



City of Leavenworth  
100 N. 5<sup>th</sup> Street  
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING  
COMMISSION CHAMBERS  
TUESDAY, OCTOBER 26, 2021 7:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting  
Meetings are televised everyday on Channel 2 at 7 p.m. and midnight and available for viewing on YouTube and Facebook Live

**CALL TO ORDER** – Pledge of Allegiance Followed by Silent Meditation

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**PROCLAMATION**

1. National Family Literacy Day (pg. 2)

**OLD BUSINESS**

**Consideration of Previous Meeting Minutes:**

2. Minutes from October 12, 2021 Regular Meeting **Action:** Motion (pg. 3)

**Second Consideration Ordinance:**

3. Second Consideration Charter Ordinance 61 Exemption out of K.S.A. 12-4203 Related to Uniform Complaints and Notice to Appear Filed in Municipal Court **Action:** Roll Call Vote (pg. 7)

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**NEW BUSINESS:**

**Public Comment:** *(i.e. Items not listed on the agenda or receipt of petitions)-Public comment is limited to 2-3 minutes and no action will be taken by the Commission on public comment items - Please state your name and address. A signup sheet will be provided in the commission chambers for anyone wishing to speak. Fill out the sheet with requested information when you enter the meeting.*

**General Items:**

4. Review Fire Damaged Structure at 1006 Kickapoo Given Extension at the July 27, 2021 Meeting **Action:** Motion (pg. 11)

**Bids, Contracts and Agreements:**

5. Consider Bids for Fire Station #1 Boiler Replacement **Action:** Motion (pg. 15)

**First Consideration Ordinance:**

6. First Consideration Ordinance Rezoning 520 N 7<sup>th</sup> From Office Business District to Neighborhood Business District **Action:** Consensus (pg. 18)
7. First Consideration Ordinance to Amend Sec. 2-52 Changing City Commission Meeting Time **Action:** Consensus (pg. 32)

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**Consent Agenda:**

Claims for October 9, 2021, through October 22, 2021, in the amount of \$1,448,063.91; Net amount for Payroll #21 effective October 22, 2021 in the amount of \$348,352.51 (Includes Police & Fire Pension in the amount of \$8,804.19). **Action:** Motion

**Other:**

**Adjournment** **Action:** Motion

# City of Leavenworth, Kansas



## Proclamation

- WHEREAS,** *National Family Literacy Day, established by the 103<sup>rd</sup> Congress in 1994, and now marking its 27<sup>th</sup> anniversary on November 1, 2021, highlights the importance of reading and learning for the entire family and emphasizes the impact that parents have on their child's learning; and*
- WHEREAS,** *this day is celebrated across America each year, and focuses on special activities and events that showcase the importance of family literacy programs that empower families and build a nation of readers; and*
- WHEREAS,** *literacy programs across the United States will observe National Family Literacy Day by holding read-a-thons, book drives, workshops and family activities at schools, libraries and community centers to encourage literacy; and*
- WHEREAS,** *as many as one in six adults struggle with reading and writing, and by learning to read, individuals can gain self-respect and confidence and strive toward goals that otherwise would not be achievable; and*
- WHEREAS,** *the National Society of the Daughters of the American Revolution is a nonprofit, nonpolitical volunteer woman's service organization dedicated to promoting patriotism, preserving American history, and securing America's future through better education for children and adults; and*
- WHEREAS,** *education being one of the cornerstone of the National Society of the Daughters of the American Revolution Captain Jesse Leavenworth Chapter is committed in increasing literacy by promoting and supporting literacy programs.*

**NOW, THEREFORE,** *I, Nancy D. Bauder, Mayor of the City of Leavenworth, Kansas hereby proclaim November 1, 2021 as:*

## National Family Literacy Day

*To underscore the importance of literacy, celebrate the joy of reading and encourage residents to promote literacy by reading together as a family, and to extend deep appreciation to our local librarians, educators, and literacy service providers for their tireless efforts to strengthen the literacy of our children and community.*

**IN WITNESS WHEREOF,** *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this twenty-sixth day of October in the year of two-thousand and twenty-one.*

\_\_\_\_\_  
Nancy D. Bauder, Mayor

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk



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

**Staff members present:** City Manager Paul Kramer, Assistant City Manager Penny Holler, Police Chief Patrick Kitchens, Public Works Director Brian Faust, Chief Building Inspector Harold (Hal) Burdette, City Prosecutor Catalina Thompson, Deputy Finance Director Roberta Beier, Ben Struby attended for City Attorney David E. Waters, Deputy City Clerk Cary Collins and City Clerk Carla K. Williamson.

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

**PROCLAMATIONS & ACKNOWLEDGEMENTS:**

**Proclamation:**

- Domestic Violence Awareness Month – Carrie Clark from the Alliance Against Family Violence was present to accept the proclamation.
- Military Retiree Appreciation Day – Norm Greczyn from Fort Leavenworth was present to accept the proclamation.
- World Food Day – Austin Reynold, President of Leavenworth Farmers Market was present to accept the proclamation.
- Captain Jesse Leavenworth Chapter of the National Society of Daughters of the American Revolution 115<sup>th</sup> Anniversary – Pamela Sarles from the Leavenworth NSDAR was present to accept the proclamation.

**New Employee Welcome:**

The Mayor read the names of the following newly hired employees.

- Clayton Pfrimmer, Park Technician I
- Brandon Cole, Streets Equipment Operator I
- Nicole Shifflett, Administrative Clerk-Streets
- Julie McKeel, Part-time Clerk Typist
- Victor Ramos, Police Officer
- Laura Finney, Solid Waste Collector
- Charlie Phillips, Telecommunications Specialist
- Kyle Anderson, Firefighter
- Patrick Bradley, Firefighter
- Ian McArthur, Firefighter
- Kayla Land, Police Officer
- Penny Holler, Assistant City Manager
- Austin Flint, Solid Waste Laborer

## **OLD BUSINESS:**

### **Consideration of Previous Meeting Minutes:**

Commissioner Leonhard moved to approve the minutes from the September 28, 2021 regular meeting. Commissioner Wilson seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

**Public Comment:** *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*  
none

### **Public Hearing:**

#### **Public Hearing Unsafe or Dangerous Structure 2201 Magnolia Drive Damaged by Fire**

##### **Open Public Hearing:**

Commissioner Preisinger moved to open the public hearing. Commissioner Wilson seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

##### **Review of Properties by Staff:**

Chief Building Inspector Hal Burdette and Public Works Director Brian Faust provided the following information to the Commission:

- On July 3, 2021 the house located at 2201 Magnolia Drive was damaged by fire
- The city received proceeds from the insurance company in the amount of \$27,046.40
- On August 24, 2021 the Commission adopted and approved Resolution B-2290 setting October 12, 2021 as the public hearing date
- On September 1, 2021 a copy of the resolution was mailed by certified mail to the owner of the property and resolution was published in the paper as required
- Staff has contacted the owner and visited the site and recommends that the owner be given 90 days to complete repairs to the point that the exterior repairs are complete and the interior has been inspected and approved so that interior finish work can proceed

##### **Public Comment:**

Owner was present but no comments

##### **Close Public Hearing:**

Commissioner Griswold moved to close the public hearing. Commissioner Preisinger seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

Commissioner Griswold moved to approve Resolution No. B-2298 giving the owners 90 days to complete repairs. Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

### **General Items:**

### **Mayor's Appointment:**

Mayor Bauder moved to re-appoint the following members to the Community Corrections Advisory Board, with terms ending October 16, 2023. Patrick Kitchens, Johnathan Pheral and Marcia Jackson. Commissioner Preisinger seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

**Bids, Contracts and Agreements:**

**Consider Renewal of 2022 Landfill Services Contract with Waste Management** – Public Works Director Brian Faust presented for consideration the renewal of the contract with Waste Management for landfill services for 2022 in the amount of \$27.28 per ton for municipal solid waste and \$46.98 a ton for special waste (sludge/grit).

Commissioner Preisinger moved to approve a contract for landfill services with Waste Management for 2022 in the amount of \$27.28 a ton for municipal solid waste and \$46.98 a ton for special waste (sludge/grit). Commissioner Griswold seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

**First Consideration Ordinance:**

Police Chief Patrick Kitchens and City Prosecutor Catalina Thompson presented for first consideration a charter ordinance that allows animal control officers to issue citations in the field instead of trying to track down the animal owners at a later date and allows the animal control officer to issue the citation without the assistance of a law enforcement officer. This would be in line with what other cities in Kansas are doing.

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

**Consent Agenda:**

Commissioner Wilson moved to approve claims for September 25, 2021, through October 8, 2021, in the amount of \$1,865,520.15; Net amount for Payroll #20 effective October 8, 2021 in the amount of \$348,137.60 (no Police & Fire Pension). Commissioner Leonhard seconded the motion and the motion was unanimously approved. Mayor Bauder declared the motion carried 5-0.

**Other:**

City Manager Paul Kramer:

- October 23 Trunk or Treat at Sports Field with a haunted house
- Veterans Day Parade set for November 11
- Holiday Lighted Parade and Mayor’s tree lighting will be held November 19
- Discussed the fire department fleet and how it impacts ratings
- Trash bag delivery scheduled for November 20

Commissioner Preisinger:

- Reminder that early voting starts tomorrow
- Commented on the amount of trash along various streets
- Asked the Public Works Director for an update on road work in the city
- Asked for an update on the signal lights at 10<sup>th</sup> and Limit

Commissioner Wilson:

- Reminder to vote

**Adjournment:**

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

Time Meeting Adjourned 7:40 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC

**POLICY REPORT  
SECOND CONSIDERATION  
CHARTER ORDINANCE 61  
EXEMPTING THE CITY FROM K.S.A. 12-4203 AND 12-4204  
RELATING TO UNIFORM COMPLAINTS AND NOTICES TO APPEAR FILED WITH THE MUNICIPAL COURT**


**OCTOBER 26, 2021**

Prepared by:



Carla K. Williamson, CMC  
City Clerk

Reviewed by:



Paul Kramer  
City Manager

**BACKGROUND:**

At the October 12, 2021 meeting the City Commission discussed and placed on first consideration a Charter Ordinance exempting the City from K.S.A. 12-4203 and 12-4204.

If approved the Charter Ordinance will be published once a week for two (2) consecutive weeks in the official city newspaper and will take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed. The effective date would be January 5, 2022.

**RECOMMENDATION:**

Staff would recommend approval of Charter Ordinance No. 61

**A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAVENWORTH, KANSAS FROM K.S.A. 12-4203 AND 12-4204, AND PROVIDING SUBSTITUTE LANGUAGE AND ADDITIONAL PROVISIONS OF THE SAME SUBJECT; RELATING TO UNIFORM COMPLAINTS AND NOTICES TO APPEAR FILED WITH THE MUNICIPAL COURT.**

**ACTION:**

Charter Ordinance No. 61 is now presented for second consideration and requires a roll call vote with four (4) affirmative votes.

**ATTACHMENTS:**

- Charter Ordinance No. 61

**CHARTER ORDINANCE NO. 61**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAVENWORTH, KANSAS FROM K.S.A. 12-4203 AND 12-4204, AND PROVIDING SUBSTITUTE LANGUAGE AND ADDITIONAL PROVISIONS OF THE SAME SUBJECT; RELATING TO UNIFORM COMPLAINTS AND NOTICES TO APPEAR FILED WITH THE MUNICIPAL COURT.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH KANSAS:**

**SECTION 1.** The City of Leavenworth, Kansas, by virtue of the power vested in it by Article 12 Section 5, of the Constitution of the State of Kansas, hereby elects to, and does exempt itself and make inapplicable to it, K.S.A. 12-4203 and 12-4204 which applies to this City, but is part of an enactment which does not apply uniformly to all cities and provides substitute and additional provisions on the same subject hereinafter provided.

**SECTION 2.** (a) For purposes of the Charter Ordinance the term “City of Leavenworth Officer or Employee” shall mean: a law enforcement officer, clerk of the municipal court or duly appointed representative, or animal control officer. No provision of this Charter Ordinance shall be construed to empower the clerk of the municipal court or duly appointed representative, or animal control officer with the powers of arrest, search, detention, or other powers of law enforcement officers, except as provided by law.

**SECTION 3. Complaint; service; notice to appear or warrant; failure to issue.**

(a) A copy of the complaint shall be served, together with a notice to appear by a “City of Leavenworth Officer or Employee” upon the accused person, and forthwith, the complaint shall be filed with the municipal court, except that a complaint may be filed initially with the municipal court, and if so filed, a copy of the complaint shall forthwith be delivered to the city attorney. If a warrant is to issue, it shall only be served by a law enforcement officer in the same manner as prescribed herein.

(b) If a city attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the city attorney to institute proceedings against any person. Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein.

**SECTION 4. Notice to appear; contents; form.** A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such notice to appear is given, unless the accused person shall demand an earlier hearing. A notice to appear may be signed by a municipal judge, the clerk of the municipal court, the city attorney, or a “City of Leavenworth Officer or Employee.”



A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear, to wit:

IN THE MUNICIPAL COURT OF _____, KANSAS The City of _____, Kansas
vs.
_____, (Accused person)
_____, (Address)
<b>NOTICE TO APPEAR</b>
The City of _____, Kansas, To The Above Named Accused Person. You are hereby summoned to appear before the Municipal Court of _____, Kansas, on the ____ day of _____, 20__, at _____ o'clock, __.m., to answer a complaint charging you with
_____
_____
If you fail to appear a warrant will be issued for your arrest. Dated _____, 20__.
_____ Signature of Official
_____ Title of Official
I agree to appear in said Court at said time and place.
_____ Signature of Accused Person
<b>RETURN</b>
The undersigned hereby certifies that on the ____ day of _____, 20__, the notice to appear was served, mailed or delivered.
_____ Law Enforcement Officer, City of Leavenworth Officer or Employee

**SECTION 5: Uniform Complaint and Notice to Appear.**

(a) A complaint and notice to appear, as described in Section 3 and 4, may be issued by a uniform complaint and notice to appear that substantially incorporates the required information in each section.

(b) A Uniform Complaint and Notice to Appear shall be served upon the accused person by delivering a copy to the accused personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person.

(c) The Uniform Complaint and Notice to Appear may be served by a “City of Leavenworth Officer or Employee” within the state and, if mailed, shall be mailed by such “City of Leavenworth Officer or Employee.” Upon service by mail, the “City of Leavenworth Officer

or Employee” shall execute a verification to be filed in Municipal Court with the copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of the Uniform Complaint and Notice to Appear was mailed to \_\_\_\_\_ (the accused), at \_\_\_\_\_ (address of the accused).

\_\_\_\_\_  
Signature of Leavenworth City Officer or Employee

**SECTION 6.** This Charter Ordinance shall be published once a week for two (2) consecutive weeks in the official city newspaper.

**SECTION 7.** This Charter Ordinance shall take effect sixty-one (61) days after its final publication, unless a sufficient petition for a referendum is filed and a referendum held on this Charter Ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective if approved by a majority of the electors voting thereon.

**PASSED AND APPROVED** by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, this 26<sup>th</sup> day of October 2021.

\_\_\_\_\_  
Nancy D. Bauder, Mayor

{Seal}

**ATTEST:**

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk

**Publish: Leavenworth Times**

**First Publication Date: October 29, 2021**

**Second Publication Date: November 5, 2021**

POLICY REPORT PWD NO. 21-36

UPDATE FOR UNSAFE STRUCTURE  
1006 KICKAPOO STREET

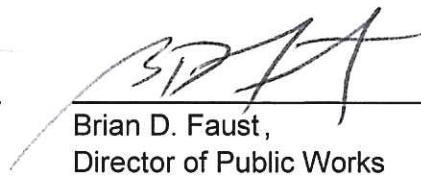
October 26, 2021

Prepared by:



Harold D. Burdette,  
Chief Building Inspector

Reviewed by:



Brian D. Faust,  
Director of Public Works

Reviewed by:



Paul Kramer,  
City Manager

**ISSUE:**

Consider current status of the structure located at 1006 Kickapoo Street.

**BACKGROUND:**

This structure was damaged by fire on April 3, 2021. The City received a check from insurance proceeds for \$8,250. A Public Hearing was held on July 27, 2021, regarding the status of repairs. The Commission adopted Resolution No. B-2286, which stated that the owner was to commence with repairs and the City Commission would review the status of the project after 90 days.

Progress has been made on repairs to the exterior, but the exterior repairs are not completed. There has been little work done related to the interior repairs at this point. The owner has informed staff that they have completely removed a 10' x 10' section of the building towards the back that was poorly constructed and damaged by the fire. They intend to construct a 14' x 24' addition in its place. Staff will work with the owner to update the permits for the project.

When structures are damaged by fire and other hazards, and the damage is severe enough that the settlement from the insurance company exceeds 75% of the face value of the policy covering the structure, the insurance company is required to draft a payment to the City of Leavenworth for 15% of the settlement. This money is to be used to either remove the structure if the owner decides not to repair it, or returned to the property owner once repairs have progressed to a reasonable point or are completed and the structure is ready for occupancy. In this situation, the money will be returned to the previous property owner when released.

**RECOMMENDATION:**

Staff recommends that the City Commission allow up to another 90 days for repairs to be made to 1006 Kickapoo Street.

**ATTACHMENT:**

Photos of structure



10/19/2021



10/19/2021



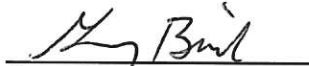
**POLICY REPORT No. FD # 2021-01  
FIRE STATION #1 BOILER REPLACEMENT  
October 26, 2021**

Prepared by:



Mike Shore  
Deputy Chief

Reviewed by:



Gary Birch  
Fire Chief

Reviewed by:



Paul Kramer  
City Manager

**ISSUE:**

The Fire Department is requesting approval to purchase two new boilers for Fire Station #1. The new boilers would replace the 21 year old original boilers we are currently using to heat the station.

**BACKGROUND:**

The two existing boilers at Fire Station #1 are at the end of their lifespan. We have been told by several technicians that our boilers (Fulton pulse combustion boilers) typically have a 15 to 20 year lifespan. The boilers are currently 21 years old and due for replacement.

The maintenance and repair costs to these boilers continue to increase. In the last three years alone, maintenance and repair costs have exceeded \$35,000.

Staff contacted an engineering firm to do an analysis of our current system. They concluded that our current boiler system is in need of replacement. We utilized this same engineering firm to develop a scope of work and bid package for sending to HVAC contractors, and to publish at local media sites.

The boiler replacement was approved for the 2021 CIP. Bids were opened on Monday, October 18, 2021 at 2 pm.

Bids were received as follows:

<b>Bidder</b>	<b>Address (City/State)</b>	<b>Base Bid</b>
Mr. Breeze Heating & Cooling	1296 Eisenhower Rd, Leavenworth, KS	\$56,357.56
McElroys	3310 SW Topeka Blvd, Topeka, KS	\$63,528.00
Rand Construction Co.	1428 W 9th St, Kansas City, MO	\$54,700.00
MetroAir	8151 McCoy, Shawnee, KS	Missing required affirmative action

**RECOMMENDATION:**

Staff recommends the base bid from Rand Construction Co. in the amount of \$54,700.

**FINANCIAL:**

The City's 2021 CIP included \$85,000 for the Boiler replacement at Fire Station #1.

**ATTACHMENTS:**

✓ Bid Proposal

CITY of LEAVENWORTH, KANSAS





**CITY OF LEAVENWORTH**

**Bid Opening Date: Fire Station 1 Boiler Replacement**

**October 18, 2021 2 p.m. Project No: 32290-6605-F2101**

BIDDER	AFFIRMATIVE ACTION	NON-COLLUSION AFFIDAVIT	BID BOND	TOTAL BASE BID
Mr. Breeze Heating & Cooling	needs approval ?	✓	✓	\$56,357.56
McElroys	?	✓	✓	\$63,528
Rand Construction Co.	✓	✓	✓	\$54,700
Metro Air	missing	✓	✓	
<b>ENGINEER'S ESTIMATE</b>				\$120,000

**POLICY REPORT**  
**First Consideration Ordinance**  
**2021-26-REZ**  
**520 N. 7<sup>th</sup> STREET**

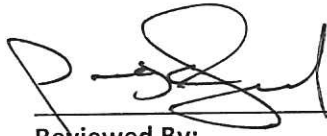
**OCTOBER 26, 2021**

**SUBJECT:**

A request to rezone the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District.



**Prepared By:**  
Julie Hurley,  
Director of Planning and  
Community Development



**Reviewed By:**  
Paul Kramer,  
City Manager

**ANALYSIS:**

The applicant is requesting a rezoning of their property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District. The subject property is owned by Robert Hayes and is occupied by an existing one-story commercial building, which currently houses a barber shop with the remainder of the building vacant.

The rezoning is being requested to allow for retail and service establishments appropriate for a neighborhood setting. The owner intends to open a tattoo & piercing studio in the building, which is an allowed use in the NBD zoning district.

The site is located at the northeast corner of 7<sup>th</sup> & Ottawa Streets, directly adjacent to the June's Northland building, which is zoned NBD. There are a number of other commercial uses in close proximity to the site along the 7<sup>th</sup> Street corridor, and the site is identified as appropriate for Commercial Uses on the Future Land Use Plan. There is existing parking on the site, sufficient for any potential use.

**CONDITIONS OF DETERMINATION**

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

- a) The character of the neighborhood;

*The subject property is .21 acres in size and is located at the northeast corner of 7<sup>th</sup> & Ottawa Streets, along the 7<sup>th</sup> Street corridor. There are a number of commercial uses in close proximity, along with a high concentration of single family residential neighborhoods.*

- b) The zoning and use of properties nearby;

*The properties directly to the north and west are zoned OBD, Office Business District. The property to the west, across 7<sup>th</sup> Street, is occupied by Kids Connection, and the property to the north, across Ottawa Street, is occupied by a single family residence. The property to the south is zoned NBD, Neighborhood Business District and is occupied by June's Northland Restaurant. Properties further to the north along 7<sup>th</sup> Street are zoned OBD and are occupied by a variety of retail, office and residential uses. Properties beyond the 7<sup>th</sup> Street corridor are primarily zoned R1-6, High Density Single Family Residential District, and occupied by single family homes.*

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

*The subject property is occupied by a single-story commercial building which is suitable for either commercial, retail, or office uses.*

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

*The proposed rezoning should have little detrimental effect upon surrounding properties. Rezoning of the property to NBD will allow for a more varied mix of business establishments suitable for a neighborhood setting.*

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

*The subject property is not vacant.*

- 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 will have a positive effect on the economic development of the City and region by allowing for the potential of retail and service establishments which supply commodities or perform services to meet the daily needs of the neighborhood.*

- g) The recommendations of permanent or professional staff;

*Staff recommends approval of the rezoning request.*

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

*The area is identified as appropriate for commercial uses on the Future Land Use map. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.*

- 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*

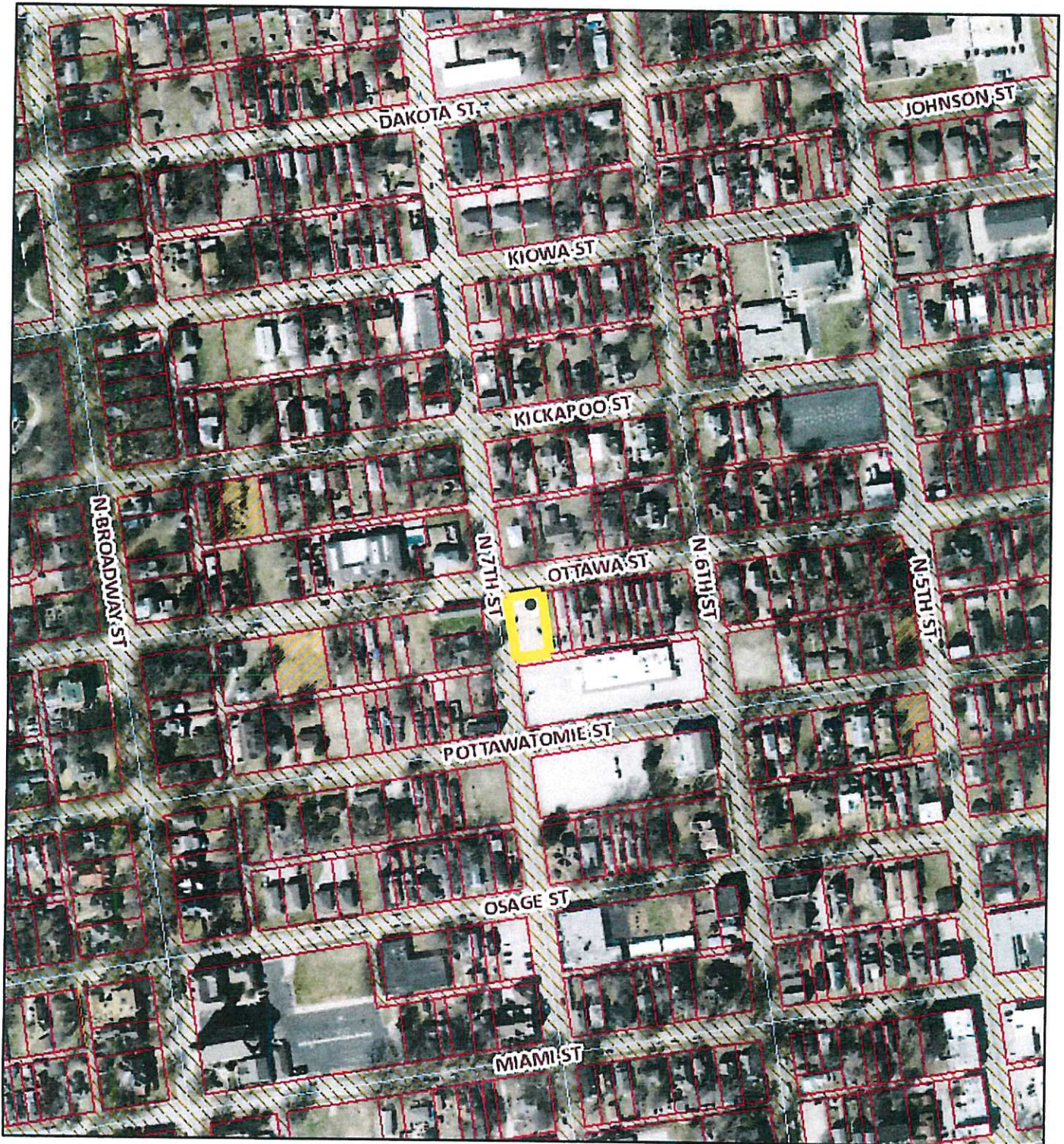
After the required public notices were sent to property owners within 200' as required by Kansas State Statute, staff did not receive any comments from notified property owners.

The Planning Commission held a public hearing for this item on October 4, 2021, and voted 4-0 to recommend approval of the request. No residents spoke in opposition to the request.

**REZONING ACTION/OPTIONS:**

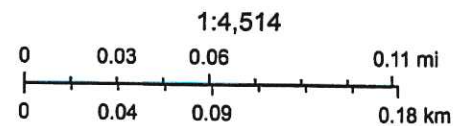
- Adopt the recommendation of the Planning Commission and place an ordinance on first consideration to approve the rezoning request for the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District.
- Override the Planning Commission's recommendation and deny the rezoning request for the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District to NBD, Neighborhood Business District.
- Return the item to the Planning Commission for further consideration.

# 2021-26-REZ



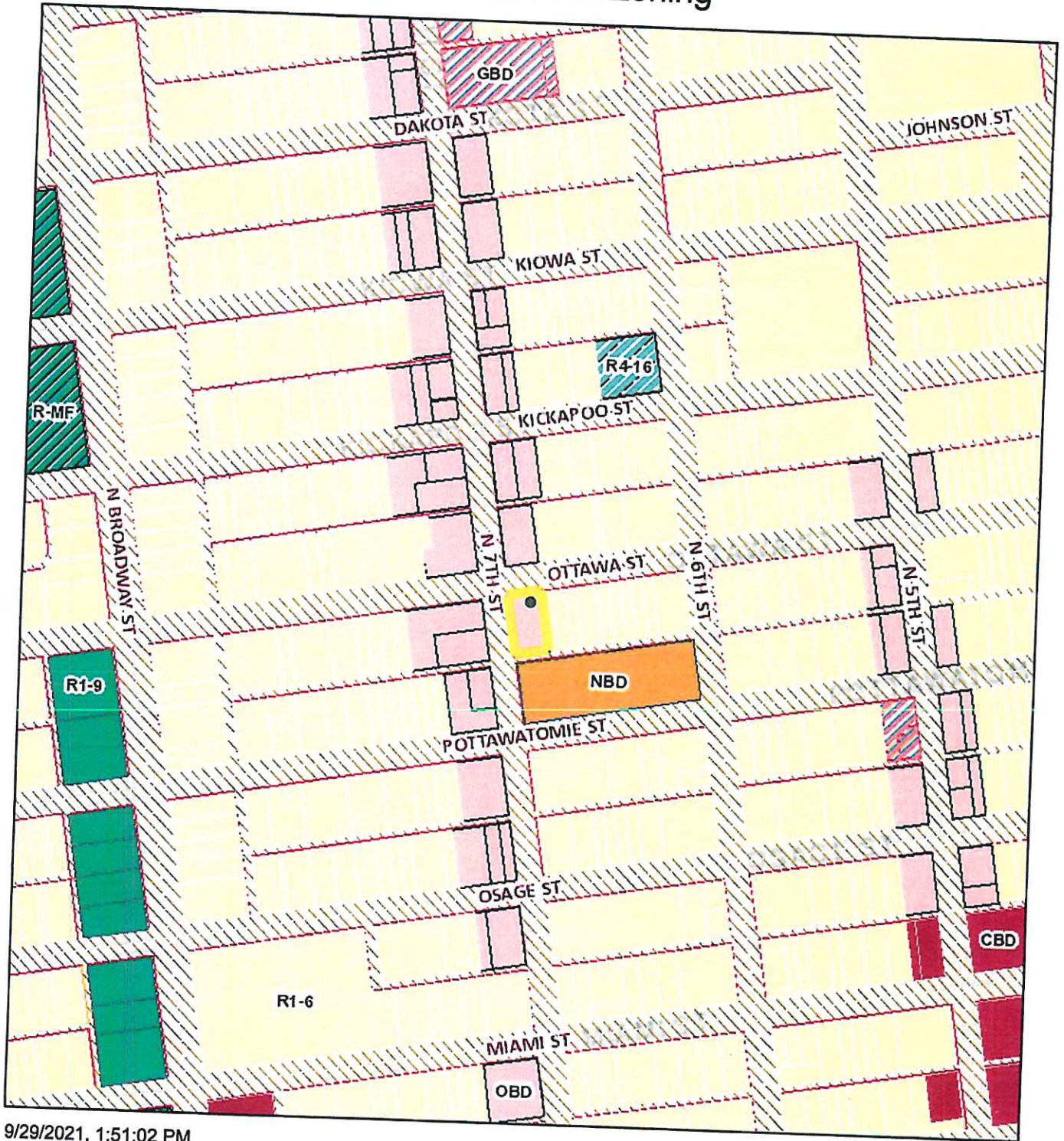
9/29/2021, 1:52:11 PM

- Override 1
- Parcels (City Owned)
- Parcels\_Current
- Missouri River
- Lansing City Limits
- Ft Leavenworth Military Installation
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline



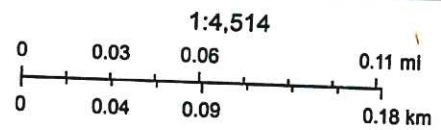
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

# 2021-26-REZ Zoning



9/29/2021, 1:51:02 PM

- |   |  |
|---|--|
| <span style="display:inline-block; width:15px; height:15px; background-color:yellow; border:1px solid black;"></span> Override 1  | <span style="display:inline-block; width:15px; height:15px; background: repeating-linear-gradient(45deg, transparent, transparent 2px, yellow 2px, yellow 4px); border:1px solid black;"></span> MP    |
| <span style="display:inline-block; width:15px; height:15px; background-color:orange; border:1px solid black;"></span> Zoning_CURRENT NBD  | <span style="display:inline-block; width:15px; height:15px; background-color:lightpink; border:1px solid black;"></span> OBD   |
| <span style="display:inline-block; width:15px; height:15px; background-color:darkred; border:1px solid black;"></span> CBD  | <span style="display:inline-block; width:15px; height:15px; background-color:lightblue; border:1px solid black;"></span> PUD   |
| <span style="display:inline-block; width:15px; height:15px; background: repeating-linear-gradient(-45deg, transparent, transparent 2px, yellow 2px, yellow 4px); border:1px solid black;"></span> GBD | <span style="display:inline-block; width:15px; height:15px; background: repeating-linear-gradient(-45deg, transparent, transparent 2px, yellow 2px, yellow 4px); border:1px solid black;"></span> R-MF |
| <span style="display:inline-block; width:15px; height:15px; background-color:pink; border:1px solid black;"></span> I-1   |  |
| <span style="display:inline-block; width:15px; height:15px; background-color:purple; border:1px solid black;"></span> I-2   |  |



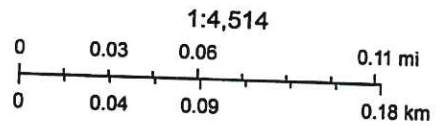
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

# 2021-26-REZ Future Land Use



9/29/2021, 1:49:20 PM

- |                                  |                      |                 |
|----------------------------------|----------------------|-----------------|
| Override 1                       | Multi-Family         | Parcels_Current |
| Future Land Use (Comp Plan 2030) | Park                 | Missouri River  |
| Commercial                       | Public/Semi-Public   |                 |
| Conservation/Open Space          | Single-Family        |                 |
| Industrial                       | Parcels (City Owned) |                 |
| Mixed Use                        |                      |                 |



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**APPLICATION FOR REZONING**  
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO. 2021-26 REZ

Application #	4126
Fee (non-refundable)	\$350.00
Filing Date	8-16-21
Received By	SA
Hearing Date	10-4-21
Publication Date	9-4-21

The undersigned owner(s)/agent for the owner(s) of the property described below, herein petition for a change in the zone of the following legally described property: (agent must have authorization to make application).

Subject Property:	520 N. 7th St Leav KS		
Rezoning:	Present classification of: CBD	district to: CBD	
Legal Description:	(Attach full legal description provided by the REGISTER OF DEEDS OFFICE)		
Real Estate PID #:		Historic District:	N/A

I/We, Robert Hayes being duly sworn, depose and say that I am the owner/agent for the owner of the property involved in this petition and that the statements and answers herein contained and then information herewith submitted are in all respects true and correct to the best of my knowledge and belief.

Name(s) of Owner (print or type):	Robert Hayes		
Address:	532 Pine Ridge Ct Leawing KS 66043		
Contact No.	913 549 2996	Email Address:	ducks carpet@gmail.com
Signature of Owner(s):			

State of <u>Kansas</u> )	(SEAL)	
County of <u>Leavenworth</u> )		

Signed or attested before me on <u>8-16-2021</u> by <u>Robert Hayes</u>
(date) (name(s) of person(s))
Notary Public: <u>Deborah F. Smith</u> My Appointment Expires: <u>2-8-22</u>

NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized.



If necessary, use additional sheets to respond to the following:

Briefly describe the present use and character of the property and of the surrounding area:

Part of the building is used as a Barber Shop the rest of the building has been vacant for several years. The vacant part of the building is where I would like to locate my business

Briefly describe the intended use and character of the property:

Tattoo + Piercing Studio

Briefly describe why you believe the land use (zoning) being requested is the most appropriate for this property:

Give the reason(s) why you believe this proposal will not be materially detrimental to the public welfare and surrounding properties and/or measures you have taken or intend to take to prevent detrimental impacts: I have operated the same business in Leavenworth for 3 years. My studio is very family friendly and community oriented

Is the property affected by any easements, deed/plat restrictions or other conditions arising from previous Special Use Permits, Subdivisions, rezoning or variances? If so, briefly explain the origin and effect of such conditions: No

Check List:	
✓	Non-refundable fee of \$350.00 is due at time of application
✓	Certified list of the property owners within two hundred (200) feet of the subject property
✓	Full legal description obtained through the Register of Deeds Office
✓	Site plan drawn to scale (see General Instructions)
✓	Supporting documentation (see General Instructions)

**CITY OF LEAVENWORTH PLANNING COMMISSION**

**COMMISSION CHAMBERS, CITY HALL**

100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048

**REGULAR SESSION**

**Monday, October 4, 2021**

6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Joseph Burks

Bill Waugh

Donald Homan

James Diggs

**Commissioners Absent**

Claude Wiedower

Sherry Hines Whitson

Chris Murphy

**City Staff Present**

Julie Hurley

Michelle Baragary

Vice Chairman Burks called the meeting to order at 6:00 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES: August 2, 2021**

Vice Chairman Burks asked for comments or a motion on the minutes presented for approval: August 2, 2021. Mr. Waugh moved to approve the minutes as presented, seconded by Mr. Homan and approved by a vote of 4-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2021-26 REZ – 520 N. 7<sup>TH</sup> STREET**

Conduct a public hearing for Case No. 2021-26 REZ – 520 N. 7<sup>th</sup> Street. The applicant is requesting a rezoning of the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District.

Vice Chairman Burks called for the staff report.

Planning Director Julie Hurley stated the applicant is requesting a rezoning of their property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District. The subject property is owned by Robert Hayes and is occupied by an existing one-story commercial building, which currently houses a barbershop with the remainder of the building vacant.

The rezoning is being requested to allow for retail and service establishments appropriate for a neighborhood setting. The owner intends to open a tattoo & piercing studio in the building, which is an allowed use in the NBD zoning district.

The site is located at the northeast corner of 7<sup>th</sup> & Ottawa Streets, directly adjacent to the June's Northland building, which is zoned NBD. There are a number of other commercial uses in close proximity to the site along the 7<sup>th</sup> Street corridor, and the site is identified as appropriate for Commercial Uses on the Future Land Use Plan. There is existing parking on the site, sufficient for any potential use.

#### **CONDITIONS OF DETERMINATION**

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

- a) The character of the neighborhood;

*The subject property is .21 acres in size and is located at the southeast corner of 7<sup>th</sup> & Ottawa Streets, along the 7<sup>th</sup> Street corridor. There are a number of commercial uses in close proximity, along with a high concentration of single family residential neighborhoods.*

- b) The zoning and use of properties nearby;

*The properties directly to the north and west are zoned OBD, Office Business District. The property to the west, across 7<sup>th</sup> Street, is occupied by Kids Connection, and the property to the north, across Ottawa Street, is occupied by a single family residence. The property to the south is zoned NBD, Neighborhood Business District, and is occupied by June's Northland Restaurant. Properties further to the north along 7<sup>th</sup> Street are zoned OBD and are occupied by a variety of retail, office and residential uses. Properties beyond the 7<sup>th</sup> Street corridor are primarily zoned R1-6, High Density Single Family Residential District, and occupied by single family homes.*

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

*The subject property is occupied by a single-story commercial building which is suitable for either commercial, retail, or office uses.*

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

*The proposed rezoning should have little detrimental effect upon surrounding properties. Rezoning of the property to NBD will allow for a more varied mix of business establishments suitable for a neighborhood setting.*

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

*The subject property is not vacant.*

- 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 will have a positive effect on 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 will have a positive effect on the economic development of the City and region by allowing for the potential of retail and service establishments which supply commodities or perform services to meet the daily needs of the neighborhood.*

- g) The recommendations of permanent or professional staff;

*Staff recommends approval of the rezoning request.*

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

*The area is identified as appropriate for commercial uses on the Future Land Use map. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.*

- 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.*

After the required public notices were sent to property owners within 200' as required by Kansas State Statute, staff did not receive any comments from notified property owners.

**ACTION/OPTIONS:**

- Recommend approval of the rezoning request from OBD to NBD to the City Commission
- Recommend denial of the rezoning request from OBD to NBD to the City Commission
- Table the issue for additional information/consideration.

Vice Chairman Burks called for questions from commissioners about the staff report.

Mr. Homan asked for clarification that the properties all the way to Dakota are zoned OBD other than June's Northland.

Ms. Hurley responded in the affirmative stating the properties are zoned OBD but there are a good number of nonconforming uses in that area.

Mr. Diggs asked about the tattoo and piercing studio the owner intends to open.

Trent and Diana Allen, 405 E. Connie, Lansing, KS, approached the board. Ms. Allen stated her business is currently located at 402 S. 5<sup>th</sup> Street; however, they intend on purchasing the subject property contingent on the rezoning request.

Mr. Homan asked if they intend to lease the existing barbershop.

Ms. Allen responded in the affirmative.

Mr. Diggs asked staff if there are any restrictions with a tattoo shop at this location. He further stated he knows the people who live in the house behind the subject property and they would have an issue with a tattoo shop at this location.

Ms. Hurley responded there are no restrictions for a tattoo shop at this location. Everyone within 200 feet of the subject property was notified of the rezoning request and staff did not receive any communication from anyone. Ms. Hurley further stated the commission is only looking at the rezoning to NBD and not the specific use of a tattoo and piercing studio.

Mr. Allen stated they are a family friendly business. Mr. Allen further stated he is in law enforcement and knows there is a stigma that comes along with a tattoo studio but they keep negativity out of their shop.

Vice Chairman Burks opened the public hearing.

Mr. Homan asked if it is Kansas statute to send out notifications within 200 feet.

Ms. Hurley responded in the affirmative.

With no one else wishing to speak, Vice Chairman Burks closed the public hearing and called for a motion. Mr. Diggs moved to recommend approval of the rezoning request from OBD to NBD to the City Commission, seconded by Mr. Waugh and approved by a vote of 4-0.

Ms. Hurley stated this item will go to the City Commission for first consideration on October 26, 2021.

Ms. Hurley stated there are no items on the agenda for November.

With no other business, Vice Chairman Burks adjourned the meeting at 6:15 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.

(Summary Published in the Leavenworth Times on \_\_\_\_\_, 2021)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE DEVELOPMENT REGULATIONS, APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS BY REZONING 520 N 7<sup>th</sup> STREET FROM OFFICE BUSINESS DISTRICT (OBD) TO NEIGHBORHOOD BUSINESS DISTRICT (NBD).**

**WHEREAS**, under the Development Regulations, Appendix A of the Code of Ordinances of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to amend, supplement or change existing zoning regulations within said City; and

**WHEREAS**, the City Planning Commission, after fully complying with the requirements of the Code of Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 4<sup>th</sup> day of October 2021 in the Commission Room, 1<sup>st</sup> Floor of City Hall, 100 N. 5<sup>th</sup> Street, Leavenworth, Kansas. The official date and time set as was published in the Leavenworth Times newspaper on the 9<sup>th</sup> day of September 2021 and notice of the public hearing was mailed to all property owners as required by K.S.A. 12-757(b); and

**WHEREAS**, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request Rezoning of 520 N. 7<sup>th</sup> Street, Leavenworth Kansas from office business district (OBD) to neighborhood business district (NBD); and

**WHEREAS**, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to rezone the property described herein.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**Section 1:** That the following described properties, to-wit, is hereby rezoned from office business district (OBD) to neighborhood business district (NBD):

Lots 17, 18 and 19, Block 80, Leavenworth City Proper, a subdivision in the City of Leavenworth, Leavenworth County, Kansas;

**and more commonly referred to as 520 N. 7<sup>th</sup> Street, Leavenworth, Kansas**

**Section 2:** That the “Zoning District Map” adopted under the Development Regulations, Appendix A of the Code of Ordinances of the City of Leavenworth, Kansas shall be and the same is hereby amended to conform to the rezoning as set forth in Section 1 above.

**Section 3:** That this Ordinance shall take effect and be in force from and after its passage, approval and summary publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

**PASSED and APPROVED** by the Governing Body on the \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Nancy D. Bauder, Mayor

{Seal}

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk

**POLICY REPORT  
FIRST CONSIDERATION ORDINANCE  
CHAPTER 2 ADMINISTRATION, ARTICLE II CITY COMMISSION, DIVISION 2 PROCEDURES;  
SECTION 2-52 MEETINGS**

**OCTOBER 26, 2021**

  
Carla K. Williamson, CMC City Clerk

  
Paul Kramer, City Manager

**ISSUE:**

To place on first consideration an ordinance to amend Sec. 2-52 of the City Code of Ordinance to change the start time of City Commission meeting from 7:00 pm to 6:00 pm.

**BACKGROUND:**

- At the October 19, 2021 Study Session, Staff and the City Commission reviewed and discussed the change of the start time of City Commission meetings
- Other City meetings such as the Planning Commission and Board of Zoning Appeals meet at 6:00 pm and it is common that citizen participation is required
- USD 453 meetings, which commonly has robust public participation, starts at 6:00 pm
- The Leavenworth Water Department (which is not part of the City of Leavenworth) holds its meetings at 5:00 pm
- Meetings would continue to be held on the second and fourth Tuesdays of each month with a change to the start time only

**ACTION:**

Consensus by the Governing Body to place on first consideration.

**ATTACHMENTS:**

- Red-line copy of changes to Ordinance
- Draft Ordinance



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## Sec. 2-52. Meetings.

- (a) *Regular meetings.* The regular meetings of the city commission shall ordinarily be held in the commission chambers of the city hall building on the second and fourth Tuesdays of each month at ~~7:00~~ 6:00 p.m.
- (b) *Special meetings.* Special meetings will be held only for a special purpose. Special meetings may be called by the mayor or the city manager, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered into the minutes.
- (c) *Work sessions and study sessions.* No agenda is required for a work or study session and no binding action may be taken during the work or study session.
- (d) *Adjournment.* Regular or special meetings of the city commission may be adjourned for the completion of its business at such subsequent time and place as the city commission shall determine in its motion to adjourn.
- (e) *Cancellation or modification.* The city commission may cancel or modify any ordinarily established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the mayor pro tem), after consulting with the city manager, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and commission members.
- (f) *Public comment.* If public comment is allowed during the meeting, the citizen desiring to comment on matters of a general nature, not specific to an agenda item, shall provide his name and address for the purpose of putting both in the minutes of the meeting. Any public comment taken on specific agenda items shall require the citizen to state his name and address for the minutes. The mayor may limit the time of each citizen based upon the number of people wishing to speak and the amount of time available for the public comment portion of the meeting.

(Summary Publish in the Leavenworth Times on \_\_\_\_\_, 2021)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS; CHAPTER 2 ADMINISTRATION, ARTICLE II CITY COMMISSION, DIVISION 2 PROCEDURES; SECTION 2-52 MEETINGS. PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTION AMENDED.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**Section 1.** That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 2 Administration, Article II City Commission, Division 2 Procedures; Section 2-52 Meetings, is hereby deleted in its entirety and amended to read as follows:

Sec. 2-52. Meetings.

- (a) Regular meetings. The regular meetings of the city commission shall ordinarily be held in the commission chambers of the city hall building on the second and fourth Tuesdays of each month at 6:00 p.m.
- (b) Special meetings. Special meetings will be held only for a special purpose. Special meetings may be called by the mayor or the city manager, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered into the minutes.
- (c) Work sessions and study sessions. No agenda is required for a work or study session and no binding action may be taken during the work or study session.
- (d) Adjournment. Regular or special meetings of the city commission may be adjourned for the completion of its business at such subsequent time and place as the city commission shall determine in its motion to adjourn.
- (e) Cancellation or modification. The city commission may cancel or modify any ordinarily established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the mayor pro tem), after consulting with the city manager, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and commission members.
- (f) Public comment. If public comment is allowed during the meeting, the citizen desiring to comment on matters of a general nature, not specific to an agenda item, shall provide his name and address for the purpose of putting both in the minutes of the meeting. Any public comment taken on specific agenda items shall require the citizen to state his name and address for the minutes. The mayor may limit the time of each citizen based upon the number of people wishing to speak and the amount of time available for the public comment portion of the meeting.

**Section 2. REPEAL.** Chapter 2 Administration, Article II City Commission, Division 2 Procedures; Section 2-52 Meetings, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

**Section 3. EFFECTIVE DATE.** This Ordinance shall take effect January 1, 2022 and be in force from and after its passage, approval and publication in the official city newspaper.

**PASSED and APPROVED** by the Governing Body on this \_\_\_th day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Nancy D. Bauder, Mayor

{Seal}

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk