



- B. Receive & file Minutes:
- C. Receive & file reports:
  - i. Finance                    June 2008
  - ii. Fire                        June 2008
- D. Approval of appropriation ordinance B-12-08 in the amount of \$1,438,668.23
- E. **Approve Change Order Five** (moved to regular agenda) - - revise substantial dates of the Andover Hike/Bike Project
- F. Accept a proposal from the library contractor, Walz Harman Huffman, to demolish the storage building on the new library site at no cost.
- G. Accept the Right of Way Dedication from Kathleen Guy, 807 S Andover Road, Andover.

Motion carried 5/0.

Council Member Roberts inquired why the date changes were past dates. The substantial completion date changing to November, 15, 2007 and the final payment date to June 30, 2008. Les Mangus explained the project had been completed and paid for, this is a formality in finishing up paperwork with the Kansas Department of Transportation. There had been a delay in some of the landscape work due to the weather.

Change Order Five  
Hike/Bike Project

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve the change order. Motion carried 5/0.

J.T. Klaus, Triplett, Woolf and Garretson, City Bond Council, a resolution indicating the intent of the governing body of the City of Andover, Kansas, to issue certain taxable industrial refunding and improvement revenue bonds in an aggregate principal amount of not to exceed twelve million three hundred sixty thousand dollars (\$12,360,000) for the combined purposes of (i) purchasing, acquiring, constructing, furnishing and equipping an extended-care skilled nursing facility to be located in the City of Andover, Kansas and (ii) refunding and redeeming the outstanding City of Andover, Kansas Taxable Industrial Revenue Bonds, Series A, 2004 (Andover Senior Care, LLC) and subordinated Taxable Industrial Revenue Bonds, Series B, 2004 (Andover Senior Care, LLC) and to repeal resolution nos. 08-13 and 08-18.

Resolution 08-29  
Andover Senior Care LLC  
Industrial Bonds  
\$12,360,000

Mr. Klaus explained this resolution is presented due to changes regarding the existing indebtedness and the debtor, Andover Senior Care LLC, now is one in the same with The Fountains.

After discussion a motion was made by Council Member Hale, seconded by Council Member Reams, to approve the resolution as presented. Motion carried 5/0. Resolution No. 08-29 was assigned.

Jeff Bridges, DeWaay Financial, City Financial Advisor, presented a resolution determining the advisability of making certain internal improvements in the City of Andover, Kansas; setting forth the general nature of the improvements, the estimated or probable costs thereof, the extent of the benefit district to be assessed for the costs thereof, the method of assessment and the apportionment of the costs between the benefit district and the City at large; authorizing and providing for the making of the improvements in accordance with the findings of the governing body; and directing the publication and recording of this resolution (Lee Street improvements).

Lee Street Improvements

After discussion a motion was made by Council Member Dreiling, seconded by Council Member Reams, to table the resolution until the next City Council meeting, July 29, 2008. Motion carried 5/0.

Sasha Stiles is to contact the proposed benefit district property owners and provide them with some estimated costs for the project.

Mike Thompson, POE & Associates, City Engineer, presented an agreement for the Mike, May, and Main Streets Rehabilitation with POE & Associates. Norman Manley, City Attorney had approved the contract.

Mike, May & Main Streets rehabilitation contract with POE & Assoc.

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve the contract. Motion carried 5/0.

Mayor Lawrence presented an ordinance approving a special use in the B-6 Business District to establish certain permitted uses allowed in the B-2 Neighborhood Business District and B-3 Central Shopping District on 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 1187.

Ordinance 1401  
SU-2008-01  
13<sup>th</sup> & Andover Road

The Mayor asked the City Council if anyone intended to disqualify themselves from discussing or voting on this case due to any conflicts of interest or particular bias. No one did.

The Mayor asked Susan Renner, Deputy City Clerk, if the City had received any protest petitions. She responded she had not.

The Mayor confirmed with the Council that they had received the June 17, 2008, Planning Commission meeting minutes.

The Mayor asked the applicant's agent, Phil Meyer, Baughman Co., if they felt they had a fair and impartial hearing at the Planning Commission meeting, he responded they had.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus explained this was an effort by the property owners to allow mixed commercial and light storefront industrial uses.

**ANDOVER CITY PLANNING COMMISSION  
REZONING REPORT \***

- CASE NUMBER: SU-2008-01**
- APPLICANT/AGENT: D & M Enterprises and Bill King/ Baughman Co.**
- REQUEST: Special use to establish retail and service businesses in the B-6 Business District**
- CASE HISTORY: Vacant lot & spec. building under construction**
- LOCATION: Southeast corner of Andover Rd. & 13<sup>th</sup> St.**
- SITE SIZE: 280' X 380'**
- PROPOSED USE: Retail & service businesses integrated with commercial & light industrial uses**

**ADJACENT ZONING AND EXISTING LAND USE:**

- North: B-3 & B-6 Mixed use office/warehouse complex under construction
- South: B-6 Treescapes Outdoor Living Center & contractor's yard
- East: I-1 International Cold Storage assembly plant
- West: B-2 Office & Commercial uses intermixed with R-2 single family residences

**Background Information:**

\* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission's considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and

proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

**FACTORS AND FINDINGS:**

1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF: See Adjacent Zoning and Existing Land Use listed above.  
PLANNING: North: B-3 & B-6 mixed use office/warehouse complex under construction; South: B-6 Treescapes Outdoor Living Center and contractor’s yard; East: I-1 International Cold Storage assembly plant; West: B-2 Office & Commercial uses intermixed with R-2 single family residences; and Subject Property B-6 Business District.  
COUNCIL: Concur

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

YES NO

STAFF: See Adjacent Zoning and Existing Land Use listed above.  
PLANNING: Current zoning: B-6 Business District; North B-3 and B-6 mixed use office/warehouse complex under construction; B-6: Treescapes Outdoor Living Center and contractor’s yard; East: I-1 International Cold Storage assembly plant; and West: B-2 Office & Commercial uses intermixed with R-2 single family residences.  
COUNCIL: Concur

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X STAFF:  
X PLANNING:  
COUNCIL: Concur

4. Would the request correct an error in the application of these regulations?

YES NO

X STAFF:  
X PLANNING:  
COUNCIL: Concur

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO  
X

STAFF: The increased traffic and activity in the area make the property more suitable for mixed commercial uses

X PLANNING:  
COUNCIL:

Concur

6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?

YES NO  
X

STAFF: All are in place & adequate

X PLANNING:  
COUNCIL: Concur

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO  
X

STAFF:

X PLANNING:

COUNCIL: Concur

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO  
X

STAFF:

X PLANNING:

COUNCIL: Concur

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

YES NO  
X

STAFF: A similar building is being built north of the subject property

X PLANNING:

COUNCIL: Concur

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO

X STAFF:  
X PLANNING:  
COUNCIL: Concur

11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

YES NO

X STAFF:  
X PLANNING:  
COUNCIL: Concur

12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

X STAFF: No detriment is perceived compared to the existing permitted uses  
X PLANNING: No detriment.  
COUNCIL: Concur

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

X STAFF: Case by case review of listed special uses.  
X PLANNING:  
COUNCIL: Concur

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X STAFF: The Comp. Plan suggests case by case review of commercial properties along Andover Rd.  
X PLANNING:  
COUNCIL: Concur

15. What is the support or opposition to the request?

YES NO

STAFF: None at this time

PLANNING: None.  
COUNCIL: Concur

16. Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?

YES NO  
X

STAFF: Approval as applied for  
PLANNING: Consider more restrictions.  
COUNCIL: Concur

17. If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO

STAFF:  
X PLANNING:  
COUNCIL:

Chairman Coon asked Les Mangus if the idea is to make the area more of a transition zone, could some of the B-6 uses be eliminated. Les Mangus said that was a possibility. Jan Cox suggested eliminating some of the B-2 uses. Mr. Ewy said it was his experience in writing zoning codes that the application being sought was a Special Use which would not extract uses from the B-6 district. Les Mangus explained the Commission can approve the Special Use conditioned on eliminating some of the permitted uses in the B-6 district.

Byron Stout asked Jan Cox what she would like to remove from the B-2 list. Jan Cox replied barber shops, beauty shops, drug stores, tailor shops gift shops and florist shops to stay away from high traffic businesses. Byron Stout stated that although Treescapes is in the B-6 zoning district, in looking at it it is more of a retail type business and he did not see much difference in it and the permitted uses left on the B-2 and B-3 district list. He continued by saying if you look up and down Andover Road those types of services are the direction it is going.

John Cromwell stated he felt the application was fine as presented. Chairman Coon asked if the Commission was opposed to making a customized list of permitted uses. John Cromwell said he was not opposed to it but felt it was not a necessity.

*Byron Stout made a motion to approve SU-2008-01 for Lot 2, Block A as presented based on findings 3, 4, 6, 8, 10 and 11. Dan Beck seconded the motion. Chairman Coon asked if there was any discussion. Lynn Heath said he felt the motion should be amended to include number 14 in the list of factors and findings. Byron Stout amended his motion to be based on findings 3, 5, 6, 8, 10, 11 and 14. Motion carried 5/1.*

The Mayor asked Mr. Meyer if they had any further information to provide. He did not.

The Mayor opened the public hearing. No one spoke. The public hearing was closed.

Public Hearing  
SU-2008-01

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve the Special Use as requested based on the Planning Commission findings of items 3, 5, 6, 8, 10, 11 and 14. Motion carried 5/0.

Mike Thompson, POE & Associates, City Engineer, presented plans for the water and sewer improvements for the Cottonwood Point 2<sup>nd</sup> Addition and asked the Council to approve the plans and authorize the taking of bids.

Cottonwood Point 2<sup>nd</sup>  
Water & Sewer  
Improvements

A motion was made by Council Member Hale, seconded by Council Member Dreiling, to accept the plans and authorize the taking of bids on July 29, 2008, at 11:00 a.m. at Andover City Hall, 909 N Andover Road. Motion carried 5/0.

Sasha Stiles presented the Council with the 2009 Home Show Booth Contract for review and discussion.

2009 Home Show Booth  
Contract

Council Member Reams asked who was going to be involved in working the booth. She felt that the last show went well but needs much improvement.

Council Member Dreiling stated he felt it is the City's responsibility.

After a discussion Mayor Lawrence stated he would gather levels of participation from P.A.I., Andover Chamber, etc. and locate a lead individual and bring back the information to the Council by the next meeting, July 29, 2008.

A motion was made by Council Member Reams, seconded by Council Member Roberts, to table the issue until the next Council meeting, July 29, 2008. Motion carried 5/0.

A motion was made by Council Member Reams, seconded by Council Member Roberts, at 8:06 p.m. to go into executive session for approximately 5 minutes to discuss non-elected personnel.

Executive Session  
Property Acquisition

After a brief discussion the Council changed the order of executive sessions as listed on the agenda. Council Member Roberts withdrew her second.

Council Member Reams amended her motion to go into executive session for approximately 5 minutes to discuss property acquisition and to include the Council, Mayor, Norman Manley, Les Mangus, and Sasha Stiles, motion was seconded by Council Member Roberts. Motion carried 5/0.

A motion was made by Council Member Hale, seconded by Council Member Reams, at 8:14 p.m. to come out of executive session. Motion carried 5/0.

A motion was made by Council Member Hale, seconded by Council Member Nelson, at 8:16 to go into executive session for approximately 10 minutes to discuss legal matters and include the Council, Mayor, Norman Manley, Sasha Stiles, Les Mangus, and State Representative Ty Masterson. Motion carried 5/0.

Executive Session  
Legal Matters

A motion was made by Council Member Dreiling, seconded by Council Member Reams, at 8:37 p.m. to come out of executive session. Motion carried 5/0.

A motion was made by Council Member Dreiling, seconded by Council Member Reams, to consider a co-op with Butler County with an expenditure of \$15,000 for a proposed business in the Andover Industrial Park. Motion carried 5/0.

A motion was made by Council Member Hale, seconded by Council Member Reams, at 8:38 p.m. to go in to executive session for approximately 20 minutes to discuss non-elected personnel and include the Council, Mayor, and Marla Flentje of Austin Peters Consulting. Motion carried 5/0.

Executive Session  
Non-elected Personnel

A motion was made by Council Member Dreiling, seconded by Council Member Reams, at 9:02 p.m. to come out of executive session. Motion carried 5/0.

Member Items:

Member Items

Council Member Dreiling had none.

Council Member Hale had none.

Council Member Nelson had none.

Council Member Reams stated the summer reading program party is July 25 from 5-8 p.m. at Central Park.

Council Member stated National Night Out is August 5 from 6-8:30 p.m. at Central Park. There will be lots of food, games, prizes, live band and more.

Council Member Roberts inquired about a pile of dirt on Douglas by Sunflower Elementary and who it belongs to. Mayor Lawrence stated it belongs to the school.

A motion was made by Council Member Reams, seconded by Council Member Dreiling, at 9:05 p.m. to adjourn. Motion carried 5/0.

Adjourn

Respectfully Submitted by

Susan Renner  
Deputy City Clerk

Approved this 29th day of July, 2008 by the City Council, City of Andover.