

**ANDOVER CITY COUNCIL  
Tuesday, December 11, 2012  
Minutes**

1. [Mayor Ben Lawrence called the meeting to order.](#)
2. [Roll Call](#)

Council Members: Byron Stout IV, Sheri Geisler, Troy Tabor, Caroline Hale, Kris Estes and Clark Nelson were present.

Staff: Police Chief Mike Keller, Chief Financial Officer Donna Davis, Fire Chief Jim Shaver, Assistant City Administrator Jennifer McCausland, City Attorney Norman Manley, Public Works & Community Development Director Les Mangus, City Clerk Susan Renner, and City Administrator Sasha Stiles.

A/V staff: Bill Duggan

3. [Invocation was given by Pastor Leon Hiebert of the Andover Generations Church and Police Department Chaplains.](#)
4. [Pledge of Allegiance was led by Mayor Ben Lawrence.](#)
5. [There were no comments made during the Public Forum.](#)
6. [Acceptance of Agenda](#)

A motion was made by Council Member Clark Nelson, seconded by Council Member Sheri Geisler, to accept the agenda as presented with the addition of Planning Commission draft minutes from November 20, 2012, for agenda item 10. Motion carried 6/0.

7. [Presentations](#)

- a. Commission on Accreditation for Law Enforcement Agencies (CALEA)  
Assessment - Captain Justin Phillips, Andover Police Department

Captain Phillips explained the accreditation process began three years ago and once completed will provide the department with improved management decisions, preparedness programs, enhance community relationships, strengthen accountability and reduce liability and risk exposure.

In January there will be an on-site compliance assessment and on January 7 a public information session. Captain Phillips is confident accreditation will be achieved with confirmation in March 2013. Andover would be the 7<sup>th</sup> community in Kansas to achieve this accreditation.

8. Consent Agenda

- a. Approval of Minutes
  - i. City Council Workshop: November 26, 2012
  - ii. City Council Meeting: November 27, 2012
- b. Receive & file reports
  - i. Finance: November 2012
  - ii. Fire: November 2012
- c. Receive & file minutes
  - i. Library: October 10, 2012
  - ii. CVB: August 29, 2012
- d. Approval of appropriation ordinance B-22-12 in the amount of \$ 338,160.30.
- e. Approval of Cereal Malt Beverage license renewals for 2013:
  - 1. Golden Garden Restaurant, 544 N Andover Road
  - 2. Primo, 514 S Andover Road
  - 3. Cedar Pines of Andover, LLC, 1208 W Highway 54
- f. Approval of Auditors letter of understanding for 2012 audit with George, Bowerman & Noel, P.A. of Wichita in the amount of \$12,325 plus expenses.
- g. Approval of a request to shoot class 'c' fireworks on December 31, 2012 by Ken and Windy Wellner at 736 Ruth Avenue between 11:45 p.m. and 12:45 a.m.
- h. Approval of the Park Department request to submit an RFP for a ½ ton work truck.
- i. Approval of the Police Department request to purchase twenty (20) video/audio body cameras from Voice Products of Wichita in the amount of \$16,180, including back office management training.
- j. Approval of the IT Department request to purchase twelve (12) modems, antennas, and professional services, from CDWG of Vernon Hills, Illinois, in the amount of \$11,760.36, including shipping.
- k. Approval of the IT Department request to purchase a projector for the Lodge in Central Park from CDWG of Vernon Hills, Illinois, in the amount of \$1,223.35
- l. Approval of the Finance Department request to submit an RFP for purchasing cards.

A motion was made by Council Member Clark Nelson, seconded by Council Member Troy Tabor to approve the consent agenda as presented. Motion carried 6/0.

9. J.P. Weigand contract for auction services

Sasha Stiles presented the contract for the sale of the Industrial Park. She added there were two representatives from J.P. Weigand present for questions.

Mayor Ben Lawrence stated the commission upon sale of the property is the standard 6%, a minimum purchase price has been established and confirmed the Governing Body will have the opportunity to accept or reject offers.

A motion was made by Council Member Sheri Geisler, seconded by Council Member Caroline Hale to approve the J.P. Weigand contract for auction services for the Andover Industrial Park. Motion carried 6/0.

10. An ordinance changing the zoning district classification of certain lands by adding an amended overlay district known as the Amended Marketplace Commercial Planned Unit Development District and amending the established Amended Preliminary and Final Marketplace Commercial Planned Unit Development and being part of the Cloud City Preliminary Planned Unit Development plans, 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. (Marketplace 3rd)

Mayor Ben Lawrence presented an ordinance for zoning case Z-1997-05 Marketplace Commercial 3<sup>rd</sup> Addition.

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

The Mayor asked the 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 draft minutes on the bench for November 20, 2012, Planning Commission meeting.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case.

Les Mangus stated the applicant has requested to allow all permitted uses in the R-4 Multiple Family Residential District in the current B-4 Central Shopping District. There were two hearings and a continuation at the Planning Commission prior to their recommendation for approval.

The Mayor asked if anyone in the audience wanted to respond or provide any new information. No one did.

REZONING REPORT \*

CASE NUMBER: Z-97-05

APPLICANT Vantage Andover, LLC

AGENT:

REQUEST: Proposed change of zoning district classification within the current zoning parcel 3 B-4 Central Shopping district to allow all of the uses in the R-4 Multiple-Family District.

CASE HISTORY: The developer intends to construct and maintain ownership of +/- 200 apartments on the site.

LOCATION: South of the future Cloud Ave. and west of Yorktown St.

SITE SIZE: +/- 15 acres

PROPOSED USE: Multifamily dwellings.

**ADJACENT ZONING AND EXISTING LAND USE:**

North B-3 Central Business District – vacant land owned by the applicant

South R-2 Reflection Lakes 3<sup>rd</sup> Addition – single family dwellings

East Butler Co. Commercial – legal nonconforming residence

B-3 Central Shopping district - Prairie Creek Elementary School

West B-4 Central Shopping District – vacant land owned by the applicant

**Background Information:** The developer feels that the changes in the real estate market make the possibilities of developing the subject property for a large commercial venture not good, and that a higher density of residential would be good for the nearby retail and service businesses survival and new development.

\* 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:**

- YES NO 1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?  
 STAFF:  
 PLANNING:  
 COUNCIL:
  
- YES NO 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?  
 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?  
 X STAFF: The subject property has been for sale with commercial zoning for 15 years.  
 X PLANNING:  
 COUNCIL: Concurs
  
- YES NO 4. Would the request correct an error in the application of these regulations?  
 X STAFF:  
 X PLANNING:  
 COUNCIL: Concurs
  
- 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?  
 X STAFF: The real estate market for commercial property is over built, with many vacancies, and there is a considerable amount of vacant commercial property available in the area.  
 X PLANNING:  
 COUNCIL: Concurs
  
- 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?  
 X STAFF: Water, sewer, and streets are available on the property or within a reasonable extension.  
 X PLANNING:  
 COUNCIL: Concurs
  
- 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?  
 X STAFF:  
 X PLANNING:  
 COUNCIL: Concurs
  
- YES NO 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?  
 X STAFF: Screening of multifamily to single family is not required.  
 X PLANNING:

- COUNCIL: Concurs
- YES NO 9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?  
 X STAFF:  
 X PLANNING:  
 COUNCIL: Concurs
- YES NO 10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?  
 STAFF: N.A.  
 PLANNING:  
 COUNCIL:
- YES NO 11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?  
 X STAFF:  
 X PLANNING:  
 COUNCIL: Concurs
- 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?  
 X STAFF: Multifamily residential uses could likely create less traffic, noise, lighting, etc. than the permitted B-4 commercial uses.  
 X PLANNING:  
 COUNCIL: Concurs
- 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: The subject property lies along a collector street and creates a buffer around commercial uses.  
 X PLANNING:  
 COUNCIL: Concurs
- YES NO 14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?  
 X STAFF: The Comp. Plan suggests a variety of housing options, and the US-54 Corridor Study suggests mixed residential uses.  
 X PLANNING:  
 COUNCIL: Concurs
- YES NO 15. What is the support or opposition to the request?  
 X STAFF: None at this time.  
 X PLANNING: None.  
 COUNCIL: Concurs
- YES NO 16. Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?  
 X STAFF: Staff recommends approval with a landscaped buffer area along the common property line with the Reflection Lake 3<sup>rd</sup> Addition.  
 X PLANNING:  
 COUNCIL: Concurs

- 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: Concur

Mayor Lawrence provided the Council with three options:

- (1) By a majority vote, move to adopt the findings and factors and recommendation by the Planning Commission Case No. Z-2011-01 and to approve Ordinance No. 1146.
- (2) By a 2/3 majority vote, move to override the Planning Commission’s recommendation and to describe in detail the findings and factors supporting the motion.
- (3) By a majority vote, return the recommendation to the Planning Commission for further consideration with a statement specifying the basis for the Council’s failure to approve or disapprove the recommendation.

A motion was made by Council Member Sheri Geisler, seconded by Council Member Clark Nelson to approve an ordinance changing the zoning district classification of certain lands by adding an amended overlay district known as the Amended Marketplace Commercial Planned Unit Development District and amending the established Amended Preliminary and Final Marketplace Commercial Planned Unit Development and being part of the Cloud City Preliminary Planned Unit Development plans, 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. (Marketplace 3<sup>rd</sup> Z-1997-05) Motion carried 6/0. Ordinance number 1525 was assigned.

11. An ordinance annexing certain land into the City limits of Andover, Kansas. (rail road right of way)

Sasha Stiles presented the ordinance and explained this portion of the rail road right of way had not been annexed. There are no structures on the property, it is only an easement.

A motion was made by Council Member Caroline Hale, seconded by Council Member Sheri Geisler to adopt an ordinance annexing certain land into the City limits of Andover, Kansas. (approximately ½ mile of rail road right of way) Motion carried 6/0. Ordinance number 1526 was assigned.

12. An ordinance amending the Code of the City of Andover Chapter 2, Article 1, Animals General, Section 102, 106 and 108, Article 3, Dogs General, Section 310, and Article 4, Animals at Large, Sections 401, 402, 403, 404, 405, 406 and 408 to read as follows

Police Chief Keller explained with the approval of the contract with the City of Wichita to house animals it was necessary to amend the City Code. Police Chief Keller recommended dogs be micro-chipped and licensed.

A motion was made by Council Member Sheri Geisler, seconded by Council Member Byron Stout to adopt an ordinance amending the Code of the City of Andover Chapter 2, Article 1, Animals General, Section 102, 106 and 108, Article 3, Dogs General, Section 310, and Article 4, Animals at Large,

Sections 401, 402, 403, 404, 405, 406 and 408. Motion carried 6/0. Ordinance number 1527 was assigned.

13. 2013 Employee Pay Plan

Sasha Stiles presented the Salary Review Committee recommendation of a 3% COLA raise for all employees. The committee's decision was based on the fact no cost of living or merit increases had been given to employees in the past three years and the potential of increased health care costs for employees in 2013.

A motion was made by Council Member Byron Stout, seconded by Council Member Troy Tabor to approve the recommendation of the Salary Review Committee as presented. Motion carried 6/0.

14. Sedgwick County request for Andover to annex a portion of 159th Street

Mayor Ben Lawrence stated he would not recommend the City of Andover approve the request and referred to a letter of response to that effect drafted by City Attorney Norman Manley and asked Council for concurrence to send the letter.

The Council concurred.

15. Health Benefit Selection Committee appointment (if necessary)

Sasha Stiles stated there may be a need for a committee if it is necessary for employee health insurance benefits be sent out for bid.

Council Members Kris Estes, Clark Nelson and Bryon Stout volunteered.

16. Executive Session - non-elected personnel

A motion was made by Council Member Sheri Geisler, seconded by Council Member Kris Estes to enter executive session to discuss a non-elected personnel item and to include the Governing Body for approximately ten minutes. Motion carried 6/0.

A motion was made by Council Member Sheri Geisler, seconded by Council Member Troy Tabor, to come out of executive session. Motion carried 6/0.

A motion was made by Council Member Bryon Stout, seconded by Council Member Troy Tabor to approve the 2012 employee evaluation and 2013 employment agreement with City Administrator Sasha Stiles. Motion carried 6/0.

17. Member Items

Council Member Byron Stout

- Thanked Jennifer McCausland for the HR functions which made the performance and pay review go so well.

Sheri Geisler

- Also thanked Ms. McCausland and is thrilled to have her return from maternity leave.
- Reminded everyone that Hometown Christmas is December 13.

Council Member Troy Tabor had none.

Council Member Caroline Hale

- Shared some positive comments received from a citizen regarding the stop light at US 54 and 159<sup>th</sup> Street and the efforts being made for repair and maintenance of 159<sup>th</sup> Street.

Council Member Kris Estes

- Is looking forward to Hometown Christmas.

Council Member Clark Nelson had none.

Sasha Stiles asked Council for an R.S.V.P. to Dr. Vietti's retirement reception on December 17.

Mayor Ben Lawrence reminded Council of the staff pot luck lunch on 12/12/12 at 12:12 p.m. at the Central Park Lodge.

A motion was made by Council Member Caroline Hale, seconded by Council Member Troy Tabor, to adjourn. Motion carried 6/0.

Respectfully Submitted by

Susan Renner  
City Clerk

Approved this 8<sup>th</sup> day of January, 2013, by the City Council, City of Andover, Kansas.