

ANDOVER CITY COUNCIL
Tuesday, November 08, 2011
Minutes

1. Mayor Lawrence called the meeting to order.

2. Roll Call

Members present were Mayor Ben Lawrence, Council Member Byron Stout IV, Council Member Sheri Geisler, Council Member Dave Tingley, Council Member Clark Nelson, Council Member Caroline Hale, Council Member Troy Tabor, Administrative Services Director Donna Davis, Police Chief Mike Keller, Deputy Fire Chief Mike Roosevelt, Assistant City Administrator Jennifer McCausland (a/v), City Attorney Norman Manley, Public Works & Community Development Director Les Mangus, City Clerk Susan Renner, City Administrator Sasha Stiles, Communications/IT Director Bill Duggan, City Bond Counsel Andrew Kovar.

3. Invocation was given by Pastor Leon Hiebert of the Andover Police Department Chaplains and New Generations Church of Andover.

4. Mayor Lawrence led the Pledge of Allegiance

5. Mayor Lawrence opened the public forum. No one spoke. Mayor Lawrence closed the public forum.

6. Acceptance of Agenda

Mayor Lawrence asked for agenda item 12) a resolution regarding employee vacations, to be removed from the agenda for further discussion at an upcoming Council Workshop. Council Member Sheri Geisler requested consent agenda item m) Mayoral appointments, be moved to the regular agenda for discussion.

A motion was made by Council Member Clark Nelson, seconded by Council Member Caroline Hale to accept the agenda as modified. Motion carried 5/1. Council Member Troy Tabor opposed.

7. Mayor Lawrence opened the public hearing for Vacation Case VA-2011-04 at 7:04 p.m. No one spoke. The hearing was closed.

- a. VA-2011-04- a petition for the vacation of the Final Planned Unit Development Plan the Village at Flint Hills - First Phase of Riverstone Reserve (general location intersection of Andover Road and SW 130th Street)

Sasha Stiles presented an email from the property owner who was unable to attend.

8. Consent Agenda

- a. Approval of Minutes
 - i. City Council Workshop: October 24, 2011
 - ii. City Council Meeting: October 25, 2011

- b. Receive & file reports
 - i. Finance: October 2011
 - ii. Fire: October 2011

- c. Receive & file minutes
 - i. Site Plan Review: August , 2011, October 14, 2011
 - ii. Planning Commission: September 20, 2011

- d. Approval of appropriation ordinance B-20-11 in the amount of \$ 335,792.13.

- e. Approval of non-elected personnel items

Lee Nygaard, Master Police Officer II position change to Master Police Officer III, with a salary increase from \$18.48 per hour to \$18.81 per hour, effective October 31, 2011.

- f. Approval of a check request for CVB funds to Express Inn for the hotel voucher program in the amount of \$1,760 (9/6/11-10/27/11).

- g. Approval of employee service awards

5 year service award and \$100
Police Department
Mickey Farris, Mark Werbin, Lance Parker, Kelli Galloway, Travis Hooper
City Administration
Susan Renner, Julie Spyres, Rick Lanzrath
Street Department
Stan Gibson

10 year service award and \$200
Police Department
Randy Coffman, Steve Harryman, Donald Roberson
Fire Department
Rocky Craig

- h. Approval of Police Department General Orders: O2106 Racial and Other Biased-Based Policing; O2306 Excited Delirium; M1201 Standards of Conduct; O2406 Canine Teams
- i. Approval of the annual appreciation gift for each employee of \$10 in Andover Chamber Bucks for a total purchase of \$790.
- j. Approval of the Cereal Malt Beverage license renewal for 2012: Dillon #85, 225 E Cloud
- k. Approval of KDOT/Cornejo & Sons change order 2 for sidewalk elevation for the 21st Street project (\$708)
- l. Approval of a correction to the August 30, 2011 City Council minutes consent agenda item h) regarding a Mayoral appointment. Correct the minutes to read: Approval of the Mayoral appointment of Shane Davis, 555 N. Stonetree Place, Andover, to the Planning Commission inside City limits position vacated by Nikki Huntington with the term expiring May 2013.
- m. *Approval of the Mayoral appointment of Aaron Masterson to the Planning Commission (out of City limits-term expire May 2012). moved to the regular agenda for discussion*
- n. Approval of the Police Department purchase of a mobile computer system for Patrol Unit #18 in the amount of \$3,968.50, including installation, from Data911 of Alameda, California.
- o. Approval of the Police Department purchase of two chairs for 911 seating in the amount of \$2,180.88, including shipping and set up, from Endura! of Waukesha, Wisconsin.

A motion was made by Council Member Clark Nelson, seconded by Council Member Dave Tingley to approve the consent agenda with the exception of item m) which has been moved to the regular agenda for discussion. Motion carried 6/0.

Mayor Lawrence presented item m) Mayoral Appointment of Aaron Masterson to the Planning Commission from the consent agenda.

Council Member Sheri Geisler expressed her concern that she did not know Mr. Masterson and the connection with one family member who is a State Senator and one who is a Butler County Commissioner. She believes there is an appearance of influence and asked if there was an urgency to fill the open position as she has three candidates in mind.

Council Member Clark Nelson countered her position and commended Mr. Masterson and his family for making efforts to be involved in this community and the State of Kansas. Council Member Clark Nelson added he believes Mr. Masterson would be a good member for the Planning Commission and supports his nomination.

Mayor Lawrence asked why at this moment she had three nominations he was not aware of as he relies on the Council for these nominations. Mayor Lawrence added he has looked into Mr. Masterson's involvement and history serving the community and his nomination stands. Any others interested in serving will be considered as positions come open.

Council Member Byron Stout stated he has known Aaron Masterson for a long time and believes him to be a man of character and an upstanding citizen. Council Member Byron Stout stated Mr. Masterson will stand on his own, he is not his brother, he understands her concern but he believes Mr. Masterson will bring opinions, skills, knowledge and a willingness to serve.

Council Member Dave Tingley stated his father is on the Butler County Planning Commission and in no way, shape or form influences his decisions as Council Member and he would expect the same from Aaron.

A motion was made by Council Member Dave Tingley, seconded by Council Member Byron Stout to approve the Mayoral appointment of Aaron Masterson to the Planning Commission (out of City limits-term to expire May 2012). Motion carried 5/1. Council Member Sheri Geisler opposed.

9. [Vacation Order VA-2011-04 a petition for the vacation of the Final Planned Unit Development Plan the Village at Flint Hills - First Phase of Riverstone Reserve \(general location is at the intersection of Andover Road and SW 130th Street\)](#)

Les Mangus explained this was the platted first phase of a 130 acre project that had not made it to the improvement stage and the developer would like to relieve himself of the responsibility of the letters of credit until they have the opportunity to move forward with the project. The zoning will remain but all other documents will be void and at such time they move forward with a development the process with platting etc. will start over.

Sasha Stiles added the City has certain requirements of land developers preventing the sale of residential lots without improvements.

A motion was made by Council Member Clark Nelson, seconded by Council Member Sheri Geisler to approve Vacation Order VA-2011-04 a petition for the vacation of the Final Planned Unit Development Plan the Village at Flint Hills - First Phase of Riverstone Reserve. Motion carried 6/0.

10. SU-2011-02 request to establish an external storage building and external yard storage for the storage of building products and materials, such as hardware material, lawn and garden products, rental equipment (not over 17'-0" in height), and lumber at 642 N. Andover Rd.

Mayor Lawrence asked the Council Members if any wish to disqualify themselves from participation in this case because they have a conflict of interest. No one did.

Mayor Lawrence asked the Council Members if they had received the minutes from the October 18, 2011 Planning Commission meeting. They responded they had.

Les Mangus reported the new owners of the former Ace Hardware would like to expand their product line with building materials and possibly some rental equipment and would require outside storage. Planning Commission recommends approval.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

SPECIAL USE REPORT *

CASE NUMBER: SU-2011-02

APPLICANT/AGENT: TND Investments, LLC/ Architectural Innovation LLC

REQUEST: Special Use requested to establish an external storage building and external yard storage for the storage of building products and materials, such as hardware material, lawn and garden products, rental equipment (not over 17'-0" in height), and lumber in the B-3 Central Shopping District. If recommended for approval, additional requirements may be considered to make such a use compatible to the neighborhood.

CASE HISTORY:

LOCATION: 642 N. Andover Rd.

SITE SIZE: 2.25 acres

PROPOSED USE:

ADJACENT ZONING AND EXISTING LAND USE:

- North: B-3 Central Shopping – commercial building
- South: B-4 Central Business – strip commercial building
- East: R-2 Single Family – single family dwellings
- West: R-1 Single Family – single family dwellings

Background Information: The subject property currently houses an 8,000 square foot hardware store on about the front 1/3 of the 2.25 acre site.

* 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 special use recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission’s considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

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 are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

STAFF:
PLANNING:

		COUNCIL:	
YES	NO	2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? (See Adjacent Zoning on page 1 of 4)	STAFF: PLANNING: COUNCIL:
YES	NO	3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?	STAFF: The subject property is currently vacant. The new owner intends to expand the product and service line. PLANNING: COUNCIL: Concurred with Planning Commission
YES	NO	4. Would the request correct an error in the application of these regulations?	STAFF: PLANNING: COUNCIL: Concurred
YES	NO	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?	STAFF: PLANNING: COUNCIL: Concurred with Planning Commission
YES	NO	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?	STAFF: The subject property is currently served by public water, sewer, and has direct access to a public street via one private driveway on Andover Rd. PLANNING: COUNCIL: Concurred with Staff
YES	NO	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?	STAFF: PLANNING: COUNCIL: Concurred
YES	NO	8. Would a screening plan be necessary for existing and/or potential uses of the subject property?	STAFF: The addition of outdoor storage brings concerns of the visibility of stored materials and equipment PLANNING: COUNCIL: Concurred
YES	NO	9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?	STAFF: N.A. PLANNING: COUNCIL:
YES	NO	10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?	STAFF: PLANNING: COUNCIL: Concurred
YES	NO	11. Is the subject property suitable for the current zoning to which it has been restricted?	STAFF: PLANNING: COUNCIL: Concurred
YES	NO	12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?	STAFF: Visibility of stored materials and equipment from the residences adjacent to the east. PLANNING: COUNCIL: Concurred

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| YES | NO | 13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations? |
| X | | STAFF: |
| X | | PLANNING: |
| | | COUNCIL: Concurring |
| | | |
| YES | NO | 14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan? |
| X | | STAFF: |
| X | | PLANNING: |
| | | COUNCIL: Concurring |
| | | |
| YES | NO | 15. What is the nature of the support or opposition to the request? |
| | | STAFF: None at this time. |
| | | PLANNING: |
| | | COUNCIL: |
| | | |
| YES | NO | 16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation? |
| X | | STAFF: Approval as applied for conditioned on the screening as approved by the Site Plan Review Committee. |
| X | | PLANNING: |
| | | COUNCIL: Concurring |
| | | |
| YES | NO | 17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request? |
| | | STAFF: |
| | | PLANNING: |
| | | COUNCIL: |

Having considered the evidence at the hearing and the factors to evaluate the special use application, I Andrew Hart, move that we recommend to the Governing Body that Case No. SU-2011-02 be approved for the establishment of an external storage building external yard storage in the B-3 Central Shopping District based on the findings of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Ken Boone. Motion carried 5/0.

A motion was made by Council Member Caroline Hale, seconded by Council Member Troy Tabor to approve an ordinance approving a special use to establish an external storage building and external yard storage for the storage of building products and materials, such as hardware material, lawn and garden products, rental equipment (not over 17’-0” in height), and lumber in the 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 and based upon the Planning Commission findings and factors. Motion carried 6/0. Ordinance number 1501 was assigned.

[11. An ordinance authorizing the City of Andover, Kansas to issue its Taxable Industrial Revenue Bonds, Series 2011 \(Vornado Air, LLC\), in the aggregate principal amount of \\$1,000,000 for the purposes of \(1\) purchasing, acquiring, constructing, furnishing and equipping an expansion to an existing warehouse facility located in the City of Andover, Kansas; and \(2\) paying certain costs of issuance; authorizing the execution of a trust indenture by and between the City and UMB Bank, N.A., as trustee; authorizing execution of a lease between the City and Vornado Air, LLC; approving the form of a guaranty agreement; authorizing the execution of a bond placement agreement by and between the City, Vornado Air, LLC, and UMB Bank, N.A., as purchaser of the bonds.](#)

Andrew Kovar, Triplett, Woolf Garretson, City Bond Counsel, was present for questions. The public hearing and resolution of intent for these bonds were considered and approved at the September 27, 2011 City Council meeting.

A motion was made by Council Member Clark Nelson, seconded by Council Member Sheri Geisler to adopt an ordinance authorizing the City of Andover, Kansas to issue its Taxable Industrial Revenue Bonds, Series 2011 (Vornado Air, LLC), in the aggregate principal amount of \$1,000,000 for the purposes of (1) purchasing, acquiring, constructing, furnishing and equipping an expansion to an existing warehouse facility located in the City of Andover, Kansas; and (2) paying certain costs of issuance; authorizing the execution of a trust indenture by and between the City and UMB Bank, N.A., as trustee; authorizing execution of a lease between the City and Vornado Air, LLC; approving the form of a guaranty agreement; authorizing the execution of a bond placement agreement by and between the City, Vornado Air, LLC, and UMB Bank, N.A., as purchaser of the bonds. Motion carried 6/0. Ordinance number 1502 was assigned.

12. [A resolution amending the Code of Municipal Policies, City of Andover, Chapter 2, Personnel, Article 2 -6 Personnel Handbook. \(Vacations\)](#)

This item was removed from the agenda.

13. [Summit software purchase for utility billing](#)

Sasha Stiles presented a proposal from Data Technologies Inc. for an enhancement to our current billing software to allow emailing of the monthly utility bills to customers.

Council Member Byron Stout stated he would like to see what kind of savings this generates for the City.

A motion was made by Council Member Byron Stout, seconded by Council Member Troy Tabor to approve the purchase of the software in an amount not to exceed \$1,590 and includes remote installation and four hours of staff training from Data Technologies of Omaha, Nebraska. Motion carried 6/0.

14. [Andover Road pavement repair](#)

Les Mangus stated during the final inspection of the 2011 street rehab project a pot hole at approximately 300 S. Andover Road was determined to have a void under the pavement. The repair would be too much for our street department to undertake in a timely manner and the contractor can make the necessary repairs in one day. Staff requests authorization to have Cornejo & Sons begin repairs in an amount not to exceed \$3,000.

A motion was made by Council Member Troy Tabor, seconded by Council Member Byron Stout to approve the repair as requested. Motion carried 6/0.

15. [Member Items](#)

Byron Stout

- Commented on the FaceBook page regarding the recent earthquake.

Council Member Sheri Geisler had none.

Council Member Dave Tingley had none.

Council Member Clark Nelson had none.

Council Member Caroline Hale

- Reminded everyone of the FEMA/FCC national emergency test on Wednesday, November 9.
- Stated she would like to attend the Tour Butler and the Leadership Butler events but has a previous commitment with Crime Stoppers.
- Reminded everyone Hometown Christmas is Thursday, December 8.

Council Member Troy Tabor

- Stated the importance of the city staff saving money.

Mayor Lawrence stated the employee appreciation event is being scheduled for either January 21 or February 4, 2012.

16. Adjourn

A motion was made by Council Member Byron Stout, seconded by Council Member Sheri Geisler at 7:38 p.m. to adjourn Motion carried 6/0.

Respectfully Submitted by

Susan Renner
City Clerk

Approved this 29th day of May, 2011 by the City Council, City of Andover