overplay the feasibility during phase I in order to secure a continuation of the contract. Ms. Claxton assured that it would be very difficult for this to occur given that the subcontractor to perform the study is not connected with the architectural firm. The recommendation was approved by the Parks & Recreation Advisory Board.

As Council-Liaison to the Parks & Recreation Advisory Board, Councilmember Peppes informed that the three potential firms who were selected for the interview process following the Request for Proposal [RFP] all provided itemized costs for the scope of the study. There were no indications of attempts to bait the City for phase II from any of the candidates.

Councilmember Gill agreed with Councilmember Peppes' statement as he was also present during the committee meeting. He opined favor with the phasing technique. It was clarified that another firm may be selected to perform phase II.

The motion carried following a vote of 5-2 (Nay: Councilmembers Bussing and Rasmussen).

Councilmember Bussing stated he has had experience with feasibility studies in that the results will generally produce the desired results, which is of concern. There are designated roles for the Parks & Recreation Advisory Board, the Planning Commission, and the Governing Body to make strategic decisions about what is best for the City particularly as it relates to the construction of very expensive assets. He furthered that capital expenditures of this magnitude are not be taken lightly. The feasibility study is a means to build a body of evidence to move forward with the project while taking the decision making process out of the hands of the Governing Body.

Councilmember Rasmussen shared Councilmember Bussing's concerns and added that Leawood is surrounded by private enterprises that provide the same services as a community center. Building a duplicative and competitive facility is not in the best interests of the taxpayers.

Mayor Dunn confirmed with Mr. Lambers that the feasibility study will provide an analysis of similar facilities within the area. Councilmember Rasmussen noted that the consultant may not be aware of every available activity such as the fact that many nearby hotels offer the opportunity to play bridge during lunchtime.

12. PLANNING COMMISSION

[From the November 27, 2007 Planning Commission meeting]

- A. Ordinance No. 2285 approving a Special Use Permit [SUP] for an VRAD cabinet for AT&T Lightspeed, located at 12710 Glenfield [Roll Call Vote]

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

- B. Ordinance No. 2286 approving a Special Use Permit [SUP] for an VRAD cabinet for AT&T Lightspeed, located at 15100 Nall Avenue [Roll Call Vote]

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

Senior Planner Jeff Joseph informed Councilmember Azeltine that the negative vote cast by Commissioner Elkins at the Planning Commission meeting was related to his consistent opposition of placing VRAD cabinets in close proximity to the right-of-ways.

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

- C. Resolution approving a Final Site Plan for Capitol Federal Savings at Village of Seville, located at the northwest corner of 133rd Street and State Line Road, within the Village of Seville development

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

Mr. Lambers informed that Staff has reservations about the application due to the proposed amount of stucco at 35-45%. The City has traditionally allowed stucco or Exterior Insulation Finishing Systems [EIFS] as accent material only, which is interpreted at 22% or less. The guidelines for the development also spell out that the material should only be at a percentage rate of 20. The project exceeds the restriction by 100% in some instances. He recommended that the application be remanded back to the Planning Commission for reconsideration and adjustment to the amount of proposed stucco.

Mr. Lambers displayed pictures of previously approved buildings within the development to demonstrate the existing stucco usage. The Planning Commission did not agree with Staff's recommendation to deny the application. Approval of the project would be setting an undesired precedent.

Councilmember Gill commented that he is pleased with the progress of the development and feels that the recommendation for a remand should be accepted.

Applicant Scott Bixler with WDM Architects displayed elevations of the building and noted that the exact same design was presented with the preliminary site plan. The building is planned to mirror those within the nearby Nall Valley Shops development that were recently approved. He offered to replace areas of stucco; however, this would still not be within the 20% development guidelines. He furthered that the materials for the building were chosen in order to provide a long-term lasting effect with real stone selected over the allowed material of a stone veneer.

Mr. Bixler advised Mayor Dunn that the displayed southeast elevation contains 47% stucco. He also reaffirmed for Councilmember Azeltine that the proportion of stucco on the building is the same as structures approved within the adjacent development of Nall Valley Shops.

Mr. Lambers explained that the rationale for a remand relates to the fact that the preliminary plan approval process does not take elevations into account, thus a representation of the proposed material was not reviewed or approved by the Governing Body. Although the final plans for Nall Valley Shops were approved in spite of the same areas of concern raised by Staff, he would like to avoid repeating what he feels was a mistake in order to prevent more designs with the presence of less stone and brick from occurring. He informed Mayor Dunn that the design guidelines for the development require elevations to be 80% stone and masonry. The plan is clearly in violation of this specification as well as conditions concerning stucco within the Leawood Development Ordinance [LDO].

Councilmember Rasmussen withdrew his motion to approve the resolution and Councilmember Rawlings likewise withdrew his second.

From the standpoint of materials, Mayor Dunn and Mr. Bixler discussed the preference of real stone versus the cultured stone that is listed in the criteria for the development guidelines. Mr. Lambers informed that when a project presents such an upgrade in product, the developer is allowed to amend the design guidelines to include the approved material. There have been several issues associated with the cultured stone since the design guidelines were put into place. Mr. Bixler reoffered to replace the stucco below the windows with stone but would like to retain the remainder of the design for aesthetic purposes.

Councilmember Filla observed that the materials as seen in the elevation look very balanced. Mr. Lambers emphasized that it is not intended to be balanced with stucco. Stone and masonry should be the predominant features with the utilization of stucco for accent purposes only.

Referring to Stipulation No. 18, Mayor Dunn noted that the logo has not yet been approved and will be presented to the Planning Commission and Governing Body as a separate application. The same condition applies for the logo on one of the buildings in the Nall Valley Shops development. Mr. Bixler stated that both logos will be brought forward in the same application. It was clarified that two alternatives for each building should be made available at the time of presentation.

Due to previous concerns regarding this specific tract of land, Councilmember Bussing echoed Councilmember Gill's comments in that he has been very pleased with the efforts made by Staff to ensure quality in what has been built thus far. He acknowledged that it must be frustrating for the applicant to have the proposed design met with resistance after having obtained approval for another structure with the same features. However, Mr. Lambers' point is relevant in that a line must be drawn somewhere. He stated preference with remanding the plan back to the Planning Commission for continued high quality development.

A motion to remand the final site plan back to the Planning Commission for review of the proposed stucco percentages and other alternative materials was made by Councilmember Gill; seconded by Councilmember Bussing.

Discussion took place regarding the timeline of bringing the remand back to the Governing Body, which may not occur until the second meeting in February. Ms. Bixler stated this would tremendously impede the project. He encouraged the Governing Body to reexamine the building from an aesthetics standpoint as revising the materials may cause a diminished visual outcome given the proportions of the columns and exterior façade. Replacing the materials in order to satisfy a percentage can sometimes be a difficult process. For the record, Councilmember Gill stated he is not wedded to the 22% restriction but is, however, to the architectural consistency of the overall development center.

Councilmember Filla confirmed with Mr. Lambers that the Planning Commission overrode the concerns expressed by Staff. They actually removed the stipulation requiring adherence to the 22% limitation of stucco. With areas of the structure proposing 100% over the required guidelines, the limitation will become meaningless for the balance of the shopping center if it is approved by the Governing Body.

As a point of order, Mr. Lambers advised Councilmember Azeltine that if the motion to remand fails, the application will be denied by default. Another option would be to continue the item so as to allow the applicant the opportunity to revise the material below the windows and present other possible changes to the Governing Body.

Councilmember Azeltine stated he has no issue with the visual effect of the building as proposed. He commented that some type of procedure should be devised to alert the Governing Body of such issues during the preliminary plan approval process. Mr. Lambers responded that requiring the presentation of specific building material samples at this stage would impose a significant cost upon the developers. Although the materials were submitted at the time of preliminary approval with this specific application, they are not reviewed in accordance with procedure. Councilmember Azeltine noted that better communications efforts between the Staff and applicant could have prevented the issue from proceeding to this level.

Councilmember Bussing confirmed with Mr. Lambers that there is opportunity for the applicant and Staff to reach a consensus in reducing the percentage of stucco to an acceptable level, such as less than 30%. As the change would be an enhancement over what was approved by the Planning Commission, the Governing Body could decide whether a remand is in order following a continuance.

Mr. Bixler agreed that a continuance would be the favorable approach versus a remand. Mr. Lambers advised him that the usage of stucco above 30% on any of the elevations would be inappropriate. Mayor Dunn noted that drawings should be submitted by January 2nd in order to meet the deadline for agenda packet distribution.

Councilmember Filla stated appreciation to Mr. Lambers for providing flexibility and to the applicant for willingness to comply. She expressed concern that the addition of more stone will create a heavier look for the building that is now very intricately designed with detail. Upon presentation at the continuance, she requested that the original design be made available to compare with the revisions. If there were a majority consensus, she would vote to approve the building as presented this evening.

Councilmember Rasmussen stated that his withdrawal of the motion to approve the project was based upon the noncompliance of the overall development guidelines. He asked how a compromise of the issue would be reconciled with the standards that were approved by the City Council. Mr. Lambers answered that the guidelines will be amended with the next application that comes forward.

To Councilmember Azeltine's inquiry, Mr. Lambers stated that the approval of changes upon re-presentation will require an override of the Planning Commission.

Councilmember Gill withdrew his motion to remand the item. Councilmember Bussing withdrew his second to the motion.

A motion to continue the final site plan to the January 7, 2007, Governing Body meeting was made by Councilmember Gill; seconded by Councilmember Bussing.

Mayor Dunn noted that the revisions are not necessarily limited to the use of stone as brick is another natural material alternative.

The motion carried following a vote of 6-1 (Nay: Councilmember Filla).

- D. Resolution No. 2927 approving a Final Site Plan for M&I Bank at Villaggio, located at the southeast corner of 135th Street and Fontana, within the Villaggio development

Mr. Lambers stated that Staff does not have any issues associated with this application. Mayor Dunn complimented Staff on the new addition of the section "Planning Commission Modifications to Stipulations" in the Staff Report as it aids in tracking changes.

Referring to Stipulation No. 29c, Mayor Dunn requested a definition of the requirement to provide horizontal rustication within the stucco. Mr. Lambers explained that the term refers to scoring that will provide an architectural appearance.

Joe Shortreed with M&I Bank Corporate Real Estate, 770 N. Waters Street, Milwaukee, WI, 53202, introduced Architect Bob Meyer with 360 Architecture. He furthered that the rustication was added following recommendations of the Planning Commission to enhance accents and shadowing. Additional horizontal banding was also implemented into the archways over the windows to aid in the visual presentation. The design is consistent with the Tuscan theme of the overall development. A garden feature was also added at the northwest corner of the building along 135th Street.

Mr. Lambers informed Councilmember Filla that a larger percentage of stucco is allowed for the Tuscan-themed development and it is spelled out in the design guidelines. Mr. Meyer added that the preliminary drawings included stucco as a primary building material. Mayor Dunn noted that approval of the overall center had no fewer than three continuances imposed by the Planning Commission due to issues associated with the design guidelines.

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

Mr. Lambers verified for Councilmember Azeltine that the building is within Phase II of the development. It is correct that the landscaping on the southern edge of the development is connected to an issue related to the Certificate of Occupancy for the proposed bank.

James Taylor, managing partner with Pawnee Place Development, 12505 Sherwood, stated that the landscaping in question is anticipated to be complete within the next year. He also requested the waiving of Stipulation No. 26, "no occupancy permit for any construction on the pad sites shall be issued until construction of 30% of the floor area of the principle shopping center buildings has been approved and construction begun" as this condition cannot be met.

To Mayor Dunn's question as to whether the request was discussed at the Planning Commission meeting, Mr. Lambers informed that the issue is not within their purview and is something to be decided by the Governing Body. Given the current economic conditions, he does not feel comfortable imposing such a requirement on any developments at this time. Removal of the stipulation will require an override to the Planning Commission's recommendations.

Councilmember Gill revised his motion to approve the resolution to include the elimination of Stipulation No. 26. As second to the motion, Councilmember Bussing agreed with the modification.

Mr. Lambers clarified that the landscaping referenced by Councilmember Azeltine is to be installed in concert with issuance of the building permit for Phase II rather than the Certificate of Occupancy. Mr. Taylor stated it is hopeful that groundbreaking for the bank will occur roughly around the date of March 1, 2008. Construction is slated to last approximately 5-6 months. The developers are very much aware of conditions associated with the landscaping and have put forth their best efforts to address and resolve the issues with surrounding neighbors.

Discussion took place regarding the various rooflines and towers proposed within the development.

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

- E. Resolution No. 2928 approving a Final Site Plan for Morton's Steakhouse, located at the northeast corner of 117th Street and Nall Avenue, within the Park Place development

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

Mayor Dunn noted that additional minutes regarding the item were electronically sent to all Councilmembers today.

Architect Steve Haasl with Shea, Inc., confirmed for Mayor Dunn that the rooftop mechanical units atop the restaurant will be in view of patrons staying at the Aloft Hotel. She requested that the color of the units match that of the roof as closely as possible. Mr. Haasl agreed to provide the request.

Councilmember Gill offered a friendly amendment to his motion to include the stipulation that the rooftop units match the color of the roof as closely as possible. Councilmember Peppes stated that his second meets with the amendment.

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

- F. Resolution No. 2929 approving a Final Site Plan and Final Plat for Building 133 Office Development, located west of 133rd and Mission Road

Dev Anand with Peters & Associates, 9990 College Boulevard, Suite 100, Overland Park, offered to answer questions about the 28,000 sq. ft. building. There have no changes made since preliminary plan approval.

Mr. Anand informed Mayor Dunn that the glass is a Versilock screen with a hemlock green frame. The color is also used for the standing seams of a Hallbrook Blend concrete slate roof, which will provide screening for a majority of the rooftop units in addition to natural stone elements on both the front and back of the building.

In addition to the Interact meeting, Mr. Anand informed that another meeting was held with the residents in the offices of Peters & Associates in which Brick Owens provided a presentation of the landscaping plan. It was agreed to move the ornamental trees from the south side to the north side of the berm. Full approval for the project has been obtained by the neighbors. Recommendations from Staff regarding the plan have also been accepted.

Councilmember Gill asked about the intended tenant use of the building. Mr. Anand stated there are no identified tenants at this time

A motion to approve the final site plan and final plat for Building 133 Office Development, located west of 133rd Street and Mission Road, was made by Councilmember Azeltine; seconded by Councilmember Gill.

Councilmember Bussing recalled that the topography of the land slopes downhill from east to west. Mr. Lambers confirmed that there will be a detention basin on the north side of the building to collect stormwater runoff. The pond will reside between the structure and the berm. There will be no disturbance to the existing berm or trees.

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

- G. Resolution to approve a Revised Final Site Plan for Village of Seville Revised Sign Criteria, located on the northwest corner of 133rd Street and State Line Road [*from the November 13, 2007 Planning Commission meeting*]- **Continued from the December 3, 2007 Governing Body meeting**

Mr. Lambers reported that the applicant has requested that the item be remanded back to the Planning Commission.

A motion to remand Item No. 12G back to the Planning Commission for further review of signage was made by Councilmember Gill; seconded by Councilmember Bussing. The motion carried following a unanimous vote of 7-0.

13. OLD BUSINESS

- A. Ordinance No. 2287C amending Chapter 15 of the Code of the City of Leawood, 2000, by adding a new Article 7, entitled 'Post Construction Stormwater Runoff Control' [Roll Call Vote]- ***CONTINUED FROM THE DECEMBER 3, 2007 GOVERNING BODY MEETING***

Phil Perry, Director of Governmental Affairs with the Home Builders Association [HBA] of Greater Kansas City, 600 E. 103rd Street, Kansas City, MO, 64131, stated appreciation to the Governing Body for delaying the matter at his request. He distributed a letter regarding the matter and a copy of the proposed ordinance containing comments on specific items. The biggest area of concern is the associated costs that the ordinance will impose upon the developers and homeowners. He noted that the required Best Management Practices [BMPs] are new to this area with only the City of Lenexa having any extensive experience with them as they instituted the ordinances 2½ years ago. Although the requirements are mandates from the state and must be acted upon by the cities, he strongly urges patience in the matter. The HBA is proposing to conduct a study over the next six months with the Johnson County Stormwater Council, the City of Overland Park, and the City of Lenexa in order to determine maintenance costs. The HBA is in the process of collecting data from Lenexa.

Mr. Perry noted that cities are responsible for stormwater conveyance systems that are now in existence. The proposed ordinance will require the new systems to be installed at the expense of the developer with maintenance costs passed on to the homeowners. Municipalities will benefit from this practice as it will not only keep water out of the storm systems, it will also clean-up the water. He stressed that further attention should be given in determining the costs.

Mr. Perry relayed that a homebuilder in Overland Park recently installed four BMPs at \$50,000 each. He explained for Councilmember Azeltine that a BMP is a soil and plant material structure designed to retain and filter water before it moves on. It is estimated that the structures will need replacing every five years, which will create an unrealistic financial burden for the homeowners associations. Lenexa has currently dedicated five staff members to maintain the BMPs and is in the process of hiring more personnel.

Given the unknown factors associated with the ordinance, Mr. Perry requested postponing a decision until the HBA can hold discussions with Staff. The fact that each city has thus far passed differing ordinances will also present future problems.

Public Works Director Joe Johnson stated it is mandated that cities pass a post-construction ordinance by the end of 2007, which is to be included in the February 2008 report. He agreed with Councilmember Rasmussen that work began on meeting the National Pollutant Discharge Elimination Systems [NPDES] requirements in 1999-2000 with the adoption of the first stormwater ordinance.

The federal government established rules and a timetable for compliance at that time. Leawood, as well as most other communities in Kansas, are in the third year of a 5-year state permit that was mandated by the Environmental Protection Agency [EPA]. Although the proposed ordinance is not a new development, this particular phase of the permit is the most difficult. The associated costs imposed by the mandate have always been of concern.

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

Mr. Johnson confirmed for Councilmember Gill that Lenexa and Overland Park have adopted ordinances related to the matter. A draft ordinance provided by the EPA has been closely followed by most cities. In regards to the concerns outlined by Mr. Perry, the City of Overland Park made minor modifications to the document but it is still almost verbatim to the suggested language. An outside consultant that was hired to review the ordinance prepared by Leawood also researched if there were alternate design guidelines that were less restrictive than the Mid-America Regional Council [MARC] manual. The response was that the MARC guidelines are consistent with what is being done across the country. Most of the developments left within Leawood, such as the 135th Street Corridor, will require underground detention basins with outflow structures.

In terms of commercial developments, Mr. Johnson advised Councilmember Azeltine that underground structures could possibly be funded through a Special Benefit District [SBD] as was done with the Villaggio development. Mr. Lambers added that the SBD would be for the initial construction but would not include ongoing maintenance costs. Many of the preliminary issues associated with the water quality requirements were presented to the Stormwater Management Committee. The timeframe for passage of the ordinance was October 2007; however, most of the cities are still in the process of doing so in order to meet compliance with the February 2008 report. The consequences of not meeting the requirement are unknown at this time.

Referencing §15-705(b) of the proposed ordinance, "In those instances where state law imposes a duty or requirement with respect to a matter covered by this Ordinance, the more environmentally stringent duty or requirement shall control," Councilmember Azeltine verified with Mr. Lambers that the City may impose and enforce more restrictions over what is recommended by the state. For example, the City could require significant bioengineering as opposed to allowing underground systems only.

Citing a passage from §15-705(d) regarding previously approved development plans, "provided that a final plan for the development is submitted and approved on or before July 1, 2010 and construction is diligently pursued," Councilmember Azeltine asked how this would be determined. Mr. Johnson stated that some leeway would be provided, however a period of 6-7 months of inactive construction with no response to correspondence sent by the City would be considered noncompliance.

City Attorney Patty Bennett informed that the statement found in §15-715(a) of “this Ordinance shall be observed, the public safety and welfare secured and substantial justice done for the applicants” is from the model ordinance and refers to the weighing of equities for each situation. The factors listed in §15-715(b) aid in making such determinations. Ms. Bennett affirmed that she is comfortable with the language.

As stated under §15-716, Mr. Johnson confirmed for Councilmember Azeltine that the MARC Manual of Best Management Practices for stormwater quality will be adopted through passage of the ordinance. The MARC Manual is referenced in the ordinances of Lenexa and Overland Park and will also be included in those of Olathe, Shawnee, and some of the smaller communities. Discussions regarding the consequences of relegating the City’s autonomy to a semi-governmental organization have taken place at the Staff level.

To Mr. Perry’s request of delaying a decision in order to allow the HBA the opportunity to assess costs, Councilmember Rawlings pointed out that Leawood is nearing complete build-out from a residential development standpoint. He questioned whether passage of the ordinance would have any affect at all upon the HBA. Mr. Johnson added that there have been residential developments within the last five years that were required to provide underground detention areas, such as the one at 143rd Street and Mission Road.

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

14. OTHER BUSINESS

- A. Resolution No. 2930 approving the staffing recommendation set forth in the proposed 2008 Ironhorse Golf Course Business Plan as submitted by Orion Management Solutions, Inc.

Mayor Dunn noted that a revised draft resolution has been placed upon the dais. Mr. Lambers explained that the document included in the agenda packets provided for approval of the business plan in its entirety with the exception of some capital that is annually appropriated. The limited request for approval stems from the fact that there are inconsistencies between the contract with Orion, the 2008 Budget, and the Business Plan that will need to be resolved. In addition, there are certain items within the plan that are not adequately addressed. In order to avoid a delay with Orion’s hiring process, Mr. Lambers recommended that they be authorized to proceed with recruiting staff that is contained within the City’s budget. He also requested that a Work Session be scheduled on January 14, 2008, to discuss the other issues that warrant Governing Body consideration prior to adoption of the Business Plan.

It was noted that Section One on the revised Resolution provides for acceptance of the suggested staffing by Orion in accordance with the City’s 2008 Budget.

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

Councilmember Peppes received clarification from Mr. Lambers that approval of the resolution pertains to a portion of Section VIII from the proposed Business Plan.

Mr. Lambers informed Councilmember Gill that there are considerable differences between the languages regarding staffing in the Business Plan when compared to the Budget. Councilmember Gill withdrew his second to the motion based upon the need for additional information.

The resolution will allow hiring to proceed for the 10-20 positions approved within the budget at the identified salary ranges. The Business Plan contains altered position titles and salaries as well as conditions that are not included in the budget at all. For example, the approved contract with Orion lists a 2008 salary for the General Manager at \$39,000 while the Business Plan stipulates the amount at \$77,500. Approval of the Business Plan as submitted would conflict with the contract. Mr. Lambers stated that he cannot recommend approving such inconsistencies. Further details will be discussed at the Work Session.

General Manager Shane Gardner with Orion Management Solutions stated the Business Plan was submitted to members of the IRONHORSE Advisory Board during the October meeting with approval or denial to take place in November. During the interim, additional information was added to the plan under the sections of Leagues, Staffing, and Merchandise. Areas of importance regarding the plan were identified in order to obtain feedback from the committee members; however, no comments were received other than direction given by Parks & Recreation Director Chris Claxton regarding the need for additional information on certain issues.

Regarding the differences in staffing, Mr. Gardner stated that the budget was predicated upon a June 1st reopening of the golf course. Councilmember Gill interjected that he does not recall this date being conclusive as it was always the goal to reopen the course as soon as possible. In recent discussions held with Golf Course Superintendent Pete Spratlin and the IRONHORSE Advisory Board, Mr. Gardner continued that it was felt the driving range could open on April 1st followed by the entire golf course on May 1st. The new dates translated into the need to hire staff earlier than projected. He noted that in addition to compensation, employee benefits are also listed in the Business Plan while they are omitted from the budget. An earlier opening of the facilities will also create additional revenues, which will more than offset the increased payroll costs. It is important to list the benefits and salary ranges in recruitment bulletins to fill the positions. While further discussion can occur at the Work Session on other aspects of the Business Plan, efforts towards acquiring staff is needed in order to begin solidifying the leagues and obtaining merchandise.

Mr. Gardner clarified for Mayor Dunn that the term “leagues,” as listed in the Business Plan, pertains to hosting two organized morning groups and 2-3 groups in the evening. As these leagues have moved to other golf courses during the renovation projects at IRONHORSE, it is essential that contact be made in order to reestablish patronage. Mayor Dunn recalled that these efforts were to begin following Governing Body approval of the Fee Schedule, which took place several meetings ago. Mr. Gardner corrected that calls pertaining to events were to occur at that time while the leagues were separated out as scheduling had not yet been set.

Councilmember Azeltine confirmed with Mr. Gardner that an original plan was submitted to the IRONHORSE Advisory Board at the October 27, 2007, meeting. The three aforementioned sections were added and resubmitted to the committee prior to the November meeting date. Although the earlier version of the plan was not formally acted upon by the committee, questions and concerns were relayed and addressed via e-mail.

In response to a question posed by Councilmember Peppes, Mr. Gardner stated that approving the portion of the Business Plan as recommended Mr. Lambers will not allow Orion to seek league participants, move forward with the merchandising plan, or advertise for job placements with a full listing of benefits. Mayor Dunn noted that the motion will allow staffing as approved by the Budget & Finance Committee for the 2008 Budget. Modifications can be discussed at the January 14th Work Session. The standard benefits approved in the budget process are the same that are received by every employee of the City of Leawood. The exclusion of listing perks such as free golf play and discounted food and merchandise should not impede recruitment efforts.

Councilmember Gill reinstated his second to the motion.

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

A motion to schedule a Work Session on January 14, 2007, at 6:00 P.M. in order to discuss the IRONHORSE Golf Course Business Plan and associated issues was made by Councilmember Bussing; seconded by Councilmember Gill.

Mr. Lambers confirmed for Mayor Dunn that comments regarding the Business Plan will be distributed to the Governing Body as well as to Mr. Gardner well in advance of the Work Session.

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

Discussion took place regarding various issues that will be discussed in further detail at the Work Session. Councilmember Rasmussen requested additional information concerning the balance of remaining inventory following the 2007 closure.

15. NEW BUSINESS

- A. Ordinance No. 2288C amending Chapter 1, Article 8 of the Code of the City of Leawood, 2000, by adding New Sections 1-835 through 1-838 establishing a new Leawood Park Place Transportation Development District [TDD] Tax Debt Service Fund for the City of Leawood, Kansas [Roll Call Vote]

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

- B. Resolution No. 2931 waiving the bidding process, in accordance with Charter Ordinance No. 32, regarding improvements to the Lake at Ironwoods

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

Mr. Lambers advised that the current permit with the Corps of Engineers [COE] provides the City with the ability to modify the water feature to the extent of original intent. The lake is currently silting over to the point that should the permit expire, the COE would impose significant mitigation requirements. An existing contract for a project occurring at the golf course will be extended in order to include the lake project, which will be a separate contract but will include the same unit pricing seen in the original agreement. A competitive bidding process did occur for the contract that will be extended. It is required for the work to be performed during the winter, so action should occur now as postponement until next year will create higher costs.

Mr. Lambers informed Councilmember Azeltine that the project will begin at the first of the year. Ms. Claxton advised that the 2-year permit from the COE was granted approximately one year ago, however they have the ability to withdraw the permit at any time if there is continued deterioration of the lake. Councilmember Azeltine expressed concern regarding the last minute notice given on the item by way of a revised agenda. Mr. Lambers explained that funding was just recently obtained for the project by rearranging other budgeted items of lower priority. A portion of the project was funded in the 2008 Budget. The matter was discussed during a meeting with the chairmen of both the Stormwater Management Committee and the Public Works Committee.

Mr. Lambers informed that the engineer's estimate was \$540,000 with the bid coming in at \$512,000. The request is for \$550,000 as it is possible, although unlikely, that the bottom of the pond may require stabilization and a sealant. As the contractor is doing the exact same work at the golf course, the crew will just have to move locations to complete the new contract. All of the dirt will be graded onsite and will remain within the park.

From a financial standpoint, there are advantages of waiving the bidding process given that the contractor is able to secure 2006 costs for the materials. The overall project costs would increase if postponed until next year.

Mr. Lambers advised Councilmember Filla that the project merits higher priority as silting of the lake has accelerated to the point that a ruling could be made against the City by the Corps of Engineers. He reiterated that restoration is needed in order to avoid mitigation measures.

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

Going back to Item No. 12C, Councilmember Filla asked if it would be possible to award the developer bonus points for utilizing real stone as a means to offset the percentage of stucco. She pointed out that the design has areas of interrupted stucco with extensive detail versus a flat wall of vast material. Mr. Lambers responded that it would be very difficult to establish parameters for such an analysis.

ADJOURN

Mayor Dunn adjourned the meeting at 10:58 P.M.

Debra Harper, CMC, City Clerk

Christy Wise
Recording Deputy City Clerk