



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

City Commission Regular Meeting
Commission Chambers
Tuesday, July 23, 2024 6:00 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 Griff Martin, Mayor Pro-Tem Holly Pittman, Commissioners Nancy Bauder and Edd Hingula. Absent: Commissioner Jermaine Wilson.

Staff members present: Interim City Manager Patrick Kitchens, Assistant City Manager Penny Holler, Chief Building Inspector Harold Burdette, Finance Director Roberta Beier, Fire Chief Gary Birch, Deputy Fire Chief Mike Shore, Battalion Chief Chris Wolters, Public Works Director Brian Faust, Planning & Community Development Director Julie Hurley, Public Information Officer Melissa Bower, City Attorney David E. Waters and City Clerk Sarah Bodensteiner.

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

PROCLAMATIONS:

Leavenworth Farmers Market Week– Mayor Martin read the proclamation recognizing the week of August 4-10, 2024 as Leavenworth Farmers Market Week. The proclamation was accepted by Austin Reynolds of the Leavenworth Farmers Market.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Bauder moved to accept the minutes from the July 9, 2024 regular meeting. Commissioner Pittman seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

NEW BUSINESS:

Mayor Martin proposed moving Agenda Item No. 11 First Consideration Ordinance Special Use Permit related to a Solid Waste Facility at 1701 S 4th Street up the agenda to after Public Comment.

There was consensus among the City Commission to move up Agenda Item No. 11 on the agenda.

Public Comment: *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*

Charles Carlino, 712 N 18th St.:

- Expressed his dislike of the Transfer Station Special Use Permit proposal and read a prepared statement

Louis Klemp, 1816 Pine Ridge Dr.:

- Provided a handout
- Mentioned the history of Leavenworth
- Mentioned the Fort Leavenworth Army Museum request for funding

- Mentioned previous City Planners
- Mentioned businesses that have survived in Leavenworth

Tom Lauhon, 526 S. Hickory Trl., Lansing KS:

- Spoke against the Special Use Permit proposal

Darlene Derringer, 2229 Girard Ave.:

- Discussed the lack of on-street parking on her street

Annette Hamilton, 225 Pottawatomie St.:

- Spoke against the Special Use Permit proposal
- Urged the City Commission to vote no

Michael Langley, 406 N. Broadway:

- Spoke against the Special Use Permit proposal
- Urged the City Commission to vote no

Birgit Burggarf-Barron, 1020 9th Ave.:

- Spoke of her positive memories at Abeles Field
- Spoke against the Special Use Permit proposal

Donna Fletcher, 542 Nipper Lane:

- Mentioned her dislike of the Special Use Permit proposal
- Spoke against the feasibility study request from the U.S. Army Foundation as the local museums are not funded by the City, and not sure why the City should fund something for the Federal Government

First Consideration Ordinances:

First Consideration Ordinance Special Use Permit related to a Solid Waste Facility at 1701 S. 4th Street – Planning & Community Development Director Julie Hurley presented for first consideration an ordinance related to a solid waste facility located at 1701 S. 4th Street. The applicant, Brothers Disposal, LLC, is requesting approval of a Special Use Permit to allow the operation of a solid waste facility at 1701 S. 4th Street. The property is commonly known as Abeles Field. Solid waste facilities are allowed in the I-2, Heavy Industrial zoning district, with approval of a Special Use Permit. The proposed facility would function as a transfer station, allowing for the collection of trash and recyclable materials from both commercial users, including the City of Leavenworth, and residents. The proposed facility would be accessed by an entrance on 2nd Street, no access would be provided from Poplar. Vehicles would first arrive at a scale house and scale where incoming debris would be weighed. Vehicles would then continue on to the citizen drop off area, recycling area, or to the transfer station building (for commercial trash trucks). Once trash had been deposited, vehicles would exit the facility onto 2nd Street. Commercial trash trucks will be directed to access the entrance on 2nd Street via Marion Street, to avoid an increase in traffic near the existing Stubby Park to the north. Trash brought by commercial trucks will be deposited into the transfer station building and loaded into a trailer. Each trailer holds 20 tons of waste, and once full, will be transported to the Hamm Waste Services landfill in Lawrence. The floor of the transfer station building will be concrete and will be cleaned daily, there will be no trash stored outside. New fencing will be installed along the property

lines bordering 4th Street and Poplar Street, as well as landscaping to include dense trees and shrubbery for screening purposes. The existing “Abeles Field” arch will be retained and maintained. The existing entrance from Poplar Street will be kept but secured with a gate to prevent traffic from entering or leaving the facility, and would only be used in the event that the 2nd Street entrance was inaccessible due to flooding or other unforeseen conditions. Anticipated hours of operation would be 7am-4pm on weekdays, and 7am-1pm on Saturdays. The Development Review Committee reviewed the proposed Special Use Permit on Thursday, May 9th. Access to the site and operations were the primary items discussed. The Commission may recommend issuance of a special use permit whenever it finds that: 1. The proposed special use complies with all applicable provisions of this ordinance. 2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public. 3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located. 4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. The Planning Commission considered this item at their July 1, 2024 meeting. During the public hearing, 11 individuals spoke in opposition to the request, and one individual spoke in favor of the request. After 4 motions each resulted in a 2-2 vote, the Planning Commission failed to make a recommendation. KSA 12-757 states that if a Planning Commission fails to make a recommendation, that the Planning Commission “shall be deemed to have made a recommendation of disapproval”. Prior to the public hearing, notification was sent to property owners within 200’ of the subject property, as required by Kansas statute. After notification was sent, staff received comments from several individuals, which are included in the agenda packet. City Attorney David Waters reviewed the Golden Factors and the action options for the City Commission.

Robert Hancock of Brothers Disposal, applicant for the Special Use Permit:

- Part of the Leavenworth Community
- Played football at and coached his kids at Abeles Field
- Reviewed what a Transfer Station is and is not
- Mentioned the City currently takes the trash to a landfill in Shawnee
- Transfer Station acts just like a trash receptacle like at your home, it isn’t a dump
- Reviewed the vision of their proposal for commercial, residential and industrial uses
- Understand the strong emotions of residents regarding Abeles Field
- Property was rezoned to heavy industrial and it was approved
- Reviewed the other heavy industrial businesses/entities near the proposed facility
- Addressed concerns and misconceptions regarding this proposal
- This facility will not attract outside business from Kansas City and the like, it will be for the immediate area to use
- Idea is to receive debris, get it on the trailer and move it to the final destination, the landfill
- Reviewed the benefits the facility could bring to residents
- Could save the City on labor, maintenance, gas, travel times and overall costs
- Reviewed the Golden Factors that are used to determine an action such as this
- Everyone has the same goal; making use of the empty Abeles Field
- The project may not be what everyone wants, but there are people who are in favor of the proposal
- After the facilities footprint there will still be 7 acres of greenspace
- Addressed costs reasons why the City does not use the Leavenworth County Transfer Station

Rhonda Levinson, Bateman Law Group, legal counsel for Robert Hancock:

- During the Planning Commission heard a lot about how the project is a good idea but not in this spot
- Reviewed the location
- Mentioned benefits for both the City and residents
- Request is to follow the Golden Factors when deciding on this item

Commissioner Pittman:

- Asked if the emails received were from people within the 200' radius

Ms. Hurley:

- The emails included in the agenda packet were not from anyone within the 200' radius
- Cannot speak to any emails that may have been sent to the Commissioners

Commissioner Hingula:

- Asked if an environmental impact study been done yet
- Mentioned that he visited the Grandview Transfer Station and was surprised at how clean it was and was huge compared to what is being proposed
- There is also a subdivision to the east of that Transfer Station and they have made no complaints

Mr. Hancock:

- Per KDHE no environmental impact study is required as no garbage is being buried or dumped on the ground

Mayor Martin:

- Considered the Golden Factors and inclined to agree with the Planning Commission with the recommendation of denial

Commissioner Bauder requested a consensus on first consideration of the ordinance to adopt the recommendation of the Planning Commission and deny the issuance of a Special Use Permit to allow a Solid Waste Facility in the I-2 zoning district at 1701 S. 4th St., and move such ordinance to second consideration.

There was consensus by the Commission to place the ordinance to deny the issuance of a Special Use Permit to allow a Solid Waste Facility in the I-2 zoning district at 1701 S. 4th St. on first consideration.

General Items:

Mayor's Appointments

Mayor Martin moved to appoint to the Board of Zoning Appeals Ron Bates Jr. to a term ending May 1, 2027, and to appoint to the Parks & Community Activities Board Charles (Chuck) Johnson to an unexpired term ending January 15, 2027. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Presentation of 2023 Audit – Finance Director Roberta Beier introduced Mark Stair, CPA from Hood and Associates CPAs, PC. Mr. Stair presented the 2023 Audit to the City Commission.

- Scope of the audit: annual comprehensive financial report and single audit
- No findings as far as compliance goes
- Conduct audit in accordance with Generally Accepted Auditing Standards, Government Auditing Standards and Uniform Guidance
- Plan and perform audit to obtain reasonable assurance that the basic financial statements are free of material misstatement
- Report on internal controls over financial reporting and compliance with laws and regulations
- Reviewed Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) information:
 - Illegal acts – None came to our attention as a result of performing our audit procedures
 - Changes in significant accounting policies – The City implemented Government Accounting Standards Board (GASB) Statement No. 96 Subscription-Based Information Technology Arrangement in 2023
 - No difficulties or disagreements with management
 - Cooperation – Full access to books and records
- Financial and Compliance Audit addresses 3 basic questions: are the financial statements free of material misstatements, are internal controls over financial reporting adequately designed and operating effectively, and finally, did the City of Leavenworth comply with the finance-related laws and regulations
- Discussed best practices (key employees and cross-training) and possible improvements in internal control noted in the conduct of the audit

Request for Feasibility Study Funding Frontier Museum of the U.S. Army Foundation – Assistant City Manager Penny Holler introduced Mr. George Pettigrew, Chairman of the Frontier Museum of the U.S. Army Foundation who presented to the City Commission a request of \$47,500 from the Frontier Museum of the U.S. Army Foundation for a feasibility study for a new museum outside the access gates of Fort Leavenworth. A local group pursuing this new museum have made efforts to move this project forward and have included conceptual drawings, fundraising, requests for governmental support and development of their website. The Leavenworth Board of County Commissioners approved a letter of support but no financial assistance has been pledged. The Kansas Department of Commerce approved tourism funds of \$47,500 for a feasibility study and professional renderings. That approval provided matching funds for the estimated \$90,000 cost. A feasibility study would provide estimated attendance and financial impacts that would help with project development and a capital campaign. The Frontier Museum of the U.S. Army Foundation has requested the City of Leavenworth fund the matching \$47,500. Additional items in the presentation included:

- Charitable organization, received 501c3 designation
- Provided a current list of partners
- Reviewed the proposed location between Sherman and Grant Gate
- 90,000 square foot facility
- Cost of facility \$72,000,000
- No gate, no guards, no cost and open to the public
- Desiring to put the visitor's center within the museum
- This will not be Buffalo Soldier Museum, it will be what Fort Leavenworth actually was, the development of America

- Not asking for a vote for any funds
- Asking for support to continue fundraising for this project
- A feasibility study is a basic tool to determine what this would bring to the community

Ms. Holler:

- CVB Manager and Mr. Pettigrew worked with Lt. Governor Tolland for the match grant
- Reviewed options with the Commission regarding the funding request
- CVB department has a grant program up to \$5,000 to help our local museums in Leavenworth, this request would not fit the CVB program

Commissioner Bauder:

- Would like to see the economic impact and it could bring other people to our local museums, great concept, looking forward to seeing the feasibility study

Commissioner Pittman:

- Asked what is the timeline, how long will it take to build

Mr. Pettigrew:

- Groundbreaking is planned for 2026-2027 at the latest; aggressive timeline, 18 month construction timeline

Mayor Martin:

- Asked where is your fundraising at with a price tag of \$72million dollars, how much money have you raised
- Like the idea of a museum of this caliber
- We'd be using reserve funds to provide these monies

Mr. Pettigrew:

- We're in what is called the silent phase, we are speaking with entities, individuals and groups/organization about investing/donating
- It's in the tens of millions

Ms. Holler:

- The CVB Reserve fund has adequate funding to cover this

Commissioner Pittman:

- Asked to table any decision until after the budget is finalized to see where it might fit into the budget
- Is there a timeline to get back to the State

Mr. Pettigrew:

- We don't have a deadline with the state but the funds won't be held at the State indefinitely

Commissioner Bauder moved to table this item to a future City Commission meeting. Hingula seconded the motion and motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

The Mayor called for a 5 minute break.

The meeting resumed at 8:06 p.m.

Resolutions:

Resolution B-2373 Setting Public Hearing for Unsafe Fire Damaged Structure 3851 Tonganoxie Drive – Chief Building Inspector Harold Burdette provided the background information. On May 24, 2024 the structure was significantly damaged by fire; city received check from insurance proceeds. This money is to be used by the City to either remove the structure if the owner decides not to address the issue, or be returned to the property owner once repairs are completed and the structure is ready for occupancy or the structure has been demolished by the owner. A public hearing is required to determine if the structure should be demolished or if the owners will commit to making improvements within a timeframe acceptable to the City Commission. This Resolution sets the Public Hearing date of September 10, 2024.

Commissioner Hingula moved to adopt Resolution B-2373 setting the public hearing for September 10, 2024 regarding the unsafe structure located at 3851 Tonganoxie Drive. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Bids, Contract and Agreements:

Consider Approval of Contract Change Order No. 1 for the City Hall Parking Lot & 7th Street Component of the 2023 Pavement Management Program – Public Works Director Brian Faust presented for consideration approval of Contract Change Order No. 1 for the 2023 Pavement Management Project – City Hall Parking Lot & 7th Street. On June 13, 2023, the City Commission approved a construction contract with Baker Construction for the rehabilitation of the City Hall Parking Lot & N. 7th Street component of the 2023 Pavement Management Program. During the course of the project, it was necessary to have the contractor perform unforeseen extra work that was not anticipated. There were also project under-runs and over-runs of various line items. At the conclusion of the project, the total Final Change Order amount is \$109,265.09. Some of the major items included correcting drainage issues and poor curb inlet at City Hall, removal and replacement of curb inlets along N 7th Street, additional concrete pavement and additional concrete construction of ADA ramps, and curbs, gutters and sidewalks. The net impact of all the increases and decreases for this project is \$109,265.09, or 19.2% over the original bid. The additional funding will come from both the CIP Curb and Sidewalk Programs.

Commissioner Bauder moved to approve Change Order No. 1 with Baker Construction for the City Hall Parking Lot & N 7th Street component of the 2023 Pavement Management Program, in an amount not to exceed \$109,265.09. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Consider Award of Bid for Fire Station No. 1 HVAC Replacement Project – Deputy Fire Chief Mike Shore presented for consideration award of bid for the HVAC replacement project at Fire Station No. 1. Fire Station No. 1 is 24 years old and is currently utilizing the original air conditioning system. This system has reached the end of its projected useful life. Over the last several years we have had technicians out for costly repairs many times over each cooling season. A new air conditioning system will utilize a more efficient condenser with readily available refrigerant. Along with a new condenser, a new compatible A-coil

will need to be retrofitted into our air handler. The existing air handler also needs a new fan motor as well. The current system utilizes R-22 refrigerant. This refrigerant is now illegal to produce or import, and the remaining stock of the refrigerant is extremely expensive. The City's CIP included funds for the replacement of the HVAC equipment at Fire Station No. 1 in the amount of \$106,000.00, the received bid was for less than the budgeted amount.

Commissioner Pittman moved to approve the base bid of the Fire Station No. 1 HVAC Replacement Project and the additional option of replacing the air handler to D'Agostino Mechanical Contractors, Inc., in an amount not to exceed \$87,950.00. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Request for Approval of Purchase of Fire Apparatus for the Fire Department – Battalion Chief Chris Wolters presented a request to approve a purchase of a 75' Quint fire apparatus utilizing the Houston-Galveston Area Council Cooperative Purchasing Program. NFPA recommends apparatus replacement of 10-15 years and this would replace the 2009 Pierce 75' Quint that is 15 years old and has 104,133 miles on it. With this purchase, six of the seven apparatus' will be from one manufacturer. Having a standardized fleet assists with maintenance, driver operator familiarity and training. The Houston-Galveston Area Council Cooperative Purchasing Program was utilized to solicit price quotes in order to receive the most favorable of prices. The Houston-Galveston Area Council Cooperative Purchasing Program is administered by the Mid-America Regional Council. The request comes before the Commission now as lead times to build the apparatus have increased from 12-15 month to 48 months. Though the programmed amount in the City's 24-28 Capital Improvement Plan was only \$1,300,000, Staff anticipated a continued rise in prices and planned an adequate budget wedge in the 2025 Operating Budget to absorb the cost of this purchase.

Commissioner Hingula:

- Asked where is the overage in cost being paid from

Fire Chief Gary Birch:

- The Finance Department advised that they planned on an increase in price when budgeting and we have funds to cover it
- This gets us to lock in the price

Commissioner Bauder moved to approve the purchase of a Pierce 75' Aerial Truck through Conrad Fire Equipment utilizing the Houston-Galveston Area Council Cooperative Purchasing Program, in an amount not to exceed \$1,419,249.91. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Consider Approval of Bid for State Rehabilitation Tax Credits – Planning & Community Development Director Julie Hurley presented for consideration the proposal received from Commerce Bank in the amount of 90% or \$73,798.20 for the Kansas State Rehabilitation Tax Credits the City has in its possession totaling \$81,998.00 for the recent rehabilitation on the Old Union Depot (Riverfront Community Center). In March 2024, the City completed \$273,327.00 of qualifying expenditures for rehabilitation on the Old Union Depot, now known as the Riverfront Community Center. Because the building is listed on the National Register of Historic Places, the City applied for Kansas State Rehabilitation Tax Credits to help offset the cost of repairs. In April 2024, the City was notified that it had received a credit for 30% of the total project cost. Based on procedures the City used before, staff drafted a Request for Proposals (RFP) for the tax

credits, and solicited bids from financial entities. The RFP asked firms to indicate the maximum amount they would pay for the tax credits. The proceeds of the sale will be used to offset costs associated with the project.

Commissioner Pittman:

- Asked where does the money go

Ms. Hurley:

- Back into the budget to offset the project costs

Commissioner Hingula moved to accept the bid from Commerce Bank in the amount of \$73,798.20 for the purchase of Kansas State Rehabilitation Tax Credits. Commissioner Pittman seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Consent Agenda:

Commissioner Hingula moved to approve Claims for July 5, 2024 through July 18, 2024, in the amount of \$2,199,098.78; Net amount for Payroll #14 effective July 12, 2024 in the amount of \$415,332.10 (No Police & Fire Pension). Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Other:

Interim City Manager Patrick Kitchens:

- Public invited to an Open House on August 7th for the First City Vision Zero Action Plan at the Riverfront Community Center

Commissioner Hingula:

- Excited for all the involved citizens

Mayor Martin:

- Appreciate all that came out tonight
- Good feedback from the budget survey
- Less than 2% of population responded

Adjournment:

Commissioner Hingula moved to adjourn the meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved and the meeting was adjourned.

Time Meeting Adjourned 8:28 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC