



CITY OF LEAVENWORTH
100 N. 5th Street
Leavenworth, Kansas 66048

City Commission Regular Meeting
Commission Chambers
Tuesday, January 26, 2021 7:00 p.m.

CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Nancy Bauder, Mayor Pro-Tem Camalla Leonhard, Commissioners Myron J. (Mike) Griswold, Mark Preisinger and Jermaine Wilson.

Others present in the commission chambers: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Police Chief Patrick Kitchens, Director of Planning and Community Development Julie Hurley, City Attorney David E. Waters and City Clerk Carla K. Williamson.

Members participating via teleconference: Public Works Director Mike McDonald, Project Manager Michael Stephan, Finance Director Ruby Maline and WPC Superintendent Tim Guardado.

Mayor Bauder asked everyone to stand for the pledge of allegiance followed by silent meditation.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Leonhard moved to approve the minutes from the January 12, 2021 regular meeting. Commissioner Wilson seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Second Consideration Ordinance:

Second Consideration Ordinance 8157 Industrial Revenue Bonds Luxury & Imports – City Clerk Carla Williamson presented the ordinance for approval. The ordinance was placed on first consideration at the January 12, 2021 meeting. Since first reading there have been a couple of minor changes to the ordinance with regards to the ownership reflecting only Rea Holdings LLC and removing the reference to “and/or Ted A. Rea, Inc.” In addition, in Section 2, the interest rate of 5.00% was added and “shall mature not later than the year 2026 was changed to 2025.

Mayor Bauder called the roll and Ordinance 8157 passed unanimously 5-0.

NEW BUSINESS:

Public Comment: *(emails received by the public for public comment on non-agenda items will be read at this time.) No emails were received.*

Ordinances:

Review Ordinance Related to Face Mask Requirements – City Manager Paul Kramer reviewed the matter of the Ordinance 8154 enacted on November 19, 2020. The face mask requirement in the ordinance

expires at 11:59 p.m. on January 31, 2021. At the January 19, 2021 Study Session the City Commission provided a consensus to consider the requirement at the January 26, 2021 meeting in advance of the expiration of the effective term of the ordinance. A draft of a proposed amendment to the ordinance was provided.

Mayor Bauder stated that all persons wishing to comment either in person or by written statement would be limited to 2 minutes. Those with written statement would be read aloud by the City Manager and City Clerk and when the 2 minutes expired the reading would stop however, the entire statement would be included in the record.

The following individuals, who were not present, provided written comment to be read.

Griff Martin – 1512 Cherokee

I spoke with a lady a few weeks back, and she expressed that she was fine with our local economy suffering due to the mask mandate. We CANNOT be fostering this kind of thinking if we want to grow and thrive as a community. If we sincerely care about our business owners in Leavenworth, we must show them, by giving them a chance to decide how they want to run their respective businesses and allow them to vote on the issue of a mask mandate. Thank you for your consideration.

William Bentley – 1912 Evergreen Street

Late last year you held an emergency Commission Meeting, without any consideration to the public you serve! You understand what I am referring to. At that meeting you imposed a mask mandate for the City of Leavenworth that would run until January 26, 2021, this ordinance #8154, made failure to wear a mask a crime with imposed penalties. I found this action by the city commissioners offensive to say the least! Do you not believe that the fine people of this city cannot reasonably understand the coronavirus, whether or not it is serious to them and their loved ones and make their own decisions based on the knowledge they have been given? Wait the commission never presented any information to the public on the coronavirus did they. Maybe that would have been a better option at that meeting, to publish factual information about the coronavirus for the people of City of Leavenworth to read and digest, but that is water under the bridge now. After your so-called emergency meeting a large group of constituents organized and have now submitted to the commission over 800 verified signatures opposing this ordinance. You have 20-days to adopt our ordinance, "The Leavenworth City Constitution Protection Ordinance", which effectively repealed, ordinance #8154 and mandates that any future mask requirements must be submitted to the electors of the City of Leavenworth prior to implementation. Your commission meeting on January 26, 2021 to vote on extending your original ordinance, thus ignoring their hard work will be another slap in the face of your constituents and will be remembered come election time. Willfully ignoring Our Ordinance and the 800 plus voters who signed the petition, could result in further action. I hope that this email and many others finds each of you more reasonable than you have shown to date and you listen carefully to those at your meeting and to the many outside, who have worked hard for the people of this fine city! Something that you were voted to do when you were elected!

Karen Rich - 3105 207th Street

I wish to address you and my fellow men and women honorably and respectfully. Please hear me. The ordinance 8154 is perpetuating fear based on lies and propaganda put forth by media, service

corporations, and unfortunately, our service corporations acting as governments and health care officials. Please read this article before making decision. <https://www.lewrockwell.com/2020/11/joseph-mercola/former-pfizer-science-officer-reveals-great-covid-19-scam/> Illness and death are a part of life. COVID 19 is not the crisis we have been led to believe. If you get the so-called virus, you have a 99.49% chance of survival. There are proven successful treatments. Has the actual virus been isolated and proven to exist? PCR testing does not provide a true diagnosis of illness. The test's inventor stated that the test was for lab use only and is NOT a diagnostic tool. Virtually no one who is asymptomatic has the live virus, but when you run the test at a cycle threshold over 30, meaning you amplify the viral RNA more than 30 times, you end up with a positive test even if the virus is inactive and noninfectious. In other words, you receive false positives. So then, the cases reported are not true in the definition of illness. The vaccine is NOT a cure and is completely experimental. Why would anyone take a brand new biological agent which has not been proven safe or efficacious? Are you aware of the unknown risks associated with this vaccine? That it may cause infertility? Do you know what an antibody dependent enhancement reaction is? Did you know that the vaccine does NOT prevent transmission of said COVID 19? Are you aware that the pharma companies are immune from liability if this experimental vaccine causes harm? Did you know that the CDC is a service corporation holding 20 patents on vaccine technologies? Making them, in the very least, suspect in their motivation and responses to handling illness in the American population? Are you aware that taking the vaccine means you are enrolling yourself into a medical trial? Masks are not protection against disease and may cause more harm than you are intending. Please read re: masks before making decision. <https://mercola.fileburst.com/PDF/ExpertInterviewTranscripts/Interview-DenisRancourt-CanFaceMasksProtectYouFromAerosolParticles.pdf> The men and women residing, working, shopping, traveling etc. in the city of Leavenworth are children of God and are sovereign. Ask yourself, how can a service corporation, which you are representing, which was created as a service to the people be sovereign over the people? Obviously, it cannot! Common law applies to all men and women and dictates that we are all born free to do whatever we choose for ourselves, provided we do not cause harm or loss to another's life, liberty, or property, or their rights to life, liberty or property. The mask ordinance inhibits my right to breathe freely as God intended me to breathe. Unfortunately, you, acting as representatives of a service corporation, are usurping all of our right to breathe freely and thus in breach of common law. Thus you commit an act of trespass against all living men and women by attempting to impose upon us a corporate bylaw/policy. I do not think you intend harm. Unfortunately, you are being misled by lies and propaganda which causes fear and anxiety which leads to cloudy decision making. Think very carefully on this ordinance which impinges on our life, liberty and property, and our rights to life, liberty and property.

Randolph Oberlin – 1015 S 21st Street

Seems to me that all of the measures we were told we had to do to were ineffective and unjustified. After eight weeks of the mandatory mask ordinances the cities in Leavenworth County that we have hundreds more infected every week. Seems like for over a year now the health experts have been telling us that masks, social distancing and restrictions on businesses would stop the virus from spreading. It hasn't worked as advertised. We are now well into insanity territory. You know, doing the same thing over and over again and expecting different results. Around 7% of the population of the county has been infected spread over twelve and a half months. The number that have died from complications with the virus is 43. That's about 0.05% of the county again spread over a year. During this same period, about 3% of those who tested positive have been hospitalized. This is all since the 1st of January 2020. It doesn't sound like much of a pandemic. The mask ordinance should not be extended. It doesn't accomplish

anything useful other than harassing our residents. This should all be voluntary for individuals and businesses.

Jamison Deal – 1415 Ottawa Street

Mayor and City Commissioners,

This Ordinance is based of biased and unscientific information. There have been multiple studies done by which found the masks do not protect the user nor another person. If you truly care about the truth then go seek it for yourselves. Dr. Fauci even said they don't work but changed his tune due to political pressure. We are all adults, grown-ups if you will. The people of Leavenworth nor anywhere else, have the ability to choose for themselves, if they want or need to wear a mask. It is not under the power or authority of you council members to protect ourselves from ourselves. Instead, it may behoove you to work on things that actually matter, such as the incredible amount of crime committed in this city. The fact that when you report your car got stolen, the city police said they can't do anything for 24hrs. I have family in law enforcement and also talked to KCK police and all have agreed that this determination was B.S. Based on 2018 data from city-data.com, Leavenworth crime rate is higher than 93% of all cities in the United States! For being a city of only 35,000ish, in 2018 there was 100 cars stolen, 783 thefts, 247 burglaries and 270 assaults. When a statement is given to the police and they butcher the statement so bad that it is unusable to describe the perpetrator as it is, then you try to fix it and no officer calls or shows up! There needs to be some serious overhaul of how the city police operate and need to be taught how to enforce the laws. Back to the masks, we have been doing just fine without them and I even found a study done by a statistician that found counties and cities with mask mandates and lockdowns had a higher virus transmission rate than those without. It was around 30% higher at the least. This virus has been circulating for over a year and almost a half. The death toll and infection rate has been found to be exaggerated due to fudging numbers to obtain federal money and counting people who tested positive using the PCR test above the 25-cycle threshold which creates a false positive. People who may have issues are the same people who would have issues if the caught the normal cold or the flu. Just because an illness has a different name does not mean the people of Leavenworth or anywhere else have to act any differently. You are not responsible for my health and neither is anyone else. If I wish to not take the risk of catching any virus then I will find other ways to function just like others should do. Society is not responsible for my health and I'm not responsible for anyone else's health. It why we have immune systems. This ordinance and any other virus-related ordinances that strip the population from their ability to choose is unconstitutional as they violate our right to choose and our right to assembly and our right to our pursuit of happiness. These are not privileges that are given by government. These are organic and natural rights and are documented to bind down our leaders from any actions that may violate them. That even includes during a "pandemic" or "civil unrest" or whatever you want to call this. Our rights are forever ours and cannot be circumvented for whatever reason! It's time to let grown-ups be grown-ups and go back to allowing people to use their common sense and their research to make their own decisions. Not be dictated what to do by a committee using a pen to punish their fellow neighbors who don't agree. Do not extend ordinance and address the petition & The Leavenworth Constitutional Protection Ordinance.

The following individuals were present in the Commission Chambers and provided comment:

April Cromer – Leavenworth KS

- Discuss what is going on with businesses
- Many people in the city who want their voices heard

- Emailed all Commissioners and only heard from Commissioner Wilson
- Petition was circulated with over 840 signatures
- People feel the mandate is unconstitutional
- Why did the Commissioner wait until after the election to consider the mandate
- Business owners that have been effected by the mandate
- Business have shut down
- People have been harassed on Facebook

Commissioner Griswold asked Ms. Cromer if she is a resident of City of Leavenworth or Leavenworth County. She stated Leavenworth County.

Peggy Bair – 1917 Westwood Drive, Leavenworth

- Does care about everyone’s opinion
- Today the County Health Department putout new numbers only 45 new cases down from 111
- Why are the numbers down? Because mask protocols are working and numbers are down from the holidays
- Concern is lack of masks; Opponents don’t think masks don’t work and they do work
- Why did they not immediately go down? Because of holiday family gatherings were people ignored the mass gathering protocols
- Home Depot Corporation did their own research and required employees to wear masks, social distance and deep cleaning and it made an impact but they could not force the public to wear a mask since there was no local mask mandate. After the mandate things got better. Not everyone complied but it was better
- If there are traffic laws that people have to follow the mask mandate should be the same

Commission & Staff Comments:

Commissioner Griswold:

- Ordinance 8154 was enacted to mitigate the increase in cases and deaths that were seen in the fall
- This was based off the County Health officers input that something needed to be done to flatten the curve
- Reviewed the moving rates which went up probably due to holidays
- 43 County residents have passed away from COVID-19
- 45 current cases recently reported, which is down
- What factors have contributed?
 - School Districts protocols
 - County Health Department testing
 - Mask ordinance in Leavenworth, Lansing and Tonganoxie
- KU study on use of Masks was cited at the November meeting
- City leaders have a responsibility to lead, especially in times of crises
- Will vote yes to keep the mandate in place and extend

Commissioner Preisinger:

- Want to get back to normal

- Masks are not the only way but a way to get back to normal
- Masks are for the greater good
- Deaths are not the only measure
- Impact on hospitals
- Only 43 deaths in the County but, if 43 fatality accidents at an intersection in a year the city would put in a stop sign before an overpass. Masks are the stop sign waiting on the overpass (vaccine)
- This will be the most defining vote but not the most consequential vote

Commissioner Leonhard:

- It is unfortunate that this has become such a divisive issue
- Intent of the mask ordinance is to protect people
- Several physicians have reached out over time and they are who we should be talking to about the virus-they are the experts
- Would like to have seen more vaccines but we must be patient
- Masks do help slow the spread
- This is a public health crisis

Commissioner Wilson:

- Last month the majority of the Commission voted in favor of the original ordinance
- Cases fluctuate
- Currently they are low but tomorrow could be high
- This has created a division in our community
- Is not against masks, encourages people to wear a mask and social distance
- Saw 90% of people prior to the ordinance wearing a mask and still sees only 90% after the mandate
- Thinks it is unenforceable
- Bothered that fitness facilities have exceptions but churches and pastors at the pulpit have to wear a mask

Mayor Bauder:

- There has been a steady decline in cases in Leavenworth County
- The Governor also extended the disaster declaration to March 31
- The vaccines are coming
- Wearing a mask is a temporary thing
- Herd immunity does not work for this virus and that is why the virus is mutating because it is not under control
- As far as rumors that no Commissioners had responded to emails – Mayor Bauder stated that she replied to Ms. Cromer on July 15, July 21 (twice) and on September 10
- Has been asking for a mask mandate for several months
- As long as Fort Leavenworth, our County Health Officer and physicians ask for a mask mandate, I will go by their advice
- Would like to see the mask mandate extended to March 31, 2021 when the state disaster mandate expires

Chief Kitchens:

- Addressed the issue of the mask mandate and enforcement
- Most of the enforcement was educational by explaining the requirements of the ordinance
- Initially there was confusion on State, County and City requirements
- Officers dealt with 15-18 complaints about mask violations
- The police department is capable of enforcing the ordinance
- It is not an undue burden for the police department
- Does not see the burden changing if the mandate is extended
- Only one citation for outright defiance has been issued and it is working through the court system

Commissioner Preisinger:

- Addressed the argument “if you are afraid of the virus just stay home”
 - That is not an option for everyone; People have to work
 - Referenced the experiment he did at a prior meeting with blowing out a liter with and without a mask on
- Masks mitigates the wearer from giving the virus to another

Commissioner Wilson:

- Still does not understand the exemption for eating at a restaurant or sport but a pastor cannot remove his mask even at a distance from the congregation

City Attorney Waters:

- Based on executive order by Governor Kelly there was not an exemption for churches
- Because the executive order is not adopted by the County the City can draft their own language
- Current ordinance expires on January 31, 2021
- Does not like drafting an ordinance on the fly and would want time to process what language the Commission would want regarding pastors
- Could pass the extension as is and then direct staff to present a new draft with the exemption at a future meeting

Commissioner Preisinger:

- Does not think it is a universal request from all pastors to be excluded from wearing a mask during services

Police Chief Kitchens:

- Can issue a moratorium on enforcement of pastors until the Commission reaches a decision on what they want to do however, please do not create a gap in the ordinance regarding the expiration date.

Commissioner Griswold moved to declare the ordinance an emergency to act on and waive second consideration to take action. Commissioner Leonhard seconded the motion. The motion passed 4-1 with Commissioner Wilson voting no.

Commissioner Griswold moved to pass Ordinance 8158 with an expiration date of March 31, 2021 at 11:59 p.m. Commissioner Leonhard seconded the motion. The motion passed 4-1 with Commissioner Wilson voting no.

First Consideration Ordinance Rezoning 1440 & 1460 Quincy Street - Director of Planning and Community Development Julie Hurley reviewed request on the subject properties are owned by LD Development, LLC. The applicant is requesting a rezoning of their properties from R1-9, Medium Density Single Family Residential to R1-6, High Density Single Family Residential. The two parcels are situated to the north of Quincy Street west of 14th Street, totaling approximately 4.76 acres. 1440 Quincy is currently vacant, and 1460 Quincy is occupied by a single family house. Pending approval of the proposed rezoning and preliminary plat, the existing single family home will be demolished. The Development Review Committee reviewed the project at their December 17, 2020 meeting and discussed items related to utilities, drainage, and improvements to Quincy Street. Utilities are available to the property, and easements will need to be obtained in order to connect to existing utilities to the east. Grading on lots as they are developed will need to direct drainage to the street to be constructed in order for the water to be captured by the stormwater system, instead of away from individual lots and onto adjoining properties, and will be addressed prior to recording of the final plat. No concerns were noted by the Police or Fire Departments. The Planning Commission held a public hearing on January 4, 2021 and voted 4-2 to recommend approval of the request. A protest petition was submitted on January 15, 2021. After City Staff and the City's legal counsel reviewed the petition it was determined to be invalid. The action taken by the Commission shall consider the following:

- a) The Character of the neighborhood;

The subject property is occupied by one single family home. To the north, east and south are other single family subdivisions with lots ranging in size from slightly smaller to slightly larger than those proposed as part of this development. To the west are several large lot residential parcels, each over 3 acres in size.

- b) The zoning and use of properties nearby;

The immediately adjacent properties are zoned R1-9, Medium Density Single Family Residential. Beyond the immediately adjacent properties to the north, east and west are properties zoned R1-6, High Density Single Family Residential. To the northwest is property zoned R-MF, Multi-Family Residential. The majority of surrounding properties are developed with single family homes.

- c) The suitability of the subject property for the uses to which it has been restricted;

The subject property is currently zoned R1-9, Medium Density Single Family Residential, and the property is suitable for single family uses.

- d) The extent to which removal of the restrictions will detrimentally affect nearby property;

The proposed rezoning should have no detrimental effect on nearby property. The majority of concerns expressed to staff by neighbors regarding this proposal involve stormwater drainage that currently occurs from this property onto properties located to the east. The development of the proposed subdivision should positively impact any stormwater issues currently experienced, as the developed lots will be required to direct stormwater runoff to the proposed cul-de-sac to be captured by the stormwater drainage system, instead of directing stormwater runoff onto other properties.

- e) The length of time the subject property has remained vacant as zoned;

The property has always been single-family/vacant in nature.

- f) The relative gain to economic development, public health, safety and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the individual landowner;

The proposed rezoning would have a positive effect upon the economic vitality of Leavenworth by increasing the available housing stock

- g) The recommendations of permanent or professional staff;
Staff recommends that the item be approved.

- h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

The subject area is identified as appropriate for Medium Density Residential uses, which is defined as 6,000-9,000 sqft of lot area per dwelling unit. The proposed development provides an average of 9,647 of lot area per dwelling unit as shown on the accompanying preliminary plat, and thus conforms to the adopted Future Land Use Map.

- i) Such other factors as may be relevant to a particular proposed amendment. The factors considered in taking action on any proposed amendment shall be included in the minutes or otherwise be made part of the written record.

No other factors of note.

Mayor Bauder stated that all persons wishing to comment either in person or by written statement would be limited to 2 minutes as with the previous agenda item. Those with written statement will be read aloud by Julie Hurley. When the 2 minutes expires, the reading will stop however, the entire statement will be included in the record.

The following individuals, who were not present, provided written comment to be read.

Kevin and Joan Schavee - 1204 S. 15th Street

Dear Sir/Madam. In reference to Sylvia's Meadow Case No. 2021-01 we oppose rezoning the property. My wife and I have lived at 1204 South 15h Street for 40 plus years. My wife and I helped to pay for the pavement that was laid down on the gravel on 15th street as it was a gravel road when we moved here. My wife and I have watched this neighborhood develop to the south and east of us by Larry Patterson. Nice, well constructed homes on appropriate sized lots. Concern number one. For many years the power to our house was off on so many occasions as I assume the grid was overloaded. Monthly outages if not weekly. Until after many years, 20 years or so, it was finally upgraded. Concern number two. Our water pressure was reduced for many years until they replaced some of the main water lines finally just two summers ago. Concern number three. The added traffic on our street. Speeding coming from the area to our west heading east on Quincy is already a real problem. We expect nothing less from the additional traffic coming from a new subdivision. Which leads to, Concern number four. This entire area receives a lot of foot traffic with pedestrians walking their dogs. Narrow streets. No sidewalks. People walking pets. We just fail to understand the logic that would allow 22 homes into this property that is similar to the cul-de-sac subdivision. Property just to the east on 14th street that has 16 homes. Why place 22 homes into what should be a 16 home subdivision? Surely 16 nice homes on proper sized lots would be valued more than

22 homes on small lots. Is this going to set a precedent for the day development tis done to the area just to the west of this subdivision directly to the north and north west of my home? We are suspect of the motive to do this rezoning. What is truly behind the motivation as the owner is attempting to do this again? It is illogical. Listing as I have above our past problems with developing this area are expected to endure these problem issues again as well as possible unforeseen new problems. Why not, Reasonable homes on reasonable sized lots as found to the east and south of this area? And How about making sure the sewer, water, electrical grid is not diminished this time to the existing homes. This time. We signed the petition circulated opposing this rezoning. Our signatures are valid as are is our concerns over the rezoning for this proposed reduced lot size cul-de-sac subdivision.

Claretta Schneider 1316 S 15th Street

It has come to my attention that a petition that was signed by me and several of my neighbors in opposition of this rezoning was ruled invalid. While I do not know why it was ruled invalid I did see the need for such a document based on the current situation brought on by COVID and the inability to come to the meetings in person (I understand that only the property owner and developer were allowed at the last meeting). Since you did not recognize the petition I will state the obvious. My husband Jim and I oppose this rezoning for a multitude of reasons. Here are a few: We have resided at 1316 South 15th Street for over 36 years. This street has been a much traveled thoroughfare between Quincy and Ohio. The next closest thoroughfare would be Washington. We saw a dramatic increase in traffic when the housing cul-de-sac on South 14th Street was built. Many vehicles coming from 10th Avenue choose to come down Ohio and cut across 15th Street to get to Quincy (versus just taking Quincy) because there are no stops until they get to the corner of 15th and Quincy (Quincy has at least three stops signs). In recent years it has also become a thoroughfare for the LV school district bus route so we see busses driving on it in the morning and again after school. The portion of 15th Street between Quincy and Kansas is quite narrow and has no curbs (unlike 15th between Kansas and Ohio which is wider and has curbs). We are concerned about the increased number of vehicles that will use this street while developing this property into a high density district and we are also concerned with the increased traffic once there are significantly more permanent residents in the area. It was our understanding that prior to when we moved here there was a decision to not widen the street because of the mature trees that would have to be removed. Because the street is narrow there are portions that are questionable if two vehicles traveling in opposite directions can safely pass. In recent years we have seen an increased number of people walking with their dogs and small children on the street. While we welcome seeing folks and saying "Hello" we are concerned with their safety as the street is so narrow and there is more traffic. One would think with such a narrow street people driving on it would show caution and slow down, but the opposite is generally true. Folks are in such a hurry they fly up and down the street. Just check out the intersection of South 15th and Kansas. You can see scrapes on the pavement where vehicles bottom out from hitting the slight bump at a speed of 30 or more mph. Quincy between South 16th and Madison has also become a speedway with the increased traffic. Another area of concern is the utilities in this area. We seem underserved when it comes to proper drainage from runoff (no curbs or storm drains on 15th or Quincy) and the electric grid seems outdated and prone to outages. Another area of concern is, if once you rezone to R1-6 that you will then move to rezone to multifamily. This will not only lead to even more dense population but to lowering of property values and setting the area up for an increase in the crime rate.

This has been a very nice, quiet neighborhood and we would very much like it to remain so. Whether or not you choose to rezone to R1-6 or decide to stay with the current R1-9, I feel you should (at a minimum) look to widen both Quincy and South 15th Streets, install a much needed storm drainage system and put in curbs in order to not only accommodate the increased traffic but to rectify an area of the city in desperate need of updating to meet current use. Please let me know if there will be an opportunity to watch tonight's meeting virtually in real time. Thank you.

The following individuals were present in the Commission Chambers and provided comment:

Robin Hasak – 1324 S 15th Street

- Petition was signed whether it was approved or not
- Why only developer allowed at the meeting
- Fear that once passed it will become cheap townhomes
- Safety issues with traffic
- Called Evergy today and request the number of outages in 2018, 2019 and 2020

Kenneth LaMaster - 1118 S 14th Street

- Comments that there will be no residual effects are incorrect
- Referring to the plat and discussed current water runoff
- Has sent video and pictures about water flow

Terrie Mingo – 1451 Quincy

- Concerns about technical difficulty of the planning and zoning meeting
- No final plat presented yet
- Sees no reason to approve without a final plat
- No reason that the petition was not valid
- There are large plots of land and why is a special use being required

Joshua Hoppes (Represents LD Developers)16028 Gillman Road

- Could be developed with the current zoning with 16 lots could do 18 lots to bring in more housing stock with the rezoning
- This is only the difference of two lots (between 16 and 18 homes)
- Lots are smaller at 9,000-10,000 sq. ft. with a good price point
- Regarding Mr. Mingo's comments about 2007 that the property has gone downhill -They want to demolish and develop the land
- The cul-de-sac will be curb and guttered along with Quincy in front of the development and sidewalk
- By requirements must address the stormwater for that development and cannot dump that water on other properties

Staff Comments

Public Works Director Mike McDonald:

- What is proposed is well within the current guidelines for stormwater control

- Developer is creating a storm basin to address the stormwater
- Public works will monitor and review all plans

City Attorney Waters:

- Reminded the commission that the issue before them is to be based on the factors that Ms. Hurley presented
- Development may come in a separate and future action

Police Chief Kitchens:

- In terms of evaluating the data about speeding, accidents and issuance of citations there have not been any in current year
- The traffic safety committee is always looking at new subdivisions and developments and how that may impact the area

There was a consensus by the Commission to place on first consideration.

There was a request for a 5 minute break at 8:38

The meeting resumed at 8:43

General Items:

Mayor's Appointments

Mayor Bauder moved to reappoint to the Convention & Tourism Committee: Sherry Brown, Wendy Scheidt, Edna Wagner and Lisa Weakley to terms ending January 31, 2024; and appoint Shirley Dickson to a term ending January 31, 2024. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Updates to City Fee Schedule – City Clerk Carla Williamson presented amendments to the City Fee Schedule. Amendments include the addition of Small Cell Facilities fees and amendments to Parks and Recreation fees. If approved the changes will be effective January 27, 2021.

The Small Cell Facilities fees were reviewed at the January 12, 2021 Study Session. The final version will include the following message with regards to annual right of way fees. **The FCC issued a Declaratory Ruling on September 27, 2018, in WT Docket Nos. 17-79 and 17-84 (FCC 18-133, 33 FCC Rc'd 9088) ("FCC Ruling") in which the FCC seeks to limit attachment, franchise and/or other small cell ROW access fees to the "reasonable approximation" of a local jurisdiction's cost for processing applications and managing deployment in the right-of-way, but then also establishes a "safe harbor" annual fee of \$270/site (\$22.50 per month). The City disputes the FCC's authority to establish such fee limitations and notes several jurisdictions have filed legal challenges to the FCC Ruling. Given this status, until and unless a court of competent jurisdiction issues a final, non-appealable order vacating the FCC Ruling or its fee limitations, a provider may opt to pay the City only \$270 per year, per site (\$22.50 per month) towards these fees marked with this asterisk (*), provided it first agrees in writing that, in the event the FCC Ruling or its fee limitations are vacated without any further appeal, the provider shall pay any outstanding balance for said fees within 60 days thereof.*

The Parks and Recreation fees removes various fees for structures, lessons or programs no longer offered along with addition of the fees that have always been in place for the Campground and season passes for the Performing Arts Center which were not listed previously in the fee schedule. Other changes correct errors.

Commissioner Preisinger moved to approve the amendments to the fee schedule as presented. Commissioner Leonhard seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Approval of the City Sidewalk Cost-Share Program Guidelines – Public Works Director Mike McDonald presented for approval the Sidewalk Cost-Share Program 2021 for Commercial and Residential properties. The Staff reviewed the program at the December 15, 2020 meeting with the incorporated changes. The changes would increase residential property cost share to \$5.00 per sq. ft. and \$10.00 per sq. ft. for commercial property.

Commissioner Leonhard moved to approve an increase in reimbursement for sidewalk replacement completed within the program guidelines (50/50 cost share) to \$5.00 per sq. ft. for residential and \$10.00 per sq. ft. for commercial. Commissioner Wilson seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Bids, Contracts and Agreements:

Consider Approval of Change Order No. 1 – Thornton Street Improvement Project – Public Works Director Mike McDonald presented for consideration contract change order no. 1 with Kissick Construction in the amount of \$272,899.42 for a total contract not to exceed \$5,163,961.42 for the Thornton Street Improvement Project.

Commissioner Leonhard moved to approve contract change order No. 1 with Kissick Construction in an amount not to exceed \$272,899.42 for a contract total not to exceed \$5,163,961.42. Commissioner Wilson seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Bids for Water Pollution Control (WPC) Chemicals - Public Works Director Mike McDonald presented for consideration the bids for WPC chemicals. Staff recommends approval of the low bids for the following chemicals as shown not to exceed \$57,000.00.

Chemical	Price Paid 2020	Cost for 2021	Vendor for 2021
Ferrous Chloride	\$0.99/lb. Fe	\$0.96/lb. Fe	PVS Technologies Inc.
Hydrogen Peroxide	\$0.315/lb.	\$0.31/lb.	Brenntag Mid-South
Sodium Hypochlorite	\$2.00/gal	\$1.50/gal	Edwards Chemicals
Sodium Hydroxide	\$0.25/lb.	\$0.235/lb.	Brenntag Mid-South
Polymer	\$1.87/lb.	\$1.92/lb.	Atlantic Coast Polymers

Commissioner Preisinger moved to approve bids for chemicals as presented. Commissioner Leonhard seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Contract for Water Pollution Control (WPC) Trickling Filter #3 Repairs - Public Works Director Mike McDonald presented for consideration the purchase and repair bid from C & B Equipment (formerly Douglas Pump) in the amount of \$37,560.75 for repairs including installation.

Commissioner Leonhard moved to approve the purchase and repair bid from C & B Equipment in the amount of \$37,560.75. Commissioner Wilson seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consent Agenda:

Commissioner Wilson moved to approve claims for January 9, 2021, through January 22, 2021, in the amount of \$937,563.74; Net amount for Payroll #1 effective January 15, 2021 in the amount of \$353,226.48 (no Police & Fire Pension). Commissioner Griswold seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Executive Session – Attorney Client Privilege:

Mayor Bauder moved to recess into executive session to discuss legal matters related to a petition pursuant to the consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship exception per K.S.A. 75-4319 (b) 2. The open meeting to resume in the City Commission Chambers at 9:35. City Manager Paul Kramer and City Attorney David E. Waters are requested to be present during the Executive Session. Commissioner Leonhard seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

The Commission returned to open session at 9:35. Commissioner Preisinger moved to go back into executive session for 10 more minutes. Commissioner Griswold seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

The Commission returned to open session at 9:45 with no action taken.

Other:

Commissioner Leonhard

Announced that the Council on Aging is partnering with Leavenworth County to assist with COVID-19 vaccinations for seniors. Contact the Council on Aging to arrange transportation. The cost is only \$1.00 round trip to and from the County Health Department to get the COVID-19 vaccination.

Adjournment:

Commissioner Preisinger moved to adjourn the meeting. Commissioner Leonhard seconded the motion and the motion was unanimously approved.

Time Meeting Adjourned 9:47 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC