

**ANDOVER CITY COUNCIL
Tuesday, April 24, 2007
Minutes**

The Andover City Council met for a regular meeting on Tuesday, April 24, 2007 at 909 N. Andover Road in the Andover Civic Center. Mayor Ben Lawrence called the meeting to order at 7:01 p.m. City Council Members present were Caroline Hale, Kevin Dreiling, Julie Reams, J.R. Jessen, Clark Nelson, and Carol Roberts. Others in attendance were: Director of Public Works and Community Development Les Mangus, Administrative Services Director Donna Davis, Management Assistant Sasha Stiles, Administrative Secretary Susan Renner, City Attorney Norman Manley, Fire Chief Jim Shaver, Police Captain Randall Harris, and City Clerk/Administrator Jeff Bridges.

Roll Call

The Invocation was given by Pastor Jerry Smith of Faith Baptist Church of Andover.

Invocation

The Pledge of Allegiance was led by Mayor Lawrence.

Pledge of Allegiance

Mayor Lawrence opened the floor to public comment.

Public Forum

Jack Cypert, 1521 Heorman, inquired why maintenance had stopped on Lafayette and Heorman streets. Jeff Bridges explained the City stopped chipped sealing streets 15 years ago. Les Mangus commented that maintenance is ongoing, but there is not much left of the street. Mr. Cypert was also concerned with the amount of traffic through that area doing additional damage to the road.

Laura Naff, 705 Lakecrest, requested permission for Girl Scout Troop #824 to use Central Park on April 26, 5:30pm-7:00pm. Council Member Nelson requested Mrs. Naff give the details to the Fire Chief prior to the event.

Girl Scout troop request for Central Park usage

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve their request subject to the Fire Departments approval. Motion carried 4/0.

Jerry Scott, 1514 Heorman, commended Mr. Bishop on the work completed on East Street, but there are still some issues with the buildings on Lee and Waggoner. Windows are broke out, some boarded up and they are sighting vectors. Mr. Bridges assured Mr. Scott that the City's Compliance Officer would investigate.

Council Member Hale asked to have an executive session for legal matters to follow regular agenda item #9.

Acceptance of agenda

Council Member Hale asked that Item L be moved from the consent agenda to then follow the executive session.

A motion was made by Council Member Hale, seconded by Council Member Nelson, to accept the agenda with the exception of adding an executive session following item #9 for legal matters and removing item L from consent agenda to regular agenda for discussion following the executive session. Motion carried 4/0.

Mayor Lawrence opened the public hearing regarding CDBG Grant #01-HR-001, 1502-1540 East St. Bill Boland, South Central Kansas Economic Development District, was in attendance to answer any questions regarding closing the grant.

Public Hearing - CDBG Grant 01-HR-001 1502-1540 East St

Jeff Bridges stated that although it had taken three (3) years the buildings are in much better condition.

The Mayor closed the public hearing.

The Mayor opened the public hearing regarding utility vacation request VA-2007-02 at 635 N Woodstone Drive. No one spoke.

Public Hearing – Vacation request VA-2007-02 635 N Woodstone Drive

The Mayor closed the public hearing

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve VA-2007-02. Motion carried 4/0.

A motion was made by Council Member Hale, seconded by Council Member Jessen to accept the consent agenda as follows:

Acceptance of consent agenda

- A. Approval of Minutes: City Council Workshop Minutes, March 26, 2007
City Council Meeting, April 10, 2007
- B. Receive & file Minutes: Planning Commission Minutes, March 20, 2007
- C. Receive & file reports:
 - i. Finance
- D. Approval of appropriation ordinance B-08-07 in the amount of \$235,905.71
- E. Approval of Change Order #4 for the Cornerstone 1st Addition street and drainage improvements (+\$32,178.35 for additional drainage work and manhole adjustment). Generally located north of 21st Street and west of Andover Road.
- F. Approval of Change Order #4 for the River Addition street and drainage improvements (+\$42,875. for additional erosion control). Generally located at the south west corner of US Highway 54 and Andover Road.

- G. Approval of Change Order #3 for the Winchester Estates street and drainage improvements (+\$25,090.40 for additional riprap and 15” culvert). Generally located ¼ mile west of Andover Road on 120th Street.
- H. Approval of location for fireworks tent: 1322 E US Hwy 54 (Johns Animal World)
- I. Approval of street light locations for Montana Hills 2nd Addition. Generally located ½ mile east of Andover Road on Harry Street.
- J. Approval of Change Order #2 for the Montana Hills 2nd Addition drainage improvements (+\$4,912.50 for pond waste removal). Generally located ½ mile east of Andover Road on Harry Street.
- K. Approval of purchase of mower for the Wastewater Department from Wichita Tractor, Bad Boy model BBP7232BS at \$7,566.00.
- L. Acceptance of temporary access easement in the Flint Hills 3rd Addition. Generally located at the south east corner of Andover Road and 120th Street.
- M. Approval of request by Scout Pack 533 for overnight campout at Central Park, May 4 and 5, 2007. Approval to be contingent upon coordination and confirmation of details with Police, Fire and Park Departments.
- N. Confirmation of Mayor appointments
 - Ann Ferenc – Library Board (term to expire April 2011)
 - John Cromwell – Planning Commission (filling an unexpired term that will expire May 2008)
- O. Acceptance of Right of Way dedication: 1304 E 13th Street

Recommended action: approve

Motion carried 4/0.

Mayor Lawrence presented Ordinance No. 1333 - An ordinance changing the zoning district classification of certain lands located in the City of Andover, Kansas, under the authority granted by the zoning regulations of the City as originally approved by Ordinance No. 1187. (216 and 226 S. Andover Road and 114 E. Willowbrook.

Ordinance No. 1333

The Mayor asked the City Council if anyone intended to disqualify themselves from discussing or voting on this case because they have conflicts of interest or particular bias. Council Member Jessen state he had voted on this case as a Planning Commission member, City Attorney Norman Manley stated that was not a problem.

The Mayor asked Jeff Bridges, City Clerk/Administrator, if the City had received any protest petitions. He responded he had not.

The Mayor confirmed with the Council that they had received the March 20, 2007, Planning Commission meeting minutes.

The Mayor asked the applicants if they felt they had a fair and impartial hearing at that Planning Commission meeting, the applicants responded that they did.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus explained that at the Planning Commission meeting they had recommended that the property be zoned as B-1 with a height limit of 35'.

The Mayor asked if anyone in the audience wanted to respond or provide any new information.

Xury Hole, 318 Willowbrook, commented that the people in the Willowbrook Addition have lived there for 50+ years. He would like the City Council to make sure that the Site Plan Committee has good and proper screening for the future of this B-1 district.

Eldon Evans, 206 E. Willowbrook, asked the Council to please think about all of the residents that live in the Willowbrook Addition and how they will be affected. Their life will be changed.

Jean Blackford, 320 S. Westview, stated that the Willowbrook Addition is older than the established City of Andover. She described the residents she has come to know in that neighborhood and asked the Council not to tear it apart.

The Mayor closed the public hearing and moved the issue to the bench.

Mayor Lawrence explained the three options the Council has at this time with the zoning issue.

Council Member Nelson expressed his understanding of the sensitivity of the issue and would like these residents to show up at the Site Plan Committee if this ordinance is passed.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve Ordinance 1333, Zoning Case A-2007-03, based upon findings of #5-increased development of Andover Road; #10-opportunity for business or industrial uses to provide more services or employment opportunities; #13-consistent with the purpose of the zoning district classification and the intent and purpose of the regulations; and #14-in conformance with the Comprehensive Plan and further enhances the implementation of the plan, with a condition of maximum height not to exceed 35' as approved by the Planning Commission.

Council Member Hale explained that although she understands the concerns of the residents, it needs to be realized that some property on Andover Road is no longer necessarily desirable for residential use.

Motion carried 4/0.

A motion was made at 7:41 p.m. by Council Member Hale, seconded by Council Member Reams, to go into executive session for legal matters to include City Attorney Norman Manley, City Administrator Jeff Bridges, the Mayor and the Council for 15 minutes. Motion carried 4/0.

Executive session

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to come out of executive session at 8:05 p.m.. Motion carried 4/0.

Council Member Hale asked for representation of the proposed signage for the Farmers Market to be at Central Park (item L on the consent agenda). Pat Randleas, 1211 W 35th Street N, Wichita, Manager of the Farmers Market stated although she did not have a prototype it would be professional off-site signage including the name of the market, hours, season, and directional arrow.

Item L – Farmers Market signage

Council Member Reams inquired as to the return of the Farmers Market from year to year and the investment in permanent signage. Ms. Randleas stated that is the markets plan.

A motion was made by Council Member Hale, seconded by Council Member Reams, to authorize staff to approve temporary signage to be reviewed in two (2) months by City Council. Motion carried 4/0.

Mayor Lawrence presented Ordinance No. 1334 - An ordinance modifying the code of the City of Andover, Kansas as it relates to the sale of alcoholic liquor on Sundays, the consumption of alcoholic liquor on public property, and amending City Code sections 3-205 and 3-209.

Ordinance No. 1334

The Mayor stated this ordinance is the mechanism for the approval of the public vote.

Mr. Bridges reminded everyone that the ordinance will not be in effect until the Sunday following publication in the Andover Advocate Journal May 3, 2007.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve. Motion carried 4/0.

Mayor Lawrence presented Ordinance No. 1335 - An ordinance modifying the Code of the City of Andover, Kansas as it relates to the sale of cereal malt beverages on Sundays and amending the Code of the City of Andover Chapter III, Section 116.

Ordinance No. 1335

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve. Motion carried 4/0.

Jeff Bridges reminded everyone before this ordinance will go into effect there is a sixty (60) day waiting period from date of publication.

Jeff Bridges stated that letters will be mailed to business with liquor and cereal malt beverage licenses to inform them of the passage of the ordinances'.

Jim Ubert, POE and Associates, was in attendance to answer questions regarding the acceptance of plans and authorization of taking of bids on May 8, 2007 at 11:00 a.m. for the Marketplace Commercial Addition water, sewer and grading improvements.

Marketplace Commercial Addition

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to accept as recommended. Motion carried 4/0.

Jeff Bridges explained Resolution 07-05 - A resolution authorizing the filing of a petition with the Board of Commissioners of Butler County, Kansas to consider the annexation of certain territory as provided by K.S.A. 12-521. Mr. Bridges explained the City cannot unilaterally annex so staff is recommending the process thru the county. (Various parcels along 13th Street east and west of Prairie Creek Road).

Resolution 07-05

Jeff Bridges explained there is not a safe haven to unilaterally annex these properties and staff recommends annexation thru the county. These properties are also known as the Rickard property, Lee property and the Carney property.

Council Member Nelson expressed his concern regarding funds for improvements of various projects throughout the City. He would like to have this item tabled and re-exam all special assessment financing projects for 2007.

Council Member Hale commented she feels this would not be proper. Certain projects have been in line for improvement funding and the developers have budgeted and planned their projects with this in mind. The Council has been working on the premise that projects are in line for financing and developers have been told their position.

Jeff Bridges explained that the developer, based on the acceptance of the developers agreement and letters of credit has received notification that the City was ready to finance and the developer moved forward on that basis.

Mayor Lawrence stated that the annexation with the County still needs to be approved.

Council Member Nelson wanted to make clear that it is not that he was not in favor of proceeding with this project but believe it does not deserve accelerated treatment at the expense of another project. Again he stated he would like to table this for more discussion at a workshop and place on the next agenda. He wants all of the projects to be looked at and then determine the best way to proceed.

Mayor Lawrence asked the Council if they desire to take all of the projects, look at them, and decide which projects to fund based on the value the City is getting for them? He does not believe Andover has a shortage of projects.

Council Member Jessen stated that this builder has gone to great expense and is counting on this financing. Backing out on him would not be right. Council Member Hale concurred.

Jeff Bridges stated that if the Council is going to change how special assessment dollars are spent the owners of the Ami Lane Addition need to be notified now so they can make decisions before investing more money.

Council Members' Jessen and Hale asked if it would be better to table until all Council Member's are present?

Mayor Lawrence explained that this is a resolution and there is an opportunity to not request the annexation.

Mr. Bridges explained how these kind of annexation resolutions are processed, once started they are hard to stop. Mr. Bridges stated that if the Council is not sure they want to proceed he recommends they not adopt the resolution.

A motion was made by Council Member Reams, seconded by Council Member Hale, approve Resolution 07-05 for filing the petition with the Board of Commissioners to consider the annexation of the property described. Motion carried 3/1. Council Member Nelson opposed.

Jeff Bridges explained Resolution 07-06 - A resolution of the City of Andover, Kansas requesting the Board of County Commissioners of Butler County, Kansas to make certain findings regarding the annexation of property per K.S.A. 12-520. This is an island annexation and the owner has petitioned for by the owner. A simple finding by the County Commissioners rather than a public hearing as the prior Resolution requires. (Ami Lane Addition, south west of Andover Road and 130th Street).

Resolution 07-06

Jeff Bridges explained this is a simpler annexation process at the County level since it is an island and has been petitioned for by the owner. A public hearing is not required as is on the previous annexation.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to accept Resolution 07-06 as presented.

Mayor Lawrence stated that by approving this resolution they are sending a message to this developer that it is being placed on the schedule. Projects are being approved and financed as they come in no matter what the project is. If there is a finite amount of money why wouldn't the Council only fund those that add greater value to our tax base?

Jeff Bridges explained to the Council that if the policy is going to be changed and Council is unsure of the change direction, they should not give anyone any expectations. Improved roads on which to develop are gone, moving east on gravel roads is going to be more expensive. It is more expensive than Green Valley 5th Addition where there was just an interior street to be built. That is what is driving the cost on the Prairie Creek Addition, paving of 13th Street and Prairie Creek Road. Cornerstone took a huge amount of money because of 159th Street and the sewer line. We are getting into areas where we have to extend public infrastructure so a developer can start and this will be a factor on any project coming up.

Council Member Jessen has concerns with this annexation being so far out and in the Rose Hill School District. Mr. Bridges stated that it is in the Andover planning area.

Council Member Jessen expressed that the Council should table any new projects.

Mayor Lawrence wanted to confirm that the Council will continue with the projects that are currently on the schedule but re-examine any new ones to be added.

Council Member Hale does not believe that projects should be moved ahead of their turn. If there is going to be changes in the funding policy she has trouble pulling someone out that has already invested in their project and told when their turn is.

Les Mangus explained why the annexation has come up now for a 2009 project. The developer submitted his application for annexation and application for preliminary planned unit development together. The property has to be annexed in to the city before the zoning case can be heard. Once the property has been annexed it has the right, not the privilege, to plat. If the plat met all the conditions the City would have to accept it but not finance it. The developer would have to pay for their improvements out of pocket.

Mayor Lawrence stated this is only part of the country where there is an expectation that the city is going to use their bonding capacities to finance developments.

After much discussion Council Member Hale withdrew her second.

Mayor Lawrence asked Norman Manley, City Attorney, if there was anything keeping the Council from picking and choosing the projects they fund. Mr. Manley did not believe there is anything illegal, but, in the instance of the Prairie Creek Developers where the City has already issued a letter to proceed, this needs to be approved. If the City wants to pick and choose based on appraised value, the City is sitting in the role of a banker and a banker has absolute discretion. He further stated he did not believe there was any case law stating the City could not do that. Council Member Hale asked Mr. Manley to look further into any housing discrimination action that could be taken.

Council Member Nelson’ motion stands, no one seconded. Motion dies due to lack of second.

A motion was made by Council Member Jessen to table Resolution 07-06 to the next City Council meeting, no one seconded. Motion died due to lack of second.

A motion was made by Council Member Hale, seconded by Council Member Reams, to table Resolution 07-06 until after at least one additional workshop where the entire Council is present.

Council Member Nelson asked to have a special workshop on May 7 to discuss this item so they will have had two sessions to discuss before it comes back to City Council.

Les Mangus explained that the Ami Lane PUD is on the Planning Commission’s agenda May 15. This case will then come before the Council on June 12.

Council Member Nelson would like to continue as we are and form a committee to study the entire financial policy for 2008 but not penalize the developers in line now.

Council Member Reams withdrew her second.

Council Member Hale removes her motion from the table.

A Motion was made by Council Member Nelson, seconded by Council Member Jessen, to renew the motion to approve Resolution 07-06. Motion carried 4/0.

Mayor Lawrence re-iterated that the Council will review the city’s special assessment financial policy but the message should be clear the city is still accepting projects.

The City Council took a recess from 9:05pm to 9:15pm.

Mayor Lawrence presented Resolution 07-07 – A resolution of the City of Andover, Kansas declaring an interest in and establishing a public hearing date for considering the annexation of certain lands to the City of Andover, Kansas.

Resolution 07-07

A motion was made by Council Member Clark, seconded by J.R. Jessen, to approve. Motion carried 4/0.

Mayor Lawrence introduced Resolution 07-08 – A resolution of the City of Andover, Kansas, expressing the Governing Body’s support for the use of Tax Credit Financing for the Greater Wichita YMCA for the purpose of constructing a facility in the City of Andover.

Resolution 07-08

Dennis Shanebeck, Greater Wichita YMCA, informed the Council of the type of facility the YMCA is planning to build. They are still in the design/development

but are proceeding with an estimated 100,000 sq ft facility including an outdoor water park and child development center. Tax credit financing is widely used to build their facilities due to the incentive it provides individuals to make contributions. Their goal is break ground this fall with an opening of January 2009.

Mr. Bridges explained the reason for this resolution at this time is that their applications are due May 4. In order for them to have a valid application they must have a resolution of support from the hosting city.

A motion was made by Council Member Hale, seconded by J.R. Jessen, to approve as presented. Motion carried 4/0.

Jeff Bridges presented a supplemental petition for paving of Keystone Street. This provides for sufficient monies to pave the street and will probably move right from construction to general obligation bonds to save money on the temporary note process. The supplemental is about \$54,000 rather than \$100,000.

Cornerstone Addition – paving of Keystone Street

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the supplemental petition and authorize the contract with APAC Construction for the paving of Keystone Street in the amount of \$449,468.60. Motion carried 4/0.

Elton Parsons, 1830 Lakeside Drive, in attendance as President of Promote Andover Inc. to report that P.A. I. has set a price of \$185,000.00 and voted to sell Lot 1, Block 1, Andover Industrial Park to Dave Martine, owner of Treescapes Inc.. The marketing committee of P.A.I. considered the factors and made this recommendation to move forward with the sale. The proposal meets the requirements of the zoning classification currently in place on the property. P.A.I. requirements and city site plan requirements are acceptable to Mr. Martine and he intends to follow the requirements.

Sale of Lot 1, Block 1, Andover Industrial Park

David Martine, 1236 Prairie Creek, explained his intent to purchase the property is for the growth and expansion of his business. Mr. Martine told the Council of the unusual characteristics of the property and he will spend an approximate total of \$140,000 for improvements to the site to ready it for building and that approximately ½ acre is unusable. Mr. Martine is ready to move forward with his project and is asking the Council to approve the sale.

Council Member Hale would like to have an independent appraisal done on the property and additional meetings with P.A.I. to assure the Council and other concerned parties that this is being properly handled. Council Member Hale has concern with the selling price. She has been told that the realtor listing was at \$392,000. She would like to have this issue tabled until the next Council meeting.

Norman Manley, City Attorney, states his recollection of the contract states the property will be marketed by P.A.I. but in terms of who has final say, who it is sold to, and the price, is up to the city.

Council Member Nelson confirmed with Mr. Parsons that he is a member of P.A.I., a realtor, and very familiar with Andover property and have represented a lot of developers in Wichita and Andover. What is your opinion of this being a fair and reasonable price for us to approve this evening. Mr. Parsons explained that property is worth what someone will pay for. This piece of property has not had an offer for a long time. It was listed at \$2.00 per sq ft and it brought no offers. The offer Mr. Martine is making is approximately \$1.00 per sq ft or \$40,000 per acre. He does not believe it is \$8,000 and acre property. In order to attract buyers to the industrial park it needs to made attractive to them.

Council Member Nelson wanted to know if Mr. Parsons felt this project would add to the park and potentially bring additional buyers. Yes he did. This would be a buffer area so not be so offensive to both the main street of Andover and the residents.

There is a committee that has been formed to further discuss the usage and changes that may need to be made to the industrial park.

Motion was made by Council Member Hale to table the issue, contract to have an independent appraisal done, and continue with the industrial park committee meetings prior to acceptance of the contract, no one seconded. Motion died for lack of second.

Motion was made by Council Member Jessen, seconded by Council Member Nelson, to approve the sale of Lot 1, Block 1, of the Andover Industrial Park subject to conditions associated with the contract and covenants associated with the land, subject to appropriate approvals by P.A.I., Architectural Control Committee to and the site plan committee for \$185,000. Motion carried 3/1 Council Member Hale opposed.

The 2008 Budget Schedule was reviewed. Council Member Nelson stated that the Council members will learn to appreciate Mr. Bridges knowledge and expertise in the development of this budget process.

2008 Budget Review

Mayor Lawrence pointed out to have goals into Mr. Bridges by May 2 and please participate in this process. Mr. Bridges confirmed Council received budget priority forms. He will re-email to everyone.

Mayor Lawrence asked the Council to nominate and select a new Council President to replace outgoing Council Member Sheri Geisler.

Election of City Council President

A motion was made by Council Member Hale, seconded by Council Member Reams, to table this item until the next regularly scheduled Council is present. Motion carried 4/0.

A motion was made by Council Member Hale, seconded by Council Member Reams, to accept the Mayoral nominations for Council Liaison positions as follows:

Assignment of City Council liaison positions

Wastewater	Carol Roberts
Streets	Carol Roberts
Police	Caroline Hale
Planning	J.R. Jessen
Parks	Caroline Hale & Julie Reams
REAP	Ben Lawrence as Primary – Jeff Bridges as Alternate
Library	Caroline Hale
Fire Dept	Clark Nelson
USD 385	Julie Reams
PAI	Kevin Dreiling
Golf Course	J.R. Jessen
MPO	Clark Nelson
Site Plan	Clark Nelson

Motion carried 3/1. Nelson opposed.

The City Council meeting dates that had holiday conflicts where changed as follows:

Review of 2008 Council meetings

- May 28 workshop meeting will be held May 21
- December 24 workshop meeting is cancelled (will be made up in May or June 2008)
- December 25 meeting will be rescheduled at the next Council meeting when all members are present.

Member items

Member items

J.R. Jessen – noted that it had been brought to his attention that on Sunday mornings there are cars parked along Douglas (at Andover Road) where there are ‘No Parking’ signs.

Caroline Hale – wants to promote two local businesses 1) Palomino Grill at Terradyne. It is a very nice restaurant with reasonable pricing and great food and atmosphere. They offer a Sunday brunch and are closed on Mondays. 2) The Scrap Funnatic will be having a Chamber of Commerce opening on April 26th.

Council Member Hale also thanked the Boy Scout troop for allowing her to give the citizenship presentation and would encourage other youth organizations to do the same.

Council Member Hale has been working on a fund raising project to offer the Senior Center, Library or GAD. She feels these organizations have supported the city and one item we could offer is to stuff sewer bill envelopes with a helpful flyer for their organization. If no one has any objections or concerns she will pursue.

Clark Nelson – welcomed the new Wichita State University basketball coach. He has joined Terradyne and Flint Hills County Clubs and hopefully will locate in Andover area.

Julie Reams- thanked everyone who attended the “spring snowy winter fling” a few weeks ago. The duck race was postponed and a new date will be announced.

Council Member Reams also thanked everyone for making her first Council meeting a very interesting one.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to adjourn the meeting at 10:11pm p.m. Motion carried 4/0. Adjourn

Respectfully Submitted by

Susan Renner
Administrative Secretary

Approved this day of , 2007 by the City Council, City of Andover.

Jeffrey K. Bridges
City Clerk