

**ANDOVER CITY COUNCIL  
Tuesday, July 10, 2007  
Minutes**

The Andover City Council met for a regular meeting on Tuesday, July 10, 2007 at 909 N. Andover Road in the Andover Civic Center. Mayor Ben Lawrence called the meeting to order at 7:00 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 Chief Mike Keller, and City Clerk/Administrator Jeff Bridges.

The Invocation was given by Leon Heibert of the Andover Assembly of God. Invocation

The Pledge of Allegiance was led by Mayor Lawrence. Pledge of Allegiance

Mayor Lawrence opened the floor to public comment. No one spoke. Public Forum

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve the agenda with the addition of honoring Larry Crouse for his service with the Andover Site Plan Review Committee. Motion carried 6/0. Agenda

A motion was made by Council Member Nelson, seconded by Council Member Dreiling to approve the Consent agenda as follows: Consent agenda

A. Approval of Minutes: City Council Workshop, June 25, 2007  
City Council Meeting, June 26, 2007

B. Receive & file Minutes: Planning Commission Meeting, May 15, 2007

C. Receive & file reports:  
i. Finance  
ii. Police  
iii. Fire

D. Approval of appropriation ordinance B-13-07 in the amount of \$472,708.81

Motion carried 6/0.

Mayor Lawrence presented Larry Crouse with a plaque for his 10 year dedication to the Andover Site Plan Review Committee. Mr. Crouse was thanked for his knowledge, sound advice and fair and reasonable actions as a committee member. Larry Crouse presentation

Mayor Lawrence opened the public hearing for the annexation of certain properties along east 13<sup>th</sup> Street and Prairie Creek Road. Public Hearing – 13<sup>th</sup> & Prairie Creek annexation

Bill Osborne, 11150 SW 64<sup>th</sup>, Bruno Township Trustee and property owner in the annexation area. Mr. Osborn was speaking for the Bruno Township Board and how they felt the City is cherry picking property for annexation and that the City has been rather inconsistent with their annexation policy. They are not arguing the City's right to grow but question what the City is going after. From the standpoint of what properties are to be annexed, Mr. Osborn personally feels the City is looking for someone else to help the developer pay for the improvements. Prairie Creek Road has been gravel for over 50 years and the homes along that road have been there for over 50 years. The only need for pavement is for the development and the developer should be responsible for it. The township will still have to maintain the road. By taking only the properties facing out, \$250,000 of appraised value, and leave the township roughly \$150,000 to take care of their roads. They want the City to either take it all or don't take any.

Jeff Bridges explained that the properties in front of the Easter Addition will be assessed 11.5% of the actual cost of the improvements. Only property owners that directly benefit from the improvements will be assessed. They are not paying for any interior improvements to the Prairie Creek Addition. The Prairie Creek Addition parcels are paying 84% of the exterior and 100% of the interior improvements. The City is being consistent; the parcels in the Easter Addition up for annexation are currently being served by City sewer.

Tony Janzen, owner of lots 4 and 9 on Prairie Creek Road, is concerned how the neighbors behind his property will receive benefits since they are actually in the Easter Addition.

J.T. Klaus, Triplett, Wolff & Garretson, Bond Council, responded that they were aware a couple of lots would have to be handled on a case by case basis due to their location.

David Martine, 1236 N Prairie Creek Road, is very clouded at the situation at hand. He does not believe the annexation is good thing for himself or any of his neighbors. He has no issue with the benefits they would receive but believes the issue is with the benefit district that will follow behind the annexation. He has no interest in being assessed for a street, water and sewer line he does not need. He feels the City is changing the way business is done by setting the ground work for how developments will operate when they come to us in the future. Instead of the developer incurring all of the costs for a new subdivision it would be spread to everyone in the area. He also feels they will not be able to afford the assessment. If the Butler County Commission denies the annexation the City of Andover will lose \$130-140,000 of the petition and that will raise everyone's assessment. He does not remember the City doing this in the past.

Jeff Bridges explained how other developments in Andover were paid for by the neighboring parcels and stated it is consistent with what the City has done in the past. The reality is whether the developer pay's for this or not it will be assessed back to the City and the resident that is going to live in that addition. In this case they will be paying 11% when ordinarily they would pay 50%. Mr. Bridges then

clarified, at Mr. Martine's request, how the 13<sup>th</sup> Street improvements were paid for.

Karen Janzen, 1631 N Prairie Creek Road, is not in favor of the annexation. She had understood there wasn't a worry about being annexed due to a low tax base. She did not understand why they have to pay for water they won't be using.

Mayor Lawrence explained there are residents that will use the water in that area and there is no legal mechanism provided by state statute to allow hand picking.

Daniel Caudell, 1638 Gwenda, did not understand why his property would be annexed and not the whole neighborhood. Mr. Caudell is also concerned about the traffic load on the bridge.

Rex Lewellen, 1216 E. 13<sup>th</sup>, stated the financial drain of the assessments would bankrupt him. He does not need the water, sewer or paved road. If annexed he would also have City code issues to address that he cannot afford.

Eva Harvey, 1509 N Prairie Creek, has lived there 55 years. She does not need the water and does not want to pay for things she is not using. She is not in favor of the annexation.

Tony Janzen inquired why the 7 acres owned by Brad White was not being annexed. Jeff Bridges explained there is no plan to extend any utilities that far.

Mr. Janzen expressed with annexation there will need to be laws enforced. Mayor Lawrence stated along with police enforcement comes code enforcement.

Jeff Bridges explained how the assessment amounts were determined. He went on to explain that if the larger parcels develop at a later date how the benefit district works and how the amounts would be determined at that time.

J.T. Klause stated that the difficulty this evening is due to the City being very upfront with their intent with special assessments, when and if they are levied. The decision tonight is whether or not to annex the property into the City. The goal was to keep the assessments on parcels abutting the property as small as possible under the law and have the developer pay more. Mr. Klause confirmed the property value increases with the benefits, not necessarily the property owner.

Mr. Caudell stated it will not increase his property value as it faces west into the Easter Addition. They are run down 50-70 year old homes.

Bill Osborn inquired if the properties on the back side facing Gwenda are being annexed. If Gwenda is being annexed and is going to be brought up to a City Street why not annex the property on the west side of Gwenda. Jeff Bridges explained it was not feasible to annex the entire Easter Addition. It would cost too much money to raise those streets to a useful standard from what they are today.

Bill Osborn inquired what services would be provided to his property. Jeff Bridges stated Mr. Osborn's property was not being assessed at all and with the annexation he would receive all of the benefits other residents of Andover enjoy.

Roy Henry, 1616 Gwenda, stated he pays little taxes and should probably pay more. He is disappointed with the amount of protection he receives from the county.

Mayor Lawrence closed the public hearing.

Mayor Lawrence presented Ordinance 1345 - an ordinance annexing certain lands into the City of Andover (property adjacent to 13<sup>th</sup> Street east and Prairie Creek Road), for the Council's discussion.

Ordinance 1345 – 13<sup>th</sup> St.  
and Prairie Creek  
Annexation

Jeff Bridges updated the Council with what had taken place at the County Commission meeting that morning. The three larger parcels public hearing was heard and tabled until next Monday. The County Commission's original vote failed 2 to 2 with Commissioner Woydziak absent.

Council Member Nelson inquired if this applied to those three parcels of property. Jeff Bridges confirmed they did not only the parcels discussed tonight.

Council Member Jessen asked if the Council should table their vote until Butler County has made a decision.

Jeff Bridges reminded the Council the ordinance only regards the annexation of the properties, not future assessments. At the next meeting they would be presented with a resolution establishing the benefit districts.

Council Member Nelson wanted to make sure the public is aware that Ordinance 1345 was applicable only to the annexation and has nothing to do with assessments.

Jeff Bridges explained that if the Council chooses to add the improvements to 13<sup>th</sup> Street and Prairie Creek Road, and the water and sewer extensions paid for by those parcels outside of the Prairie Creek Addition his recommendation is to approve. Without the annexation the parcels cannot be assessed.

Council Member Hale stated all improvements within the development are being paid for by the developer. Outside the development 84% of the improvements are being paid for by the developer with 11% property owners benefiting from the improvements and 5% by the City. This is an extremely low proportion as to what usually happens. She feels that what the County decides will make a difference.

Mayor Lawrence stated that even though it is two separate issues, it is one to the homeowners. The numbers presented are probably the best they can be but the Council has discretion to change the percentages being paid by whom. He has reservations regarding assessment of the properties facing Gwenda.

Council Member Nelson stated that the Council has studied this and done everything they can to keep the costs as low as possible. Annexation for the property is appropriate but has concerns about handling in two or three meetings. He would like to come back to the Council after the County has made their decisions and more information is provided regarding which parcels in the Easter Addition should be included.

A motion was made by Council Member Dreiling, seconded by Council Member Nelson, to table the ordinance until the July 31<sup>st</sup> meeting, after the County has made their decision and the Council determines how services will be handled to the back row parcels. Motion carried 6/0.

David Martine commented he thought he heard the City was not paying for any of the paving. Mayor Lawrence clarified that the City will be paying for the road, not any costs associated with the Prairie Creek Addition. Jeff Bridges stated the City will be paying to widen the road to four lanes at a cost of \$4 million and paying for the bridge. All the City is asking the residents to pay is for one lane of paving in front of their house.

The City Council took a recess at 8:22 p.m.

The City Council reconvened at 8:29 p.m.

Larry Kleeman, M & I Bank, City’s Financial Advisor, presented revised petitions increasing the amount of the project and adding another parcel for the Marketplace East Addition. Also presented for finalization was Resolution 07-17 - a resolution amending Resolution No. 06-29 as previously amended by Resolution No. 07-14 of the City of Andover, Kansas. (Resolution of advisability on the improvement to the Marketplace East Addition) **and** Ordinance No. 1346 – an ordinance amending Ordinance No. 1323, as previously amended by Ordinance No. 1338 of the City of Andover, Kansas. (A work ordinance for the making of improvements to the Marketplace East Addition).

Revised Developers Agreement, Resolution 07-17 and Ordinance 1346 for Marketplace East Addition

Mayor Lawrence asked if we had a revised developer’s agreement. Jeff Bridges stated no, but notice to proceed would not be signed until the City has received the agreement.

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve items A. Acceptance of the revised petitions; C. Resolution 07-17; and, D. Ordinance No 1346. Motion carried 6/0.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to accept item B. the bid from Mies Construction for \$504,895.00, for sanitary sewer, water main, water distribution and mass grading improvements. Motion carried 6/0.

Accept bid

Jim Eubert with POE and Associates has requested item E. Accept street improvement plans and authorize taking of bids be removed due to some unresolved engineering issues.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to table item E. Acceptance of street improvement plans and authorizing taking of bids.

Les Mangus explained that POE and Associates had pointed out some issues with the storm sewer and hydraulic grade lines in the project. MKEC is to address these issues.

Mayor Lawrence requested the information be presented at the July 31<sup>st</sup> meeting.

Motion carried 6/0.

Mayor Lawrence opened the public hearing for Vacation Case VA 2007-03 – 1931 Grace Avenue.

Public Hearing  
VA-2007-03  
1931 Grace Ave

David Levy requested the Council approve the vacation.

A motion was made by Council Member Jessen, seconded by Council Member Nelson, to approve. Motion carried 6/0.

Jim Eubert, Poe and Associates, presented bids for Cornerstone 2<sup>nd</sup> Addition paving that had been opened today. The low bidder was APAC of Kansas at \$148,766.25. Poe and Associates recommends accepting the low bid and authorize signing of the contract.

Cornerstone 2<sup>nd</sup> Addition  
Paving Bids

A motion was made by Council Member Hale, seconded by Council Member Jessen, to accept the bid from APAC of Kansas in the amount of \$148,766.25. Motion carried 6/0.

Larry Kleeman, M & I Bank, presented Resolution 07-18 - a resolution setting the date, time and place for a public hearing to receive and hear complaints and objections to the proposed special assessments for the construction of certain improvements in the City of Andover, Kansas, as heretofore authorized by Resolution Nos. 01-02, 04-23, 04-24, 04-25, 05-11, 06-14 and 06-22; directing publication of a notice of public hearing; and further directing the mailing of a notice of hearing and statement of costs proposed to be assessed to each and all of the property owners liable for such special assessments.

Resolution 07-18 – for  
public hearing for special  
assessments

This allows for publication of a public hearing July 31 so the affected property owners may comment on the proposed assessments.

A motion was made by Council Member Dreiling, seconded by Council Member Hale, to accept the resolution as stated. Motion carried 6/0.

Mayor Lawrence stepped down from the bench for a discussion regarding the Andover Hike/Bike path. Council Member Nelson will conduct the discussion as Council President.

Andover Hike/Bike Path

Jeff Bridges stated that the City had received a letter from a concerned property owner regarding the sprinkler system located in the City right of way in front of his business. The system has been removed to make way for the Hike/Bike path.

Council President Nelson asked if there was anyone who wanted to address the issue.

Ben Lawrence, 948 N. Andover Road, stated he had received a letter from Barckley Construction identifying key areas of the Hike/Bike project with timelines. After discussion with the supervisor on the project it was determined that potentially some of his landscaping would have to be moved. Mr. Lawrence explained that the Andover Site Plan Review Committee ultimately added \$40,000+ to the cost of his building and landscaping original plans to abide with the City's desire to provide green irrigated lawn. He believes it unfair that through a City initiated project, after putting in and paying for, now he is to pay again to have it moved/removed. His point is not the \$1,000 expense to him but the idea of paying for it twice.

Council President Nelson confirmed with Mr. Lawrence that the area being discussed is in the public right of way.

Council Member Dreiling will abstain from voting on this issue due to a perceived conflict of interest. He stated bike path was approved to be built with state funds and use of state funds does not allow for the moving or repair of sprinklers, lawns, etc. He believes it is not reasonable to ask to have something done in the City right of way and then tear it up and ask the property owner to repair it. He would like to see if there are any City funds in the budget to repay those property owners that have incurred damage. He asked staff to explore the issue.

Council Member Roberts inquired if the irrigation system was actually in the public right of way and can property owners irrigate public right of way with the system on their property and shoot water towards Andover Road.

Ben Lawrence stated he was asked to irrigate within the public right of way. The system he installed is on both sides of the side walk to shoot away from the sidewalk.

Council Member Hale is concerned what kind of issues this may bring in the future. There has been property torn up at other Andover locations and the property owners paid for the repair. How many other properties would the City be looking at to reimburse.

Council President Nelson believes this is an equitable issue to have staff investigate and present to the Council again. He has sat on the Site Plan Committee meetings and understands the beautification of Andover, but to then tear it up and tell the property owner they have to pay for it is not right.

Ben Lawrence stated he has the irrigation system put back, but is wondering about future plans with new buildings. What will the Site Plan Review Committee do for future projects, warn them that damage may occur or just stay out of the public right of way.

Jeff Bridges stated Mr. Lawrence had requested a written response and could he wait for the Council to discuss the issue further at another meeting. Mr. Lawrence stated he has not held up the project over this issue.

Staff will look in to the issue and report back to the Council.

Council President Nelson stated there would be no further action regarding this issue at this time.

Mr. Lawrence returned to his position as Mayor.

A motion was made at 9:04 p.m. by Council Member Jessen, seconded by Council Member Dreiling, to go into executive session for 15 minutes, to include City Council, Mayor Lawrence, Les Mangus, Jeff Bridges, and Norman Manley, for legal matters. Motion carried 6/0.

Executive session – legal matters

A motion was made at 9:32 p.m. by Council Member Nelson, seconded by Council Member Jessen, to come out of executive session. Motion carried 6/0.

Police Chief Keller reported that between June 27 and July 5 there had been 39 fireworks complaints received through 911. 35 warnings had been issued and there were no repeat offenders.

Fire Chief Shaver reported they had no fireworks related calls.

Member Items:

Member items

Council Member Jessen – had none

Council Member Dreiling – would like to see the fireworks ordinance addressed by the Council at a workshop meeting.

- Also thanked Larry Crouse for his work with the Site Plan Review Committee
- Thanked Council Member’s Roberts, Hale, Nelson and the Mayor for his opportunity to serve on the Council. This is his one year anniversary as Council member.
- Thanked Jeff Bridges for speaking to his WSU real estate class. Mr. Bridges represented Andover well and it was appreciated.

Council Member Hale – stated she had only received four emails regarding the fireworks.

Council Member Nelson – noted Council Member Dreiling is a valuable and level headed member of the Council.

- stated for future reference an item such as the ordinance regarding property damage insurance, that did not pass at the last City Council meeting, be given more time by the Council to study and analyze before voting.

Council Member Reams – reminded everyone that school enrollment forms are on the school districts web site USD385.org.

- commended the Reflection Lakes Addition (her residence) for obeying the fireworks ordinance.
- reminded the Reflection Lakes addition that the speed limit through there is 25mph. Some members of the community are using Sunset Circle as a race track and Minneha as a drag racing strip. This needs to stop before someone gets hurt. The following of individuals and harassing them also needs to stop.
- National Night Out is August 7, 6:00 p.m. to 8:30 p.m. at the Andover Plaza. There will be free hot dogs, ice cream, chips, pop, lots of family games and activities as well as Radio Disney putting on a show.

Council Member Roberts – stated the Andover 50<sup>th</sup> Anniversary banners are up and look very nice.

- she agreed with Council Member Nelson that more notice be given to the Council when major decisions are to be made
- noted that some property has pretty tall grass. Mr. Bridges will make sure the Code Enforcement officer checks.

Mayor Lawrence – handed out budget packets to the Council members.

- reminded Council Members of the meeting with Butler County Community College on July 16, the budget meeting July 24, Council Workshop July 30, and regular Council meeting July 31.

Jeff Bridges stated Butler County Commission approved the Ami Lane annexation so the Council will see an ordinance for this. There is no required assessment from the developer to pave the road west of the project.

Jeff Bridges stated staff has filled the Administrative Secretary position and the Council will receive information at the next meeting. She will begin Monday, July 30.

A motion was made by Council Member Hale, seconded by Council Member Dreiling, to recess the meeting until July 16, 2007 at 5000 East 13<sup>th</sup>, room 5201, Andover, at 6:00 p.m.

Recess meeting

Respectfully Submitted by

Susan Renner  
Administrative Secretary

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

Jeffrey K. Bridges  
City Clerk