

**ANDOVER CITY COUNCIL  
Tuesday, July 31, 2007  
Minutes**

The Andover City Council met for a regular meeting on Tuesday, July 31, 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: Administrative Services Director Donna Davis, City Financial Advisor Larry Kleeman, Administrative Secretary Susan Renner, City Attorney Norman Manley, Fire Chief Jim Shaver, Police Chief Michael Keller, and City Clerk/Administrator Jeff Bridges. Director of Public Works and Community Development Les Mangus and Management Assistant Sasha Stiles were absent.

The Invocation was given by Dorethea Horn of the AME Church.

Invocation

The Pledge of Allegiance was led by Mayor Lawrence.

Pledge of Allegiance

Mayor Lawrence opened the floor to public comment.

Public Forum

Bill Osborn, 11150 SW 64<sup>th</sup>, Bruno County Trustee, concerning agenda item 8, (the annexation of properties along 13<sup>th</sup> and Prairie Creek), repeated his comments from the previous Council meeting regarding what he believes is cherry picking of properties and agrees that the City has the right to annex properties.

Tony Janzen, 1631 N Prairie Creek, inquired if there had been a re-evaluation of the properties being annexed. Mayor Lawrence stated the Council has looked at alternatives and would address at agenda item 8.

Mayor Lawrence closed the public forum.

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to accept the agenda. Motion carried 6/0.

Agenda

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

Consent agenda

- A. Approval of Minutes:
  - City Council Meeting, July 10, 2007
  - City Council Meeting, July 16, 2007
  - City Council Workshop Meeting, July 24, 2007
- B. Receive & file Minutes: Planning Commission June 19, 2007
- C. Receive & file reports:
  - i. Library

- D. Approval of appropriation ordinance B-14-07 in the amount of \$486,905.33
- E. Approval of non-elected personnel items: Don Roberson’s promotion from School Resource Officer to Police Sergeant, with a pay increase from \$19.42 per hour to \$19.70 per hour. Randa Wilson-Evans status change from Master Patrol Officer I to School Resource Officer, with a pay increase from \$15.89 per hour to \$16.50 per hour. Lance Parker status change from Patrol Officer to School Resource Officer, with a pay increase from \$15.28 per hour to \$16.00 per hour.
- F. Approval of Change Order #5 Cornerstone 1<sup>st</sup> Addition Paving and Grading Improvements (deduct \$8,126.95 – moving storm sewer elements to Cornerstone 2<sup>nd</sup> Addition improvements)
- G. Approval of Change Order #2 Andover Road Pedestrian & Bicycle Facility (time extension due to weather)
- H. Approval of street light locations: Central and Andover Road
- I. Approval of street light locations: Keystone Parkway
- J. Approval of revised Developers Agreement: Marketplace East Addition
- K. Approval of vehicle purchase for Fire Department: 2008 Ford Explorer at cost of \$25,900.00.

Motion carried 6/0.

Mayor Lawrence congratulated Officer Lance Parker and Officer Randa Wilson-Evans for their promotions to School Resource Officers. The Mayor also congratulated School Resource Officer Don Roberson for his promotion to Sergeant.

Recognitions and Promotions

Mayor Lawrence explained item 8 is a continuation of the July 10<sup>th</sup> Council meeting discussion concerning the annexation of certain properties of 13<sup>th</sup> Street and Prairie Creek Road. The Butler County Board of Commissioners has approved the annexation of the large agricultural tracts.

13<sup>th</sup> St & Prairie Creek Rd annexation continued from July 10<sup>th</sup> City Council meeting

Mayor Lawrence opened the floor for public comments for anyone with new information regarding the annexation.

Michelle Hansma, 1639 N Prairie Creek, stated she has owned their home since May 1<sup>st</sup> and was unaware of the annexation until their neighbor informed them. They had not received any paperwork and were not told by the previous owner.

Ms. Hansma feels that the entire Easter Addition should be annexed and not just choose a few properties.

Norman Manley, City Attorney, stated the notice provision is to insure that everyone has a chance to be heard. The fact that she is present at this meeting negates any problems with any notice.

Steve Stark, law firm of Fleeson, Goosing, Coulson & Kitch, representing Hoanh and Julie Le of 1145 N Prairie Creek Rd. Mr. Stark stated the Le's own the southwest corner property at 13<sup>th</sup> and Prairie Creek Road and were out of the country at the time of the hearing. The Le's do not agree with the annexation but realize it is probably inevitable. The Le's would prefer the City to go around them and they would consider granting easements for installation of utilities. They will be more vigorous with their opposition when the allocation of costs are presented.

Tony Janzen, 1631 N Prairie Creek Road, would like to see a new listing of the properties to be annexed today. Jeff Bridges explained the benefit district had been reworked and the only change was the removal of the lots on Gwenda Street. Mr. Janzen also inquired about timelines for when they would receive the assessments and when construction would begin.

Jeff Bridges explained for the properties on the north end of Prairie Creek in the proposed annexation area the improvements will be Phase 3 which will probably be in 5 to 6 years. The assessments would probably be in 7 years.

Council Member Hale inquired about the entrances into the proposed Prairie Creek Addition. Mr. Bridges showed a map of the proposed development.

Tony Janzen, 1631 N Prairie Creek, asked the Council to reduce the percentage of cost since the benefit district was changed. Mayor Lawrence explained that it was difficult to find a legal method to keep the cost as low as possible for each individual property owners. The taking out of the lots on Gwenda Street spread their cost to the other properties in the proposed benefit district.

Mr. Janzen believes the Council should wait to annex any of the Easter Addition until the entire addition is viable. He also has concerns about the 175 acres just north of the Prairie Creek addition and why it is not being annexed. Mr. Bridges explained utilities will not be extended that far north.

Daniel Caudell, 1638 N Gwenda Street, wanted to confirm his property was no longer a part of the proposed annexation. He is still concerned about the traffic level and the bridge. Council Member Hale asked Mr. Caudell if he has addressed this issue with Butler County and he stated he had not.

Karen Janzen, 1631 N Prairie Creek Road, stated if the annexation passes tonight she is also very concerned about the level of traffic and the danger of the bridge on Prairie Creek.

Mayor Lawrence closed the public forum and reserved comments to the City Council.

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve the annexation with the removal of the properties on Gwenda Street.

Council Member Hale noted the change in the annexation area was very minor and the largest increase to any one property owner was \$68.00. Jeff Bridges stated the majority of the costs, due to the deletion of the Gwenda Street parcels, went to the Prairie Creek Addition.

Motion carried 6/0.

The City Council recessed for a break at 7:45 p.m.

The City Council returned at 7:50 p.m.

Larry Kleeman, M & I Bank, stated at the last meeting the Council approved the final costs in Mecca Acres, Reflection Lake, The River Addition, and Crescent Lakes. Notices had been sent out notifying property owners of the assessment to be levied on their property and of the hearing this evening. At the conclusion of the public hearing there is an ordinance to officially levy the assessments. Any assessments not paid by August 23, 2007 will be spread over 15 years. The assessments will not begin until the November 2008 tax statements.

Public hearing: special assessments for Mecca Acres, Reflection Lake 2<sup>nd</sup>, The River Addition, and Crescent Lakes IV

Mayor Lawrence opened the public hearing.

Allison Crockett, 828 S Stonewood, Reflection Lake Addition, was surprised when she received the information. She took ownership of the home one year ago and was aware there were special assessments just not in this amount. She also wanted to confirm there would not be any additional assessments with the completion of the subdivision.

Larry Kleeman explained the 2005 advisability resolution initially was authorized by the City. State law requires it be recorded with the Register of Deeds, so when property is purchased it shows on the title search. This then informs the property owner that the City is making improvements and to be prepared for the assessments.

Donna Davis explained how assessments are spread equally among the property owners, whether there is a house on the property or not.

Larry Kleeman explained the assessments need to be paid by August 23 so the amount of the bond can be determined. If a full assessment payment is made after August 23 the property owner would have to include the interest on the 15 year bond.

Frank Berry, 924 Lakecrest, asked if the numbers presented on the notice is accurate as of today. It was confirmed they were.

Mayor Lawrence asked the audience twice if anyone else had anything to say and no one responded, the Mayor closed the public hearing.

Larry Kleeman, M & I Bank, presented Ordinance 1347 which once approved would allow proceeding with the assessments. The interest rate would be determined after the bond sale and his educated estimate would be 4.25%.

Ordinance 1347 – special assessment for Mecca Acres, Reflection Lakes 2<sup>nd</sup>, The River Addition and Crescent Lakes IV

Council Member Jessen inquired when the property owners would receive notice of the interest rate and the amount of the payment. Jeff Bridges explained the property owner can call City Hall after the bond sale or wait for their tax bill.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve Ordinance 1347 as presented.

At this time the public wanted to speak regarding the issue. The Mayor explained he had asked if anyone else wanted to speak prior to closing the public hearing. Council Member Nelson withdrew his motion and Mayor Lawrence reopened the public hearing.

Pete Damico, 709 Lakecrest Court, did not understand why he was being assessed for improvements to an existing dam and pond at \$340,000.00. He has been at this address for five years and would like to have known prior to this notice. He also inquired as to what part is the developer's responsibility. Jeff Bridges explained the developer needed to build the pond and dam to service later phases of the project. The petition, request for improvements, was submitted to the City in 2001 showing unplatted property. Now all the improvements are completed and additions are filled up so it is time to assess the cost. Without the dam the additions would not have been built.

Kevin Darden, 627 Brentwood Court, stated he believes there should be better communication between the City and homeowners. Jeff Bridges reiterated that the information was available on their title search when they purchased the property.

Donna Davis explained that the City sends out notification as soon as final numbers are available.

Steven Dettwiler, 518 Stonetree Place, stated he agreed there was not much notice and that unless you are lawyer most people don't read the fine print to know what the ordinances refer to. He also wonders if there are any other assessments.

Jeff Bridges stated there are no other improvements for Crescent Lakes 4A Addition.

Council Member Dreiling stated that the City Council did not propose these assessments the developer did.

Jane Saunders, 712 E Woodstone Court, stated when they purchased their house two years ago and they were not notified of additional assessments. She does not believe it is right to be dipping into pockets with such little notice and objects to the assessment.

Mike Prewett, 606 N Brentwood Place, stated he feels they have no say in this assessment. He knows the Butler County taxes are very high when compared across the country. Specials are high in Crescent Lakes and there is nothing he could do about it. He had no say in the work that was done but now has to pay a portion of the \$340,000.00 bill. He inquired at what point is the developer held accountable. He and his neighbors drainage doesn't even work.

Rod Holter, 919 Lakecrest, currently building at 918 Lakecrest wanted to know if the future development on Lakecrest would be assessed to him. Donna Davis explained that there is another pond and dam petition that will be assessed to 4B and 5, which includes his property. Mr. Holter stated that he was not made aware of at the time of purchase.

Mayor Lawrence explained that part of the issue is with the process; there is no notification because we do not know have a final cost and we do not want to send out misleading information.

Jeff Bridges reiterated that title work shows the encumbrances for the property.

Pete Damico, 719 Lakecrest Court, inquired if Phase 2 is done with assessments and Donna Davis confirmed it is complete.

Mr. Damico also inquired what the issue is with moving the date to pay back by a month. Donna Davis explained the project was paid for with temporary notes and they are due in September. We have to get the bonds to pay off the notes.

Ryan Broutlette, 624 Woodstone Drive, opposed to the assessments. He works for a national company and has moved five times in five years. He sees this as a \$2,000.00 liability against him when he sells. He did not read the fine print and did not know anything about the assessment. Would ask the Council to consider that the assessment spread over 15 years is too much.

Mayor Lawrence asked three times if anyone else would like to speak.

There was some further discussion regarding how special assessments work.

Jane Saunders, 712 E Woodstone, believes the assessments should be covered under what they already are paying. Her home is also one that has very poor drainage and she had reported to the developer who in turn told her it was because of her landscaping.

Jeff Bridges stated he would ask Rick Lanzrath, Storm Water Utilities, to visit with some of the homeowners regarding the drainage.

Council Member Julie Reams stated she has drainage problems at her home in Reflection Lakes and the best bet is to fix it yourself.

Mayor Lawrence stated that the builder is responsible, there is a master drainage plan, and keep calling your builder until something happens. Unfortunately the builder passes the buck to the developer and the developer passes it to the City Council.

Mike Prewett, 606 N Brentwood Place, asked if the City sends someone out to take a look at the drainage problems will there be another assessment. Jeff Bridges explained that there was a master drainage plan and it needs to be determined if it was adhered to or not. Then address what obstacles there are to correct the deficiencies and who is responsible.

Mr. Prewett stated he has been given an ultimatum to pay this assessment yet there are drainage problems so why should he have to pay. He also stated the drainage issue is through the entire development and has been since he moved in seven years ago. He believes that the builders and developers should be held accountable.

Kim Darden, 627 Brentwood Court, pulled her title work after she received her assessment notification and found the one line sentence in addition to 14 other things on the title work. She obtained the resolution and it was nine pages, now she wonders if she should obtain the 13 others and hire an attorney to read the fine print. She also inquired about the bidding process as far as cost containment or cost control.

Mayor Lawrence explained the City managed the project and 99% of the projects are competitively bid. The assessment amount is from when the actual work is done. The bid tabulations are kept on file at City Hall.

Jeff Bridges explained that the resolution specifies a projected total cost which cannot be exceeded. When a set of petitions is accepted there is a five year limit to act on or the project becomes "stale".

Larry Kleeman added that there is no state law that requires projects to be completed in a certain length of time once they have been approved. The City could apply a time limit as long as it does not conflict with any state laws.

Jeff Bridges stated the City follows the legal disclosure but if the Council wanted to they could add a paragraph or coversheet stating in general what the resolution means and put with the title work. As long as there are improvements impacting more than one addition you will continue to have these types of assessment issues.

Sherry Rickard, 745 N Woodstone, stated a lot of people in attendance should know her; she is the real estate agent who probably sold them their house. And if so, they signed a form informing them what the potential assessments would be

based on future improvements for the upcoming dam. She felt many were surprised, but most were confused.

Council Member Hale asked Ms. Rickard if there was any chance that a home buyer in Crescent Lakes would not have received the projected assessment paperwork. Ms. Rickard stated they added this paperwork to the buyer’s contract so the only way they would not have received it is if a cooperative agent did not use their contract.

Mayor Lawrence asked twice if anyone would like to speak. No one responded and again he closed the public hearing.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve Ordinance 1347. Motion carried 6/0.

Larry Kleeman, M & I Bank, presented Resolution 07-19 which will authorize the bond sale at the August 28 meeting.

Resolution 07-19 – public sale of general obligation bonds

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

Mayor Lawrence asked if anyone had any comments regarding Vacation Case VA-2007-04.

VA-2007-04 – 308 E Central

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

Cynthia Gardner, a concerned citizen, came to discuss the new YMCA and the lifeguards that they will be hiring. She would like the Council to consider asking for stricter guidelines for lifeguards. Ms. Gardner presented a draft of safety measures.

Cynthia Gardner – lifeguard standards

Council Member Nelson thanked Ms. Gardner for her time and the information she provided.

Council Member Hale stated that Police Chief Keller and Council Member Reams are on the YMCA Board and could address the matter.

Mayor Lawrence stepped down from the bench due to a conflict of interest concerning the Hike/Bike path. Council Member Nelson will conduct the discussion as Council President.

Private improvements on public right of way

Jeff Bridges stated that staff had investigated the replacement of sprinkler systems and to sod; the estimate received was anywhere from \$40,000.00 to \$100,00.00 per mile. From what is currently budgeted an additional \$10,000.00 would have to be added. For future estimates you would want to estimate a full mile to add \$100,000.00 to \$150,000.00. If we change the policy we would want to do this upfront with projects.

Council President Nelson asked if anyone in the audience had any comments. No one spoke.

Council Member Dreiling feels that the City should find some monies to help pay for the repair of at the least some of the damage. We would not pay for those who did not remove the sprinkler heads as notified.

Council Member Reams stated she thinks this is could be setting a precedence to be paying for any damage done in the City.

Ben Lawrence, 948 N Andover Road, stated the difference in putting in a neighborhood sidewalk and that of basically being made to irrigate the land within the City right of way by the Site Plan Review Committee. Had the Site Plan Review Committee not required him to do this he would not feel as bad. When he asked the contractor to provide any information as to when the project would be complete at his location he could not give any answers.

Council Member Dreiling stated the City should not expect the property owner to water the right of way and then come tear it up and except the property owner to pay again. Council President Nelson concurred.

Jeff Bridges explained there are utility easements through every front yard, back yard, and side yard in the City and if it is decided to repair these right of ways are we going to repair every time we fix a sewer line? What exposure will the City have when utility companies create damage?

Council Member Hale stated she believes there is a difference between commercial and residential properties. The costs should possibly be built in to each projects cost.

Ben Lawrence stated that 60-65% of the properties on Andover Road were damaged by the building of the bike path.

Jeff Bridges stated that past City Councils have not paid these costs; this is a new issue and was not budgeted.

Council President Nelson would like this issue to be brought to the Site Plan Review Committee.

Jeff Bridges stated that if the Council is leaning towards paying for some of these damages they would draw the funds from the street reserve fund. A determination would be made how much would be paid to each individual depending on the amount of damage. Receipts would be required for any reimbursement.

Council President Nelson asked staff to prepare a proposal for a future policy.

Jeff Bridges stated for the current damage staff will get with the land owners, get the damage information, what it will cost to repair.

Mayor Lawrence returned to the bench.

Sheri Geisler, 554 Stonecreek, wanted to assure everyone that the Council would have obtained the best price there was. She did ask for clarification on the benefit district for Crescent Lakes specials. Donna Davis explained as she had earlier in the meeting.

Member Items

Member items

J.R. Jessen – Lioba, Onewood and Douglas streets and the amount of traffic on them needs to be patrolled more. Chief Keller stated he would advise his officers.

Kevin Dreiling – stated it was nice to see past Council Member Geisler.

Caroline Hale – stated the screening around the can recycle bin at the Senior Center is a great place for police cars to hide while watching for speeders.

Clark Nelson – thanked Cynthia Gardner for being present and that the suggestions would be taken seriously.

Julie Reams – stated that she and Chief Keller are members of the YMCA Board for Andover and will take Ms. Gardner’s concerns to them.  
- she also reminded everyone that National Night Out will be August 8, at the Andover Plaza.

Carol Roberts – no items

Mayor Lawrence inquired about the progress of the road in Cornerstone to the new elementary school. Jeff Bridges stated the expectation is completion in the next two weeks.

- The Parks Committee is looking for volunteers; if anyone is interested please contact City Hall or Council Member Hale.

A motion was made by Council Member to adjourn at 9:30pm, seconded by Council Member Jessen. Motion carried 6/0.

Adjourn

Respectfully Submitted by

Susan Renner  
Administrative Secretary

Approved this 14th day of August, 2007 by the City Council, City of Andover.

Jeffrey K. Bridges  
City Clerk