



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, JULY 23, 2024 6:00 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 6 p.m. and midnight and available for viewing on YouTube

CALL TO ORDER – Pledge of Allegiance Followed by Silent Meditation

PROCLAMATION:

1. Leavenworth Farmers Market Week (pg. 2)

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

2. Minutes from July 9, 2024 Regular Meeting **Action:** Motion (pg. 3)

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.

General Items:

3. Mayor's Appointments **Action:** Motion (pg. 6)
4. Presentation of 2023 Audit **Action:** None (pg. 7)
5. Request for Feasibility Study Funding Frontier Museum of the U.S. Army Foundation **Action:** Motion (pg. 8)

Resolutions:

6. Resolution B-2373 Setting Public Hearing for Unsafe Fire Damaged Structure 3851 Tonganoxie Drive
Action: Motion (pg. 9)

Bids, Contracts and Agreements:

7. Consider Approval of Contract Change Order No. 1 for the City Hall Parking Lot & 7th Street Component of the 2023 Pavement Management Program **Action:** Motion (pg. 13)
8. Consider Award of Bid for Fire Station No. 1 HVAC Replacement Project **Action:** Motion (pg. 18)
9. Request for Approval of Purchase of Fire Apparatus for the Fire Department **Action:** Motion (pg. 23)
10. Consider Approval of Bid for State Rehabilitation Tax Credits **Action:** Motion (pg. 26)

First Consideration Ordinances:

11. First Consideration Ordinance Special Use Permit related to a Solid Waste Facility at 1701 S. 4th Street
Action: Consensus (pg. 29)

Consent Agenda:

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). **Action:** Motion

Other:

Adjournment

Action: Motion

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *the Leavenworth Farmers Market, offers consumers farm-fresh, affordable, convenient, and healthy products such as fruits, vegetables, cheeses, herbs, flowers, baked goods, meat; and*
- WHEREAS,** *farmers markets serve as integral links among urban, suburban, and rural communities, affording farmers and consumers the opportunity to interact; and*
- WHEREAS,** *the popularity of farmers markets continues to rise as more and more consumers discover the joys of shopping for unique ingredients sold directly from the farm in their freshest possible state; and*
- WHEREAS,** *farmers markets play a key role in developing local and regional food systems that support the sustainability of family farms, revitalize communities, and provide opportunities for farmers and consumers to interact; and*
- WHEREAS,** *Leavenworth Farmers Market offers electronic benefits transfer technology for use by Supplemental Nutrition Assistance Program recipients in redeeming their benefits, offers opportunities for senior citizens participating in the Senior Farmers Market Nutrition Program to redeem their checks, and provides unsold produce to community free food programs; and*
- WHEREAS,** *The United States Department of Agriculture strongly supports and promotes the development, operation, and expansion of farmers markets and other direct-to-consumer marketing activities for agricultural producers providing them with marketing opportunities.*

NOW, THEREFORE, *I, Griff Martin, Mayor of the City of Leavenworth, Kansas, hereby recognize farmers markets and the contributions farmers make to daily life in America and give notice to our citizens that August 4-10, 2024 be proclaimed:*

Leavenworth Farmers Market Week

in the City of Leavenworth, and encourage citizens and visitors to celebrate the benefits of farmers markets and the bountiful production of our Nation's farmers with appropriate observances and activities.

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

Griff Martin, Mayor

ATTEST:

Sarah Bodensteiner, 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 Griff Martin, Mayor Pro-Tem Holly Pittman, Commissioners Nancy Bauder, Edd Hingula and Jermaine Wilson.

Staff members present: Interim City Manager Patrick Kitchens, Finance Director Roberta Beier, Human Resources Director Lona Lanter, Public Information Officer Melissa Bower and City Clerk Sarah Bodensteiner.

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

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Bauder moved to accept the minutes from the June 25, 2024 regular meeting. Commissioner Wilson seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

Second Consideration Ordinance:

Second Consideration Ordinance No. 8245 Rezoning 300 Santa Fe Street from Planned Unit Development to Residential Mixed Use District – Interim City Manager Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the June 25, 2024 meeting.

Mayor Martin called the roll and the Ordinance No. 8245 was unanimously approved.

Second Consideration Ordinance No. 8246 Rezoning 1820 South 4th Street from High Density Single Family Residential to General Business District – Interim City Manager Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the June 25, 2024 meeting.

Mayor Martin called the roll and the Ordinance No. 8246 was unanimously approved.

NEW BUSINESS:

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

Robert Hancock, 1119 Limit Street:

- One of the owners of Brothers Disposal
- Taking a tour of a Transfer Station in the City of Grandview
- Always looking for new ways to improve the business and happy to report back to the Commission

Misty Underwood, 2229 Girard:

- Asking for ability to have an A/C repair van park on street tomorrow

- Asked if a timeframe could be provided regarding a decision on the parking situation

Interim City Manager Kitchens:

- Can authorize the parking for the situation with the A/C repair van
- Advised that we are currently awaiting a report, but should be able to provide a recommendation by the end of July

Resolutions:

Resolution B-2372 Resolution Providing for a Notice of Public Hearing Exceeding Revenue Neutral Rate – Finance Director Roberta Beier presented the City of Leavenworth’s intent to exceed the revenue neutral rate for the 2025 budget year. As required by State Statute, the City must hold a public hearing related to the issue. The public hearing date is schedule for August 27, 2024 for the consideration of exceeding the revenue neutral rate.

Commissioner Bauder moved to approve Resolution B-2372 Providing for a Notice of Public Hearing for Exceeding the Revenue Neutral Rate. Commissioner Wilson seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

Consent Agenda:

Commissioner Hingula moved to approve Claims for June 21, 2024 through July 4, 2024, in the amount of \$1,049,772.23; Net amount for Payroll #13 effective June 28, 2024 in the amount of \$447,121.67 (Includes Police & Fire Pension in the amount of \$7,491.38). Commissioner Pittman seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

Other:

Interim City Manager Patrick Kitchens:

- Riverfront Campground is back open

Commissioner Hingula:

- Rivers are receding, no terrible flooding has occurred
- Stay hydrated

Commissioner Pittman:

- Leavenworth Main Street is doing a free concert on Saturday at Haymarket Square
- Receiving a lot of calls regarding solicitors, they need a permit to go door to door

Commissioner Bauder:

- Talking with Main Street and Chamber of Commerce about vacant buildings around the City
- Asked if staff could look into ordinances other cities have regarding vacant spaces

Commissioner Wilson:

- Received a lot of communication from the community regarding the Abeles Field property

Mayor Martin:

- Asked the Commission if a survey would be beneficial to get community feedback regarding the budget

Commissioners provided consensus that a survey or way to garner feedback from the community would be beneficial.

Executive Session – Personnel Matter of Non-Elected Personnel – Mayor Martin moved to recess into executive session for a period of 1 hour 30 minutes for the purpose of *discussion of a personnel matter, under the justification to discuss personnel matters of non-elected personnel* K.S.A. 75-4319 (b) 1. The City Commission, Human Resources Director and Executive Search Firm will be present. The open meeting will resume in the City Commission Chambers at 7:48 p.m. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

The City Commission returned to open session at 7:48 p.m.

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 7:48 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC

MAYOR'S APPOINTMENTS

JULY 23, 2024

Mayor Martin

"Move to

*Appoint to the **Board of Zoning Appeals** Ron Bates Jr. to a term ending May 1, 2027;*

*Appoint to the **Parks & Community Activities Board** Charles (Chuck) Johnson to an unexpired term ending January 15, 2027."*

Requires a second and vote by the Governing Body.

Policy Report

Finance No. 23-04

Presentation of 2023 Audit

July 23, 2024

Prepared by:



Roberta Beier
Finance Director

Approved by:



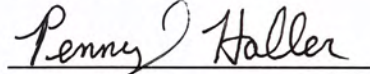
Patrick Kramer
Interim City Manager

Issue:

Mark Stair, CPA, from Hood and Associate CPAs, PC will present the 2023 Audit. A copy of the audit report can be found on the City's website at www.leavenworthks.org.

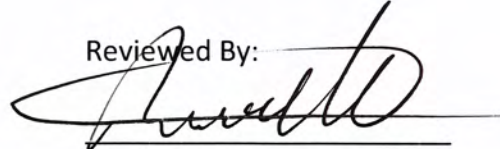
POLICY REPORT
Request for Feasibility Study Funding
July 23, 2024

Prepared By:



Penny Holler
Assistant City Manager

Reviewed By:



Patrick Kitchens
Interim City Manager

ISSUE:

Consider request of \$47,500 from the Frontier Museum of the U.S. Army Foundation.

BACKGROUND:

The local group pursuing a new military museum outside the access gates of Fort Leavenworth has incorporated as a non-profit organization called the Frontier Museum of the U.S. Army Foundation. Efforts to move this project forward have included conceptual drawings, fundraising, requests for governmental support and development of the www.fmusaf.org website. The Leavenworth County Board of Commissioners approved a letter of support but no financial assistance during a recent meeting. 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.

The Commission may consider funding the full request, funding the request at a lesser amount or not funding this request.

BUDGET IMPACT:

If approved, \$47,500 would come from Convention and Visitors Bureau reserve funds.

POLICY REPORT PWD NO. 24-30

RESOLUTION SETTING HEARING DATE FOR UNSAFE STRUCTURE
3851 TONGANOXIE DRIVE

July 23, 2024

Prepared by:



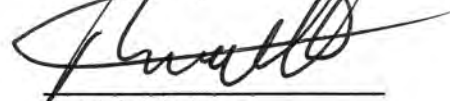
Harold D. Burdette,
Chief Building Inspector

Reviewed by:



Brian D. Faust, P.E.,
Director of Public Works

Reviewed by:



Patrick Kitchens,
Interim City Manager

ISSUE:

Consider a resolution setting September 10, 2024 as the date of a public hearing regarding the unsafe or dangerous structure located at 3851 Tonganoxie Drive.

BACKGROUND:

A fire significantly damaged this structure on May 24, 2024. Inspection staff has spoken with a contractor in regards to an electrical permit for, but no request for a building permit has been received.

When structures are damaged by fire or other causes 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 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 owner has the structure demolished. The City has received money in regards to this property. The money will be returned to the owner once repairs have advanced to the point that the exterior work has been completed and the interior is ready for sheetrock.

The Chief Building Inspector recommends that proceedings under the provisions of K.S.A. 12-1750, et seq. should be commenced. Approval of this resolution setting the date of the public hearing is the first step in the process. This action will ensure that the City retains control over the proceeds from the fire insurance to assist with efforts to maintain the site.

Pursuant to the provisions of K.S.A. 12-1750, et seq., 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. To establish the hearing date and to begin the legal service of notice process, the City Commission has to establish the hearing date by which assignees and owners must be notified. The legal rights are vested in the hearing and the City Commission should refrain from taking any testimony at this time in order to protect their legal rights in the process.

At the public hearing, the Commission will receive testimony for and against ordering the demolition of the structure. At the conclusion of the September 10, 2024 public hearing, the City Commission findings are adopted by resolution.

RECOMMENDATION: Motion to adopt Resolution No. B-2373 setting September 10, 2024 as the date for the public hearing regarding the unsafe structure located at 3851 Tonganoxie Drive.

ATTACHMENT:

Resolution No. B-2373

Photo of Exterior of 3851 Tonganoxie Drive

(To Be Published in the Leavenworth Times on July 27, 2024 and August 3, 2024)

RESOLUTION NO. B-2373

A RESOLUTION FIXING THE TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS, AT WHICH TIME AND PLACE THE OWNER, ITS AGENT, LIEN HOLDERS OF RECORD, AND OCCUPANTS OF THE STRUCTURES HEREIN DESCRIBED MAY APPEAR TO SHOW CAUSE WHY SUCH STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS UNSAFE OR DANGEROUS STRUCTURES, PURSUANT TO K.S.A. 12-1751 ET SEQ.

WHEREAS, pursuant to K.S.A. 12-1752, the enforcing officer of the City of Leavenworth, Kansas, did on the 9th day of July, 2024, file with the Governing Body of said city a statement in writing that certain structures hereinafter described are unsafe or dangerous and should be ordered by the Governing Body to be repaired or demolished.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. Notice is hereby given that a public hearing will be held by the City Commission on September 10, 2024, at Leavenworth City Hall, 100 N. 5th Street, Leavenworth, Kansas, 66048, such date being at least thirty (30) days after the last date scheduled for publication of this Resolution. The public hearing will commence at 6:00 p.m. or as soon thereafter as the City Commission can hear the matter. If, as a result of the COVID-19 pandemic or other reason, such public hearing may not be held in person but rather via remote meeting, such remote meeting shall be held at the same date and time, and access instructions for remote participation shall be available at the City's website, www.leavenworthks.org, and included with the published agenda for such meeting. At the public hearing, the owners, their agents, heirs, any lien holders of record and other persons affected by certain structures herein described may appear and show cause why such structures should or should not be condemned as dangerous or hazardous structures and ordered repaired or demolished pursuant to K.S.A. 12-1751 *et seq.*:

The structure is described as: A single-family structure located at **3851 Tonganoxie Drive**. The property is legally described as: Lot 4, Oak Wood Estates Subdivision, LESS the following described tract; The Southeasterly 160.00 feet by 273.00 feet of lot 4, Oak Wood Estates Subdivision, City of Leavenworth, Leavenworth County, Kansas, Described more specifically as: Commencing at the most Northerly corner of Lot 4; thence South 49 degrees 56 minutes 41 seconds East, 157.00 feet to the Point of Beginning; thence South 49 degrees 56 minutes 41 second East 273.00 feet; thence South 40 degrees 03 minutes 19 seconds West 160.00 feet; thence North 49 degrees 56 minutes 41 seconds West 273.00 feet; thence North 40 degrees 03 minutes 19 seconds East 160.00 feet to the point of beginning. CAMA 102100000021080

Section 2. The City Clerk and/or Chief Building Inspector are hereby authorized and directed to provide for the notice of the public hearing by taking the following action:

- a. A copy of this Resolution shall be mailed by certified mail within three (3) days after its first publication to each such owner, agent, lienholder, and occupant at the last known address and shall be marked "deliver to addressee only."

- b. This Resolution shall be published for two (2) consecutive weeks on the same day of each week.

Section 3. This Resolution shall be effective upon its adoption by the City Commission of the City of Leavenworth, Kansas.

PASSED AND ADOPTED by the City Commission of the City of Leavenworth, Kansas, this 23rd day of July, 2024.

Griff Martin, Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk



POLICY REPORT PWD NO. 24-29

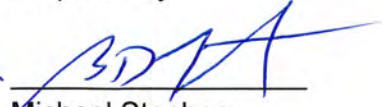
CONSIDER APPROVAL OF CHANGE ORDER NO. 1 FOR
THE CITY HALL PARKING LOT & N. 7th STREET COMPONENT OF THE
2023 PAVEMENT MANAGEMENT PROGRAM

City Project 2022-990

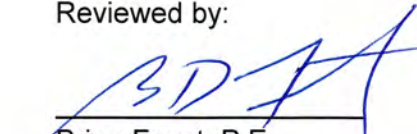
July 23, 2024

Prepared by:

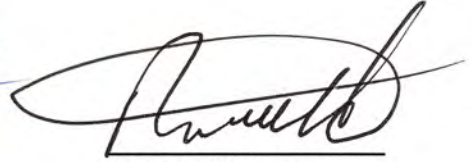
Reviewed by:

For 

Michael Stephan,
Project Manager



Brian Faust, P.E.,
Director of Public Works



Patrick Kitchens,
Interim City Manager

ISSUE:

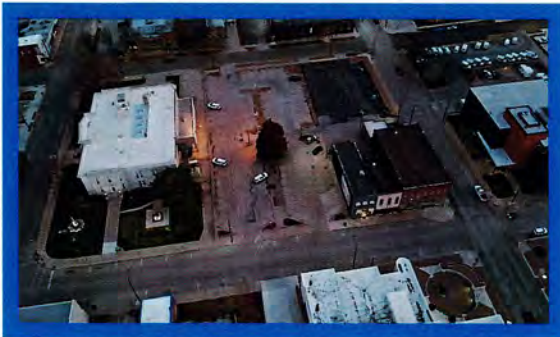
Consider approval of Contract Change Order No. 1 for the City Hall Parking Lot & N. 7th Street component of the 2023 Pavement Management Program. This will be the only change order for the project.

BACKGROUND:

On June 13, 2023, the City Commission approved a contract with Baker Construction for the rehabilitation of the City Hall Parking Lot & N. 7th Street component of the 2023 Pavement Management Program.

This component of the 2023 Pavement Management Program included:

- City Hall East Parking Lot
(Parking Lot Base & Surface Reconstruction, Stormwater Repairs, Alley Repairs, ADA Ramps, Sidewalks & Curbs, Steps & Handrails)
- N. 7th Street between Kiowa and Alley North of Dakota
(ADA Ramps, Sidewalk, Curbs & Asphalt Pavement Mill & Overlay)



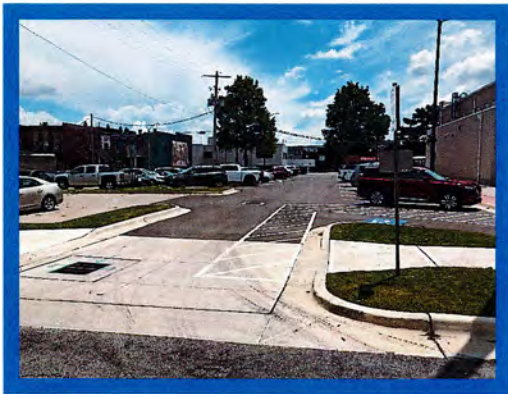
Pre-Construction of City Hall



Pre-Construction of N. 7th Street

The project plans were prepared by Alfred Benesch & Company. This project was designed to address the annual city parking lot rehabilitation and the continuation of the rehabilitation of N. 7th Street. These two locations were combined into a single project to obtain a more competitive construction cost bid. The improvements addressed pavement condition, drainage issues, and ADA compliant sidewalks and ramps. Inspection was performed by City Staff.

Baker Construction satisfactorily completed this project and a Notice of Acceptance was issued on May 24, 2024 with a two-year maintenance bond commencing on this same date.



Post-Construction of City Hall



Post-Construction of N. 7th Street

BUDGET IMPACT:

The initial purchase order approved (June 13, 2023) for construction of this project was \$570,324.50. Construction began on September 13, 2023 and was continued into 2024. All remaining contractor items have been satisfactorily completed as of May 24, 2024.

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 which are shown on the attached spreadsheet. At the conclusion of the project – the total Final Change Order amount is \$109,265.09. Some of the major items were:

List of Additional Required Construction:

- City Hall, 1 Area Inlet w/Pipe & Replacement of a Curb Inlet Lid. +/--\$ 7,700
 - Correct Drainage Issue & Poor Curb Inlet Top.
- N. 7th St., Remove & Replace 2 Curb Inlets. +/--\$ 12,000
 - Existing Inlets found to be in poor condition, 1 was relocated.
- Additional Concrete Pavement. +/--\$ 13,750
 - Determined that more Concrete Pavement was required.
- Additional Concrete Construction of ADA Ramps, C&G & Sidewalk. +/--\$ 56,000
 - Determined that more Concrete Construction was required.

The net impact of all the increases and decreases for this project is \$109,265.09, or 19.2% over the original bid amount of \$570,324.50. The revised project total will be \$679,589.59.

The additional funding needed will be from both the CIP Curb and Sidewalk Programs.

RECOMMENDATION:

Staff recommends that the City Commission approve Change Order No. 1 in the amount of \$109,265.09 for the City Hall Parking Lot & N. 7th Street component of the 2023 Pavement Management Program.

ATTACHMENTS:

Change Order No. 1 Form & Supporting Docs.

CITY OF LEAVENWORTH
CHANGES IN PLANS AND CONSTRUCTION
CHANGE ORDER NO. 1

Project Name: 2023 PMP Pkg Lot & N 7th St
 Project Location: City of Leavenworth
 Purchase Number: 20230090
 Contract Date: June 13, 2023
 Date Prepared: July 23, 2024

The following changes to the original contract amount were required to cover cost incurred by the Contractor or to reflect savings realized by the Contractor as a result of a change in the actual constructed quantities from the estimated quantities shown on the Bid Proposal.

Start Date: September 13, 2023
 Performance Period: _____
 Net Adjustments: \$ 109,265.09
 Completion Date: May 24, 2024
 Page Number: 1

REQUIRED CHANGES IN PRESENT CONTRACT

Contract or Previous Quantity	Contract or Previous Unit Price	Contract or Previous Amount	Unit	Item Description	New or Adjusted Quantity	New or Adjusted Unit Price	New or Adjusted Amount
	\$	\$		Line Item Under-Runs		\$	\$ (- 5,381.55)
	\$	\$		Line Item Over-Runs		\$	\$ 79,991.86
	\$	\$		Change Orders/Additional Required Work		\$	\$ 34,654.78
	\$	\$				\$	\$
	\$	\$				\$	\$

Previous Total: \$ 570,324.50

Adjusted Total: \$ 679,589.59

Net Change: \$ 109,265.09

Statement of Contract

Original Contract Amount	\$ 507,324.50
Net Amount of Previous Additions and Deductions	\$ 0.00
Net Contract Amount Prior to This Request	\$ 507,324.50
Amount of This Request	\$ 109,265.09
New Contract Amount	\$ 679,589.59
Percent Change in Contract Amount	19.2 %

CONTRACTOR:

Company: Baker Construction
 City, State: Leavenworth, Kansas
 Signed by: _____
 Date: _____

PROJECT OBSERVER:

Company: CITY OF LEAVENWORTH
 Recommended by: Brian Faust
 Date: July 23, 2024

ACCEPTED BY CITY OF LEAVENWORTH, KANSAS:

Mayor/City Manager: _____
 City Clerk: _____
 Date: _____



CITY OF LEAVENWORTH
 Project No. 2022-990
 2023 PMP - Parking Lot & N. 7th Street
 June 7, 2023

BASE BID				BAKER CONSTRUCTION					
Item	Description	Unit	Original Quantity	Unit Price	Extension	Final Quantity	Quantity Difference	Under-Run (Savings)	Over-Run (Add Cost)
1	Mobilization	LS	1	\$20,000.00	\$20,000.00	1.00	0.00		
2	Construction Staking	LS	1	\$5,000.00	\$5,000.00	1.00	0.00		
3	Clearing & Grubbing	LS	1	\$2,500.00	\$2,500.00	1.00	0.00		
4	Milling (Headers)	LF	114	\$19.00	\$2,166.00	77.00	-37.00	\$703.00	
5	Milling (Full Width Cut)	SY	2,240	\$6.60	\$14,784.00	2,290.00	50.00		\$330.00
6	2" Asphaltic Concrete Surface Course KC APWA 5-01	TON	457	\$143.00	\$65,351.00	481.00	24.00		\$3,432.00
7	Asphaltic Base Courses KC APWA 5-01	TON	397	\$143.00	\$56,771.00	371.00	-26.00	\$3,718.00	
8	ADA Ramps (R & R)	SY	348	\$190.00	\$66,120.00	419.00	71.00		\$13,490.00
9	Curb & Gutter (24") (R & R)	LF	2,374	\$50.00	\$118,700.00	2,778.50	404.50		\$20,225.00
10	Concrete Pavement (8") (R & R)	SY	350	\$162.00	\$56,700.00	439.78	89.78		\$14,544.36
11	6" Granular Subbase, AB-3 Compacted	SY	1,954	\$7.25	\$14,166.50	1,954.00	0.00		
12	4" Concrete Sidewalk (R & R)	SF	7,531	\$12.00	\$90,372.00	9,421.50	1,890.50		\$22,686.00
13	Concrete Steps	EA	15	\$400.00	\$6,000.00	23.00	8.00		\$3,200.00
14	Metal Handrail	LF	70	\$200.00	\$14,000.00	74.00	4.00		\$800.00
15	Stamped Concrete Pavement (4") (R & R)	SY	92	\$150.00	\$13,800.00	97.00	5.00		\$750.00
16	Grate Inlet (4' x 4')	EA	1	\$7,500.00	\$7,500.00	1.00	0.00		
17	Permanent Pavement Markings, 4" Solid White Line (Multi Component Epoxy)	LF	1,344	\$4.50	\$6,048.00	1,465.00	121.00		\$544.50
18	Permanent Pavement Markings, 4" Solid Yellow Line (Multi Component Epoxy)	LF	100	\$9.00	\$900.00	110.00	10.00		\$90.00
19	Permanent Pavement Markings, 24" Solid White Crosswalk Line (Multi Component Epoxy)	LF	96	\$38.50	\$3,696.00	84.00	-12.00	\$462.00	
20	Permanent Pavement Markings, Handicap Symbol (Multi Component Epoxy)	EA	2	\$575.00	\$1,150.00	2.00	0.00		
21	Seeding	LS	1	\$1,000.00	\$1,000.00	1.00	0.00		
22	Asphalt Oil Price Adjustment	LS	1	\$100.00	\$100.00	0.00	-1.00	\$498.55	(\$100.00)
23	Traffic Control	LS	1	\$2,000.00	\$2,000.00	1.00	0.00		
24	Erosion Control	LS	1	\$1,500.00	\$1,500.00	1.00	0.00		
				Original Contract:	\$570,324.50				
								Total Under-Run:	\$5,381.55
								Total Over-Run:	\$79,991.86
								Final Total, Under-Run plus Over-Run:	\$74,610.31

CO	Change Order/Add-on	Unit	Original Quantity	Unit Price	Extension
1	Over excavate unsuitable soil & haul in 3" rock	LS	1	\$2,262.00	\$2,262.00
2	Install 3x3 Area Inlet	LS	1	\$4,160.00	\$4,160.00
3	Replace Curb Inlet Lid	LS	1	\$3,500.00	\$3,500.00
4	Additional AB-3	LS	1	\$1,796.40	\$1,796.40
5	Additional AB-3	LS	1	\$886.86	\$886.86
6	Powder Coating Handrails	LS	1	\$1,642.00	\$1,642.00
7	Additional AB-3	LS	1	\$3,863.52	\$3,863.52
8	Install 2 Curb Inlets	LS	1	\$12,000.00	\$12,000.00
9	Demo Intersection due to railroad track & bricks, unable to Mill	LS	1	\$4,544.00	\$4,544.00
10					
				Total Change Orders:	\$34,654.78

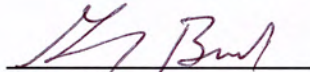
POLICY REPORT No. FD # 2024-02
FIRE STATION NO. 1 HVAC REPLACEMENT – MUNIS PROJECT #F2303
July 23, 2024

Prepared by:



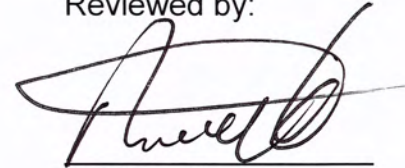
Mike Shore
Deputy Chief

Reviewed by:



Gary Birch
Fire Chief

Reviewed by:



Patrick Kitchens
Interim City Manager

ISSUE:

The Fire Department is requesting approval to move forward with the HVAC replacement at Fire Station No. 1.

BACKGROUND:

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.

The new air conditioning system will utilize a more efficient condenser with readily available refrigerant. Along with the new condenser, a new compatible A-coil will need to be retrofitted into our air handler. Our existing air handler also needs a new fan motor as well. This was all included in the RFP that was sent out.

Our current system utilizes R-22 refrigerant. This refrigerant is now illegal to produce or import. Because of this, the remaining stock of R-22 refrigerant is extremely expensive.

The City of Leavenworth published an RFP for the HVAC system replacement project with a due date of June 27, 2024 at 5pm. We received only one bid for the project.

Bid received as follows:

Bidder	Address (City/State)	Base Bid
D'Agostino Mechanical Contractors, INC.	4440 Oliver Street Kansas City, KS 66106-3763	\$83,350.00

RECOMMENDATION:

Staff recommends the base bid from D'Agostino Mechanical Contractors, INC. in the amount of \$83,350. Staff also recommends the option of replacing the air handler for an additional \$4,600.

FINANCIAL:

The City's 2024 CIP included funds for the replacement of HVAC equipment at Fire Station No. 1. The total with the added option (\$87,950) is less than our budgeted amount (\$106,000) for this project.

CITY of LEAVENWORTH, KANSAS

June 27, 2024

page 1 of 2

TO: CITY OF LEAVENWORTH, KANSAS **attn.: Mr. Mike Shore**
100 North 5th Street **email: mshore@firstcity.org**
Leavenworth, Kansas 66048

RE: HVAC REPLACEMENT AT FIRE STATION NO. 1
3600 S. 20th Street - LEAVENWORTH, KS.
PROJECT NO. 01FD-2024-05

SUBJECT: HVAC PROPOSAL & NARRATIVE LETTER
For Bids Due; June 27, 2024 5:00 p.m. CDST

Gentlemen:

We are pleased to provide a HVAC quotation on the above project, per Request for Proposal and attendance of Mandatory pre-proposal walk-through dated; June 18, 2024 at 2:00 pm prepared by; *THE CITY OF LEAVENWORTH, KANSAS*

THIS QUOTATION INCLUDES:

DIVISION 1 - GENERAL REQUIREMENTS (as applicable)
BID BOND 5% (PERFORMANCE AND PAYMENT BONDS FEES)
REMOVE EXISTING YORK 30-TON AIR COOLED CONDENSING UNIT.
RECLAIM R-22 REFRIGERANT, PER EPA REGULATIONS.
REMOVE EXISTING DX EVAPORATOR COILS FROM EXISTING AHU.
REMOVE EXISTING REFRIGERANT PIPING AND ACCESSORIES.
DISCONNECT EXISING ELECTRIC POWER AND CONTROL WIRING.
REMOVE DEMOLITIONED EQUIPMENT TO AN OFFSITE LOCATION.
FURNISH AND INSTALL NEW 30-TON AIR COOLED CONDENSING UNIT.
(see attached catalog cut sheets)
REFRIGERANT TO BE 410A, DUAL CIRCUIT WITH LOW AMBIANT CONTROLS.
NEW REFRIGERANT PIPING, INDLUDING NEW EXPANSION VALVES, FILTER DRYERS, AND NEW SOLENOID VALVES FOR EACH CIRCUIT.
NOTE: CONDENSING UNIT & AHU NEEDS TO BE ORDERED BEFORE JULY 20, 2024 MANUFACTURERS ARE TRANSITIONING TO R454B AND CEASING PRODUCTION OF R410A EQUIPMENT.
MODIFICATION TO THE EXISTING AHU FOR THE NEW EVAPORATOR COILS.
MODIFICATIONS TO EXISTING CONTROLS.
MECHANICAL INSULATION.
ELECTRICAL MODIFICATIONS.
REMOVE AND REPLACE THE EXISTING AHU BLOWER MOTOR WITH A "BALDOR" INVERTER DUTY MOTOR FOR BEING UTILIZED WITH A VFD.
AIR TESTING AND BALANCING, PRIOR TO START OF WORK AND AT THE COMPLETION OF THE WORK WITH A FULL REPORT.
RED LINE AS-BUILT DRAWINGS.
LABOR AND MATERIAL WARRANTY OF 1-YEAR FROM UNIT START-UP.
WORK TO BE STARTED AFTER 2024 COOLING SEASON, READY FOR 2025 COOLING SEASON. **(completion within 120 cal. Days from Notice To Proceed)**

THIS QUOTATION EXCLUDES:

- 1. SALES TAX.
- 2. FIRE PROTECTION (SPRINKLER) WORK.
- 3. PAINTING (Except touch up painting of HVAC Equipment.
- 4. CLEAN UP (Except Debris Generated by Our Work Forces)

WE ACKNOWLEDGE RECEIPT OF AMENDMENTS NO: ,

TOTAL NET FOR ABOVE : **\$ 83,350.00**

- Option No. 1 - Cost for Annual Maintenance
 - a. For New Condenser & AHU
 - b. Seasonal Startup - \$ 470.00
 - c. Includes; Cleaning the Coils,
 - d. Tightening all electrical connections,
 - e. Test firing the unit, verify proper charge.
 - f. Each post Startup - \$365.00
 - g. Includes: Cleaning the Coils,
 - h. Checking Operation and proper charge.
 - i. No filters or parts included.

- Option No. 2 - Service Rates
 - a. Standard Rates - \$ 106.00 / hr
 - b. Overtime Rates - \$ 128.00 / hr
 - c. Emerg. / Holiday - \$ 145.85 / hr

- Option No. 3 - Remove and replace Existing YORK AHU
 With new AHU which includes evaporator coil,
 Dual – circuit configuration, 19 week lead time
 5-HP motor – VFD Rated 208-230/460/3/60
 THIS OPTION ADD IS: \$ 4,600.00

This proposal shall be valid for sixty days, from: June 27, 2024

We appreciate the opportunity to submit a proposal on this project.

D'Agostino Mechanical Contractors, Inc.

Jerry Swanson,
Vice President / Contracting

Project Name: Fire Station No 1 Leavenworth - 06-24-24

Unit Model #: YD360C00A2AAA2

Quantity: 1

System: YD360C00A2AAA2

Cooling Performance

Total gross capacity	313.5 MBH
Total net capacity	313.5 MBH
Ambient DB temp.	95.0 °F
Power input (w/o blower)	29.67 kW
Suction pressure	124 psig
Saturated suction temp.	42.9 °F

Electrical Data

Power supply	230-3-60
Unit min circuit ampacity	129.5 A
Unit max over-current protection	150 A

Dimensions & Weight

Hgt 38 in	Len 129 in	Wth 89 in
Weight with factory installed options		1875 lb

Clearances

Right	30 in	Front	36 in	Rear	24 in
Top	120 in	Bottom	0 in	Left	30 in

Note: Please refer to the tech guide for listed maximum static pressures



30 Ton

- Split System units are Manufactured at an ISO 9001 Registered Facility and each Rooftop is Completely Computer-run Tested Prior to Shipment.

Unit Features

- Four Stage Cooling
- Unit is designed for R410A refrigerant and is shipped with a small Nitrogen holding charge.
- Unit Cabinet Constructed of Powder Painted Steel, Certified At 750 Hours Salt Spray Test (ASTM B-117 Standards)
- Full Perimeter Base rails with Built in Rigging Capabilities
- Dual Circuit 4 Stage Cooling with Scroll Compressor
- Solid Core Liquid Line Filter Driers
- Copper Tube/Aluminum Fin Condenser Coil
- Sweat Connection Fittings
- Single Point Power Connection
- Condenser Coil Guards Standard
- Short Circuit Current: 5kA RMS Symmetrical

Standard Unit Controller: Smart Equipment Control Board

- An Integrated Low-Ambient Control, Anti-short Cycle Protection, Lead-Lag, Fan on and Fan off Delays, Low Voltage Protection, On-board Diagnostic and Fault Code Display
- Safety Monitoring - Monitors the High and Low-Pressure Switches. The Unit Control Board will Alarm on Compressor Lockouts and Repeated Limit Switch Trips

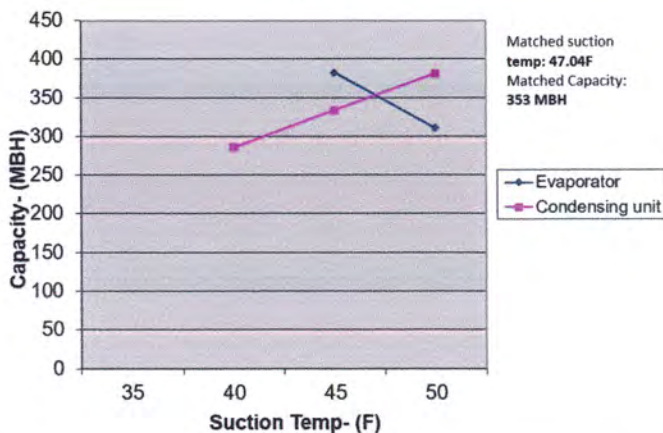
BAS Controller

- Smart Equipment Controller

Warranty

- One (1) Year Limited Warranty on the Complete Unit
- One (1) Year Warranty - Compressors

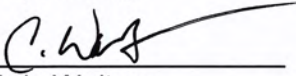
Cross Plot



**POLICY REPORT NO FD #2024-03
REQUEST FOR APPROVAL OF THE PURCHASE OF FIRE APPARATUS FOR THE
FIRE DEPARTMENT**

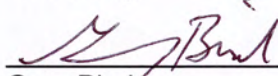
July 23, 2024

Prepared by:



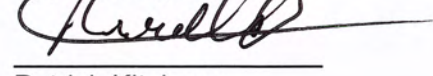
Chris Wolters
Battalion Chief

Review by:



Gary Birch
Fire Chief

Approved by:



Patrick Kitchens
Interim City Manager

ISSUE:

The Fire Department is requesting approval to purchase a 75' Quint fire apparatus manufactured to our specifications, utilizing the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program.

GOAL:

In 2016, we revised our apparatus replacement model:

- Single manufacturer (cab and chassis manufactured and assembled)
- Standardize the fleet (training, operating, parts, and maintenance)
- Local vendor (parts and warranty work)
- Reduce average age of the fleet
- Reduce maintenance cost
- Increase safety and dependability
- Increase points towards our ISO rating

BACKGROUND:

NFPA recommends apparatus replacement at 10-15 years. These recommendations vary depending on call volume, miles driven, care and maintenance of the apparatus. This purchase will replace our 2009 Pierce 75' Quint apparatus currently 15 years old with over 104,133 miles. With this purchase, six of our seven apparatus will be from one manufacturer. A standardized fleet assists with maintenance, driver operator familiarity and training. Prior to 2017, we had apparatus from six different manufacturers and only five with pumping capabilities.

**POLICY REPORT NO FD #2024-03
REQUEST FOR APPROVAL OF THE PURCHASE OF FIRE APPARATUS FOR THE
FIRE DEPARTMENT**

July 23, 2024

Maintenance issues associated with older apparatus:

- Increased downtime and maintenance cost, due to additional repair issues.
- Additional time required to obtain parts.
- Parts no longer in stock/discontinued.
- Replacing/Repairing items outside of routine maintenance.

COST:

Although we utilized the "Houston Galveston Area Consortium" (H-GAC) to purchase the last 5 apparatus, due to increasing cost, we requested price quotes from two other manufacturers (utilizing H-GAC also) for a price comparison with as close to the same specifications as possible.

<u>Conrad Fire Equipment, Olathe, Kansas (Pierce)</u>	<u>\$1,419,249.91</u>
<u>North Central Emergency Vehicles, Lincoln, Nebraska (E-One)</u>	<u>\$1,445,000.00</u>
<u>Hays Fire and Rescue, Hays Kansas (Rosenbauer)</u>	<u>\$1,549,551.00</u>

The trade-in allowance for our current apparatus in 2028-29 is estimated at \$30,000.

SUMMARY:

- Replaces our current apparatus that will be around 20 years old at delivery.
- Utilize the H-GAC Cooperative Purchasing program administered by the Mid-America Regional Council (MARC).
- Specifications started around our current 2017 apparatus features with very few changes.
- Build time has increased from 12-15 months to 48 months.

The local dealer for Pierce is Conrad Fire Equipment in Olathe, Kansas.

RECOMMENDATION:

Staff recommends approval to proceed with the purchase of the Pierce 75' Aerial Truck through Conrad Fire Equipment utilizing the H-GAC Cooperative Purchasing program for \$1,419,249.91

FINANCE:

The 2024 CIP programed \$1,300,000 funds towards this purchase.

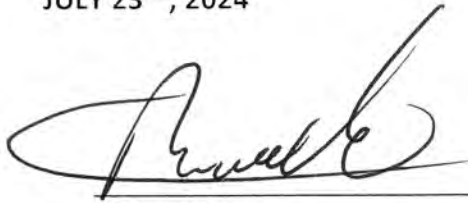


**POLICY REPORT
BID FOR KANSAS STATE REHABILITATION TAX CREDITS**

JULY 23RD, 2024



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



Reviewed By:
Patrick Kitchens,
Interim City Manager

DISCUSSION:

The City of Leavenworth is in possession of \$81,998.00 in Kansas State Rehabilitation Tax Credits. As the City pays no state tax, there are currently no uses for the tax credits. Therefore, to receive any benefit from the tax credit allocation, the City must sell the credits.

In March, 2024, the City completed \$273,327 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 has used before, staff drafted an 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 from the sale will be used to offset costs associated with the project.

The City received one bid for the tax credits from Commerce Bank in the amount of 90%, or \$73,798.20.

RECOMMENDATION:

Staff recommends that the City Commission accept the bid from Commerce Bank for the purchase of the Kansas State Rehabilitation Tax Credits for the amount of \$73,790.20.

City of Leavenworth Request for Proposal

The City of Leavenworth will accept separate sealed bids from qualified firms interested in the following:

Purchase of state of Kansas tax credits

The City of Leavenworth, Kansas is seeking firms interested in purchasing State of Kansas Historic Preservation Tax Credits. These credits are for completed work and are not estimated credits. The City has received one 2024 credit certificate in the amount of **\$81,998**.

At this time, the City is requesting that interested parties provide a proposal indicating the percentage of the tax credit they would be willing to pay. Please be clear regarding the amount of the bid (**see FORM A**). The tax credit will be awarded to one purchaser based on the highest qualified bid. The selected firm will be expected to wire the appropriate amount of cash to the City of Leavenworth. The City will submit the certificate of transfer to the State of Kansas to transfer the credit to the purchaser. Each party is expected to pay for its own legal, accounting, and other expenses associated with the transaction. The purchaser and the City will equally split the cost of the transfer fee (\$300). The City will be responsible for completing the certificate of transfer to the State of Kansas.

The selected firm will be responsible for preparing an agreement to purchase the tax credits from the City of Leavenworth that follows relevant state and federal security laws as they relate to the State of Kansas Historic Preservation Tax Credit program. The firm must be qualified to bid on this credit and must so state in the agreement. The agreement will be reviewed by the City of Leavenworth prior to execution.

Your proposal must acknowledge your understanding of the State of Kansas Historic Preservation Tax Credit statutes and any past participation in the program. The City reserves the right to reject any and all responses to this proposal. An original signed copy of your proposal should be sent by **5 p.m. Friday, July 5, 2024**, to: Roberta Beier, City of Leavenworth, KS, 100 N. Fifth St., Leavenworth, KS, 66048. If you have any questions, please contact Roberta Beier at 913-684-0350 or at Roberta.Beier@firstcity.org. If submitting a proposal electronically, an original must follow by mail.

If you have questions concerning the Kansas Historic Preservation Tax Credit program, please contact Mallory Aye, Historic Tax Credit Specialist, Kansas State Historical Society at 785-272-8681, extension 225 or by e-mail at Mallory.Aye@kshs.org.

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
2024-14-SUP
1701 S. 4th STREET**

JULY 23RD, 2024

SUBJECT:

Place on first consideration an ordinance regarding 2024-14-SUP related to a Solid Waste Facility in the I-2 zoning district at 1701 S. 4th Street.



Prepared By:

Julie Hurley,
Director of Planning and
Community Development



Reviewed By:

Patrick Kitchens,
Interim City Manager

NATURE OF REQUEST

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 Abele's 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 "Abele's 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.

COMMISSION FINDINGS

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.

Based upon information provided, staff finds that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The proposed special use will benefit the public in a number of ways. City of Leavenworth trash trucks are currently required to drive to Shawnee to dispose of trash once full, taking an extended amount of time and negatively impacting the level of service to residential customers in Leavenworth. The ability to deposit trash at a transfer station in Leavenworth city limits would significantly reduce the amount of time spent in between loads for each truck, having a positive effect on service for Leavenworth residents. Additionally, residents will have the ability to bring their own trash and recycling items to the proposed facility, instead of needing to drive to the Leavenworth County Transfer Station to dispose of items.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

The property is zoned I-2, Heavy Industrial district, and is surrounded by other industrial properties to the east and south. Directly to the east is the City of Leavenworth wastewater treatment facility. To the east across 2nd Street is the Geiger Ready Mix facility. To the south, along 4th Street, is Tire Town. To the west, across 4th Street, are multiple commercial properties zoned GBD, General Business District. Directly adjacent to the north is the Tower Self Storage facility. To the north across Poplar Street is Stubby Park, as well as several existing single family homes.

With a number of existing heavy industrial uses in close proximity, and measures put in place to limit truck traffic and disruption for the uses to the north, there is no indication that the proposed special use will cause substantial injury to the value of other property in the neighborhood.

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 proposed special use will be accessed via 2nd Street, which already supports a number of industrial uses. The applicant indicates that they anticipate 16-20 commercial trash trucks utilizing the facility each weekday, with less than 5 on Saturdays, and 6 transfer trailers per day. The anticipated volume of commercial traffic not indicate a significant increase above what is already present in the area. The proposed transfer station will be well contained within the 14 acre property, will be screened, and will not dominate the surrounding neighborhood.

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 this packet.

ACTION/OPTIONS:

- Move for consensus (majority of quorum) on first consideration of 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. Second consideration vote would require a majority of the Governing Body (3 votes).
- Move for consensus (majority of quorum) on first consideration of ordinance to override the recommendation of the Planning Commission and APPROVE the issuance of a Special Use Permit to allow a Solid Waste Facility in the I-2 zoning district at 1701 S. 4th St., with such conditions as the Governing Body may establish, and move such ordinance to second consideration. Second consideration vote would require a 2/3 vote of the Governing Body (4 votes).
- Move to REMAND the matter back to Planning Commission for further consideration, together with a statement as to the reasons therefore (majority of a quorum vote). Following remand, the Governing Body may consider and adopt an ordinance to either APPROVE or DENY the Special Use Permit with a majority vote of the Governing Body (3 votes).



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2024-14 SUP

Application No.	15373
Fee (non-refundable)	\$350.00
Filing Date	5/17/24
Received By	SU
Hearing Date	7/1/24
Publication Date	6/6/24

As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: SOLID WASTE PROCESSING FACILITY / TRANSFER STATION in I-2 zoning district

in accordance with the attached site plan on the following described property:

Subject Property: 1701 S. 4th St. (ABELES Field)

Legal Description: (Attach a full legal description provided by the Register of Deeds Office)

Real Estate PID #: 052-101-01-0-10-04-001.00-0

Zoning: I-2 Historic District: _____

I/We, the undersigned, depose and state we are the owners of the above described property:

Name(s) of Owner (print): ABELE'S, LLC

Owner Address: 716 CHEROKEE ST

Contact No. (913) 683-3979 Email: STEVE@JKAAZ.COM / JODY@JKAAZ.COM

Signature of Owner(s): [Signature] MEMBER

State of KANSAS

County of LEAVENWORTH

(SEAL) PAULA L. POFF
Notary Public - State of Kansas
My Appt. Expires 01-27-2027

Signed or attested before me on: APRIL 17, 2024

Notary Public: [Signature]

My Appointment Expires: 01-27-2027

If business is operated by someone other than the owner, provide name and address of operator(s).

Name of Lessee: Brothers Disposal LLC / ROBERT HANCOCK, COO

Address: 1119 Limit St., LEAVENWORTH, KS. 66048

Contact No. 913-775-3434 Email: brothersTRASHMAN@gmail.com

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

- Check list below...
- Non-Refundable Fee of \$350.00 is due at time of application
 - Certified list of property owners within two hundred (200) feet of the subject property
 - Attach *full* legal description obtained through the Register of Deeds Office
 - Site Plan drawn to scale (See General Instructions)
 - Supporting documentation (See General Instructions)

FIRST CITY TRANSFER STATION

Operated by Brothers Disposal

Brothers Disposal is dedicated to responsibly serving the community with a transfer station that, we believe, will benefit the city and its residents in many ways.

The following is an overview of our project. Please see illustrations as well.

LOCATION: 1701 S. 4th St. @ Abeles Field

The entrance and exit to the facility will be from 2nd St.

The fencing will be placed as needed, including the north end and the entrance. The property line along 4th St. will be lined with shrubbery and well-kept landscaping, with fencing replaced as needed.

The existing shop/field house will be painted and rehabbed as needed.

The 40 ft. scale and scale house will set on the east side of the existing shop/field house with a road leading from the 2nd St entrance onto the scale and then into the facility. The road will continue along the west side of the transfer station building, that will be positioned with bay doors facing south.

The “citizen drop off area” would be positioned where pickups, and cars with smaller loads can throw items into roll off bins, instead of using the main tipping floor.

The “recycling area” and bins would be positioned with plenty of parking and ease of access. Boxes for glass, cardboard, plastic, tin, and aluminum will be available.

Anticipated hours of operation are 7am - 4pm weekdays and 7am - 1pm Saturdays. Traffic will use the already modified roads of Marion St. and

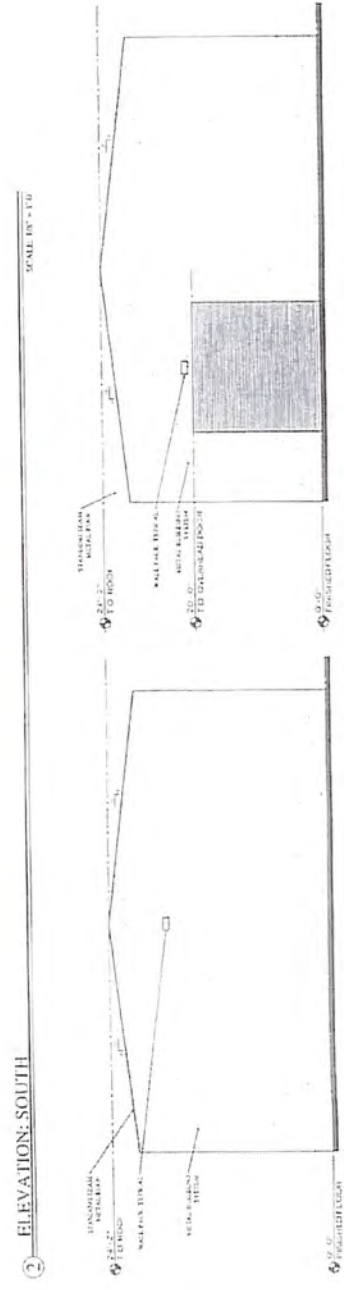
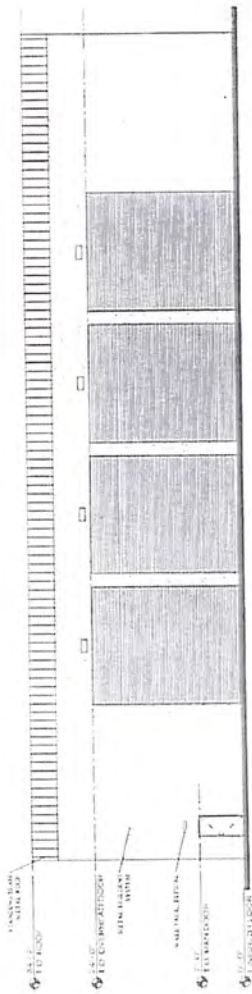
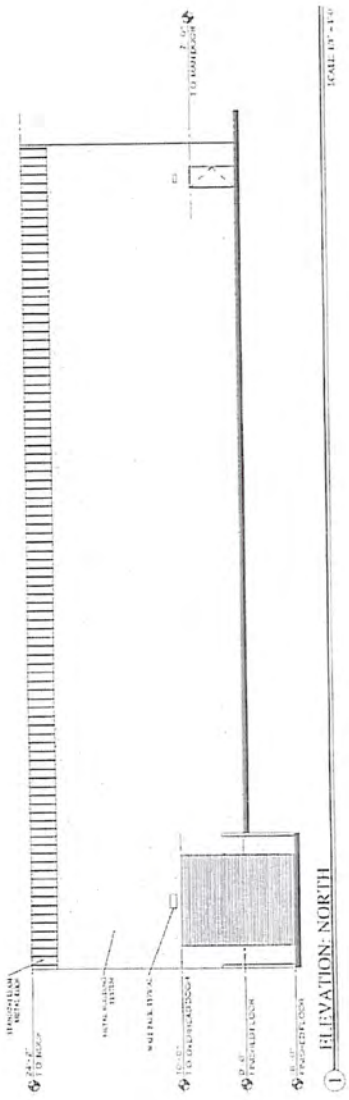
Poplar St. to get to the 2nd St entrance. Garbage and Debris is weighed, then discarded onto the concrete tipping floor or into the provided boxes. This is all loaded into tipper trailers and hauled to the landfill each day. The floor would be clean at closing.

Transfer stations are becoming more and more prevalent in cities across the country. We anticipate this facility to be state of the art, aesthetically pleasing, and efficient.

Anticipated benefits for the city include:

- Long-term contract with the City for cost savings.
- The Recycling Center could now be located here. It would be staffed by Brothers Disposal and open 6 days per week. This would save the city labor and serve the citizens well.
- Citizen drop-off area will serve as a safe and easy way to discard items in pickups and cars.
- “First Saturday Dump Days” could be held at this facility. Residents would bring their items and utilize the tipping floor. This will save the city labor in staffing the current drop off area, labor in hauling the boxes to the landfill, and will be safe and efficient for the residents.
- Car batteries, household hazardous materials, and tires will be accepted in the facility, saving the city labor.
- The city would save money on fuel, money in labor, wear and tear on trucks, and have more time working on routes by using the facility. We anticipate fast dumping times with the addition of the citizen drop off area, and the trucks would be back on routes quickly.

We believe this venture to be a WIN for the City, a WIN for our company, and a WIN for the residents, and contractors in the area.



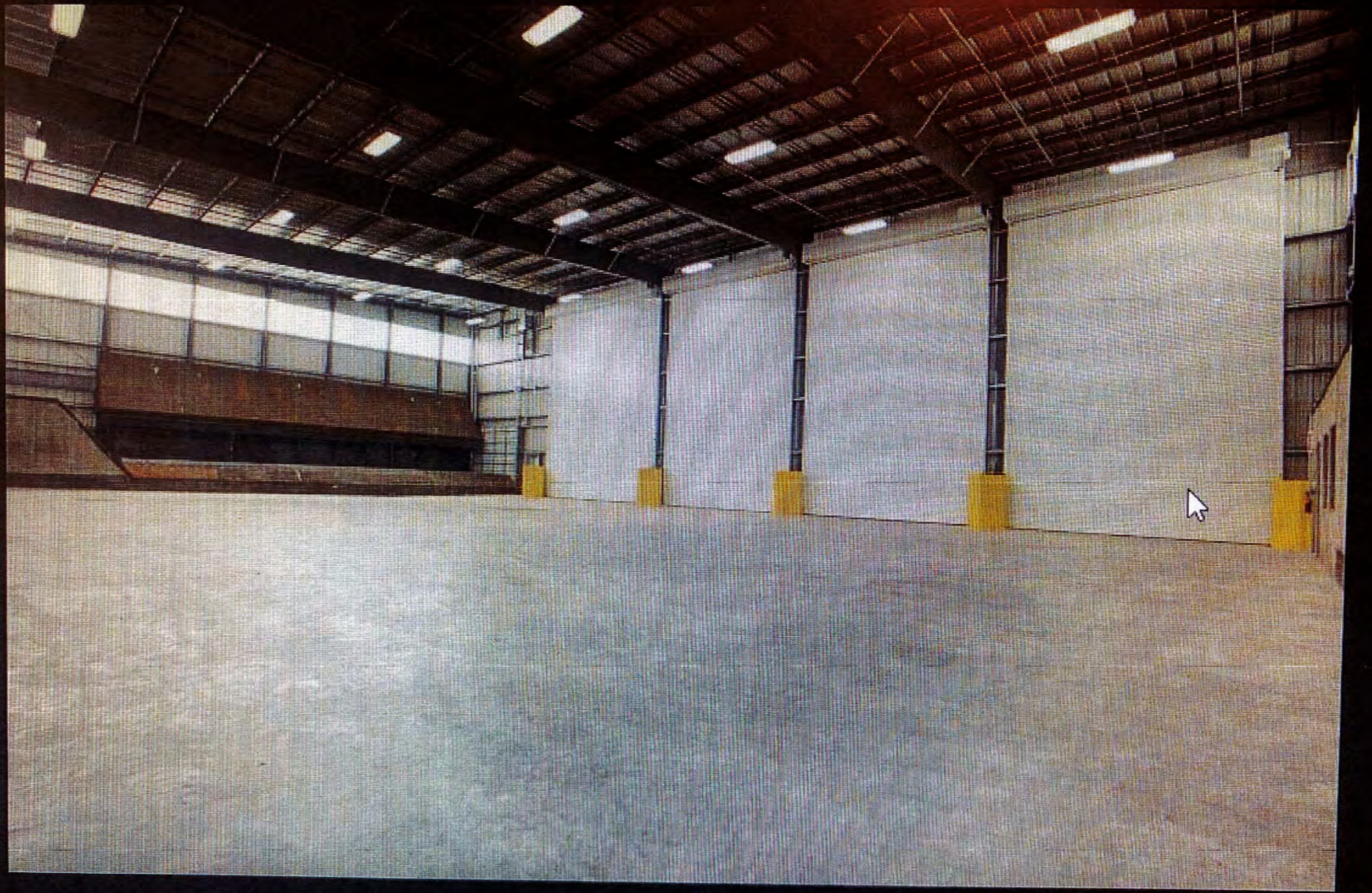
PROGRESS SET
 FOR THE DEVELOPER
 DATE: 05/11/2011

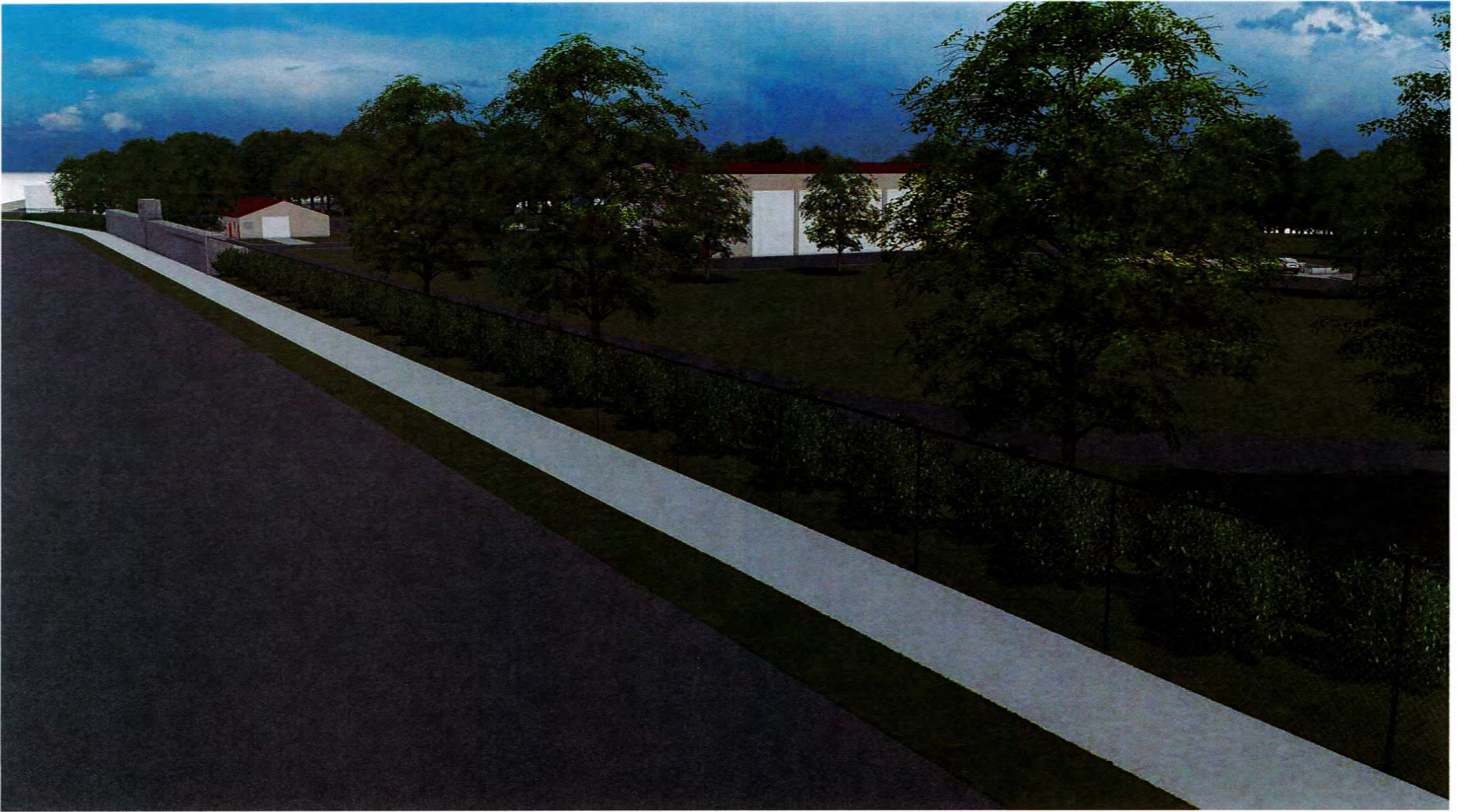
ELEVATIONS
 BROTHERS DISPOSAL
 1701 S. 4TH STREET
 LEAVERWORTH, KS 66048
 APN: 052-101-01-0-10-0+001.00-0

DATE: 05/11/2011
 DRAWN BY: JWB
 CHECKED BY: JWB
 FOR SUBMIT: 2/24/11

A2.01

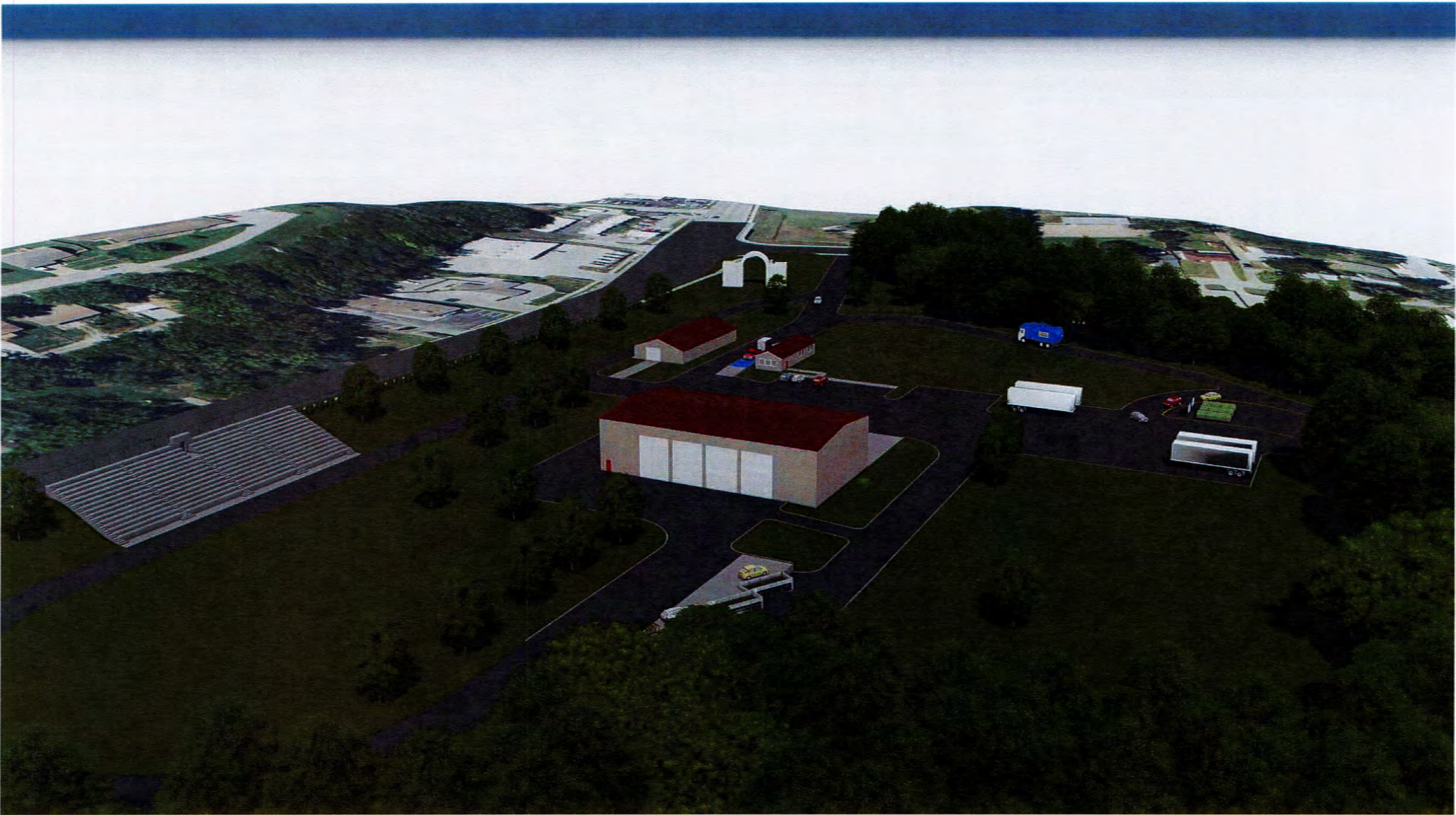






















Development Review Committee Meeting

Thursday, May 9, 2024 at 1:30 p.m.

Committee members present: Interim City Manager Pat Kitchens, Assistant City Manager Penny Holler, Interim Police Chief Dan Nicodemus, Public Works Director Brian Faust, Project Manager Mike Stephan, Sr. Engineer Technician Justin Stewart, Chief Building Inspector Hal Burdette, Fire Chief Gary Birch, Fire Marshall Andy Brooks, City Clerk Sarah Bodensteiner, Planning Director Julie Hurley and Planning Assistant Michelle Baragary.

OLD BUSINESS:

None

NEW BUSINESS:

1. *1701 S 4th Street – Solid Waste Facility*

- Attendees – Bobby Hancock (Brothers Disposal)
- Project – develop a solid waste facility at the old Abeles Field. The Abeles Field arch and locker room will stay. The new transfer station will save time and money for the city and citizens. Employees: office manager plus 4 employees onsite. Operating hours are Monday thru Friday 7am – 4pm and Saturday 7am – 1pm. Roads will be paved. Tarps are required by law to cover your load. Estimating 100-120 tons/day, which is equivalent to 6 trailers; 65% commercial and 35% residential. Majority of commercial will come from the City trash trucks and Brother's Disposal. Building is 70' x 126' and 30' in height with 24' high doors. Entrance is from 2nd Street. Everyone will use the scale, except for recycling. Traffic will be controlled by lights, signs and personnel. Commercial trucks pull forward then backup to one of the four bays. Citizen drop-off: citizens drive around the track, then backup to a roll-off box. They leave the same way they came in (road is wide enough for two lanes). When the roll-box is full, Brothers will dump the box and replace it with a new one. Staging Trailers: trailer backs up to "the pit" where trash is loaded into it. Once full, the trailer is staged for pick up, and then hauled away to Hamm Waste Services in Lawrence, KS. Each trailer hold 20 tons of waste. First Saturday of the month will be free dump day. All four bays will to open to citizens (waste still needs to be weighed). For recycling only, possibly have them enter off Poplar St. so these customers do not get stuck behind people using Citizen Drop-off area. Floors are concrete and cleaned every night; nothing will be left outside. At most, there will be one trailer with trash at the end of the day. Shrubs and trees will be added to block the view. Plastic slats would be added to the fence along 4th Street. Cost estimate is approximately 1.7M.
- Planning – no comments at this time
 - Will provide a zoning verification letter
 - Requires a Special Use Permit
 - Need legal description for Abeles Field and the City owned lot off 2nd Street. If received by May 17th, would go to Planning Commission July 1st, then to the City Commission on July 23rd and August 13th

- Public Works – see attached email for comments
- Building Inspections – no comment
- Fire Department – no comment
- Police Department – no comment
- Interim City Manager
 - Strongly discourages all access from Poplar St used since a sensitive area is the park across the street.
 - Avoid stacking on 2nd Street on the free dump day
 - Any EPA certification requirements?
 - Mr. Hancock stated a permit is required through KDHE. There are inspections, annual reports, etc. State law does not permit trash to sit in a building or a trailer for more than 48 hours.
- Assistant City Manager – no comment

OTHER BUSINESS:

None

Meeting adjourned at 2:21 p.m.

Michelle Baragary

From: Brian Faust
Sent: Friday, May 10, 2024 10:22 AM
To: Michelle Baragary
Cc: Michael Stephan; Justin Stewart
Subject: RE: DRC - PW Comments

We didn't have a lot of comments other than:

- 1) Gated access off of Poplar for emergency/flood situations where 2nd is closed. Otherwise, all access off of 2nd.
- 2) Storm water quantity and quality will need to be addressed (with the increase in impervious surface).
- 3) They are planning a concrete drive approach off of 2nd Street (that works for us).
- 4) I don't know the condition of the sidewalk along 2nd – if there is failed sidewalk along the property, it will need to be fixed.
- 5) Currently no sidewalk on the south side of Poplar – I don't see any reason to add sidewalk – would go to nowhere.

Brian

From: Michelle Baragary
Sent: Friday, May 10, 2024 10:03 AM
To: Brian Faust <brian.faust@firstcity.org>
Cc: Michael Stephan <mstephan@firstcity.org>; Justin Stewart <JStewart@firstcity.org>
Subject: DRC - PW Comments

Brian,
When you have a minute, would you send us comments from yesterday's DRC meeting for the solid waste facility at Abeles Field?
Thanks,

Michelle Baragary

Planning Assistant
City of Leavenworth
100 N. 5th Street
Leavenworth, KS 66048
(913) 680-2626
www.leavenworthks.org

Commissioners, Interim City Manager, and Assistant City Manager,

Please accept this endorsement for establishment of a Special Use Permit at 1701 South 4th Street (known as Abeles Field Property) for construction and operation of a Solid Waste Transfer Station.

Our city is in forward motion and this permit will support a new chapter in the positive development of a property that has laid fallow for quite some time. The transfer station design and operation as proposed, would not be obtrusive as represented by other special interest groups.

I am in support of the proposed transfer station for the following reasons:

- Make use of the property that is zoned I-2, heavy industrial, as it meets all "Golden factor" demands.
- The property will be accessed from 2nd St. keeping extra traffic off of Poplar St.
- The property will be landscaped and have new fencing to match Stubby Park fence. It will be gated and there will be plenty of options to use the additional "green space".
- The transfer station will enable the city to look into the future with long term pricing that will help with budgeting.
- The City will be able to save money on travel times, wear and tear on trucks, tires, scheduled services and so on.
- The residents will have a recycle drop off area that can be accessed 6 days a week and will be open and convenient.
- The city can save money on labor thru the recycle drop off, and the large item "free" dump days. This will also be way more convenient for the citizens.
- The city can save money on truck purchases by traveling way less miles per year.
- The safety of the workers should be looked at by traveling less miles, and working less hours.
- The trash for each resident should get picked up on a more normalized schedule if able to use a transfer station that gets the trucks back on route quickly.
- The proposed transfer station will be enclosed with overhead doors and will make use of at least 2 different odor "arresting" techniques. This, along with the commitment to have the debris hauled away the same day with only a small amount, if any, left for the next day, will ensure a clean atmosphere.
- The roads being asphalt for dust control and more aesthetics show the commitment of the company building the project.

This and many more reasons are why I support this project. I understand there are concerns and those concerns should be looked at. If the company is held accountable for how the facility is operated, as they should be, then this will absolutely be an asset for everyone to use and should outweigh the negative comments or concerns.

Garren Stickelman
912 North 13th Street
Leavenworth, KS

From: [Julie Hurley](#)
To: [Michelle Baragary](#)
Subject: FW: Proposed action for Abeles Fued
Date: Tuesday, July 2, 2024 10:02:58 AM

Put in file

Julie

From: Martha Rice <martharice323@gmail.com>
Sent: Tuesday, July 2, 2024 10:02 AM
To: Edd Hingula <Edd.Hingula@firstcity.org>; Griff Martin <Griff.Martin@firstcity.org>; Holly Pittman <holly.pittman@firstcity.org>; Julie Hurley <jhurley@firstcity.org>; Jermaine Wilson <jwilson@firstcity.org>; Nancy Bauder <nbauder@firstcity.org>
Subject: Proposed action for Abeles Fued

I oppose the proposal to turn Abeles Field into a garbage Transfer Station for the following reasons:

1. Abeles Field is right next to Stubby Park where children and families visit.
2. 7 Hwy/4th St is the main entrance road for people coming into Leavenworth. A garbage transfer station would make a bad first impression.
3. Abeles Field is an historic site and should be renovated for better purposes than garbage.

Thank you.

Martha Rice

*** THIS EMAIL CAME FROM AN EXTERNAL SOURCE. PLEASE BE CAUTIOUS WHEN CLICKING ON LINKS OR ATTACHMENTS.

From: [Julie Hurley](#)
To: [Michelle Baragary](#)
Subject: FW: Commission Meeting 7/1/24- Unable to attend
Date: Monday, July 1, 2024 3:52:40 PM

Julie

From: Brooke Kunkel <kunkelbrooke@gmail.com>
Sent: Monday, July 1, 2024 3:29 PM
To: Julie Hurley <jhurley@firstcity.org>
Subject: Commission Meeting 7/1/24- Unable to attend

I am unable to attend the meeting but would like to express my concern about the special use permit proposed for the Solid Waste transfer station on 4th St by Brother's Disposal. Brothers Disposal has serviced my trash for the last few years after they bought out another company, Bumpy Roads. They routinely use pickup trucks with flatbed utility trailers, rented vans from enterprise (yes, I can't believe it either), or any other vehicle they can cram trash into to pick up trash on their routes, if they even show up that week at all. This is not the type of company that we want in charge of a trash collecting site right off the main drag of Leavenworth for everyone to see. No amount of bushes will hide that mistake or stench. The city is trying to promote downtown businesses and tourism, why on Earth would we make people drive past/through a stinky, ill-managed trash site on the way there? There has to be a better location for this type of business if it really is needed in the city. I urge the planning commission to find one, and not allow Kaaz to unload their mess on to someone else (even less fitting for the job). Kaaz can't even upkeep Ables Field, it is in disrepair and they are storing industrial supplies and waste there which I'm sure is already a violation of codes the city is lax to enforce. This was once a place for people to gather and celebrate the future of our town, it will now literally be a dumpster fire. This city needs to listen to the people and not the businesses that have infiltrated local government for their own benefit. With Stubby Park being nearby, that is one less property owner to stand against them. The park will now be overrun with raccoons and vermin, using the nearby trash piles as a buffet. Don't let the kids playing pet the wildlife! We'll have a plague on our hands. I urge the planning commission to deny this special use permit that will further bring our city to a piling trash heap. Let's have a little dignity, and not air our dirty laundry for all to see. Thanks for listening!

*** THIS EMAIL CAME FROM AN EXTERNAL SOURCE. PLEASE BE CAUTIOUS WHEN CLICKING ON LINKS OR ATTACHMENTS.

From: [Julie Hurley](#)
To: [Michelle Baragary](#)
Subject: FW: Waste Facility at Abele's Field
Date: Monday, July 1, 2024 3:52:49 PM

Julie

From: Emily Frame <emilyframe11@gmail.com>
Sent: Monday, July 1, 2024 12:23 PM
To: Julie Hurley <jhurley@firstcity.org>
Subject: Waste Facility at Abele's Field

Ms. Hurley,

It has come to my attention through public forums that pending a Special Use permit vote, a waste management facility is planned for Abele's Field. I have reviewed the proposal in tonight's agenda. Though the city does need a better waste management system, I do not support placing it in such a publicly utilized area. This location is directly south of one of the most utilized and up to date parks in our city. The smell, traffic, noise, pollution, and stray litter will negatively impact the surrounding area drastically. As a mother of 4 young children, I use that park multiple times a month but will cease to do so if this is approved. This particularly stings given the amount of tax payer money that was invested into the improvement of that park.

This facility will negatively impact property values of neighboring residential areas and certainly will not "lift" the area. I'm shocked the commission would consider putting such a facility right off the main thoroughfare of our city. I'm embarrassed to think of the impression this will give to our neighboring communities such as Lansing and Fort Leavenworth. The location of the facility would make Leavenworth a less desirable place to live, not more. Leavenworth residents deserve a well functioning waste removal site that is out of the public eye. Please use your influence to get this special use permit voted down. This is not something the community supports.

I have searched our government page for the planning commission emails, but was unable to find any listing but yours. Please forward this email onto the following elected officials so they can hear the feedback of a constituent.

- **Board Members:** Brian Stephens (Chairman), Kathy Kem (Vice Chair), Sherry Whitson, Bill Waugh, Donald Homan, and Maryann Neeland

Thank you,

Emily Frame

Sent from my iPhone

*** THIS EMAIL CAME FROM AN EXTERNAL SOURCE. PLEASE BE CAUTIOUS
WHEN CLICKING ON LINKS OR ATTACHMENTS.

July 18, 2024

1627 Pawnee St
Leavenworth, KS

Pat Kitchens, Acting City Manager
City Hall
100 N 5th Street
Leavenworth, KS 66048

**RE: Transfer Station Proposal at Abeles Field
Long-Term Viability of City Refuse Service**

Pat – Please take a look at my thoughts on the proposed transfer station. I do own, live in, pay taxes and pay Refuse charges on my house in NW Leavenworth!

SUMMARY

Efficiency and effectiveness of city operated refuse collection will continue to suffer until sufficient personnel can be hired and trained, and/or an affordable local transfer operation becomes available. The proposed transfer station at Abeles Field goes a long step toward restoring and maintaining the long tradition of quality service from City Refuse Collection now and into the future.

THOUGHTS ON USE OF ABELES FIELD

Initially I was a bit skeptical of the use this site for a transfer station (TS). After studying the documents submitted to Planning for the SUP, my concerns have all been addressed. Especially that all the vehicles using the TS would come up from Second Street, eliminating traffic entering/exiting onto Fourth Street. Second Street was designed for industrial traffic, and the intersections with signals at Poplar and at Marion were designed for and currently operate with heavy truck traffic from the nearby asphalt and concrete plants. This route also reduces noise into the surrounding area (all industrial/commercial except one rental house on 4th Street). Locating the TS location in the middle of the site reduces visual and other possible impacts as well.

The arch at the current entrance at Fourth and Poplar is not impacted by the proposed TS.



This property has been Zoned I-2 for decades, probably back to the start of zoning in the 1950's. There are many industrial companies operating at or near this location that create a variety of sounds, odors and lighting throughout the year. This includes an asphalt plant (with quarry and stockpiles), concrete plant, retail/commercial tire sales (and possibly tire re-manufacturing) , wastewater treatment plant, city animal control building, grocery store, storage lockers, warehouse buildings/yards and cell phone towers.

Properties immediately adjacent to the proposed Transfer Station site are all commercial or industrial uses with the exception of one home west of 4th street. The front door of this house is over 300 feet, across a 4-lane US Highway from the location of the Transfer Station!

CITY REFUSE SERVICE

I believe that the residents of the City of Leavenworth are best served by a municipally locally operated service. Large and small contractors in waste collection all have the same issues the City faces, lack of personnel and increasing costs. Communities in the greater Kansas City area that have changed to contracted service report extraordinary difficulties in managing their contractors to be effective!

Some reasons a local Transfer Station will help the Refuse Collection

- **Round Trip Hours and Lack of Employees** – Lack of employees is a problem affecting many positions at all levels within the City. HR Department is constantly working to find qualified people. A transfer station that is local AND affordable will reduce round-trip time to empty the trucks. These trips are often three to four hours round trip. Using a local transfer station will result in getting the equipment and personnel back on the route much quicker. This round-trip delay was manageable when there were more employees, it is a real problem when staff levels are low. Leavenworth County transfer station also has significant waiting times for commercial customers to empty their loads.
- **Cost** - The county abandoned the original cost structure for the tipping fee at the transfer station (see attached excerpt from 1994/5 Solid Waste Management Plan) many years ago. They now operate it “as a business” where all costs are covered by the tipping fee. Current county tipping fee is \$64/ton, and their contracted rate for hauling to the landfill is about \$34/ton. City currently pays about \$35/ton at Waste Management (Deffenbaugh), but that cost will be going up sharply in next few years as their space fills up.

The original intent of the Solid Waste management Plan was to encourage all city and county residents to use the transfer station, and for the tipping fee to cover only the cost of disposal. Other costs were to be funded by a combination of mill-rate for capital costs, and a fixed fee on all properties having a business or a residence. I know the city continues to discuss this matter with the county. Ultimately – the actions of the County create a higher cost to the city Refuse Service than was originally envisioned, essentially pricing the city out of using a major county facility built in large part by City of Leavenworth residents!

- **Options** – having multiple and affordable options in the future will be critical to the success of Refuse Collection service by the city. As noted above, contracting out the service really gains nothing in service level, costs more, and the City can probably never get back into providing the service. If no affordable disposal or transfer option by the County or private enterprise is available, it will likely be necessary for the City to build a transfer station for its own use at city expense.

Conclusion: I urge the City Commission to look at the actual impact of a private transfer station on the area near Abeles Field as well as the longer term view of providing an effective Refuse Collection service for the citizens of the City. I recommend your approval of this SUP.

Michael McDonald

CC Julie Hurley, Director of Planning
Brian Faust, Director of Public Works
Jody Kaaz, Kaaz Construction
Bobby Hancock, Brothers Refuse Service

**LEAVENWORTH COUNTY
SOLID WASTE
MANAGEMENT PLAN**

**BOARD OF COUNTY
COMMISSIONERS**

George L. Sprague, Jr., Chairman

Donald F. Aaron, Member

Louis A. Klemp, Jr., Member

Adopted this day of , 19 .

**LEAVENWORTH COUNTY SOLID WASTE
MANAGEMENT PLAN
PREPARED BY**

**THE LEAVENWORTH COUNTY SOLID
WASTE MANAGEMENT COMMITTEE**

City of Leavenworth:

Robert Adams, City Commissioner
Mike McDonald, Director of Public Works
Marvin Stevens, Appointed Representative
Pete Zink, Appointed Representative
Gary Russ, Appointed Representative

City of Lansing:

Karl Brown, Jr., City Councilman
Ken Ketchum, City Councilman
Clyde Huffman, Appointed Representative

Unincorporated areas:

County Commission
District Representatives:
Roy Braum (1st)
Durand Dickerson (2nd)
Fred Stitt and
Stephanie Theno (3rd)

County Officials:

George Sprague, County Commissioner
Jim Hewitt, Director of Planning
Joe Daniels, County Sanitarian
Ed Sass, Household Hazardous Waste Coord.
Ed Janas, Director of Public Works
Debbie McRill, Solid Waste Mgmt. Coord.

Ex-officio Members:

Frank Gilbert, VA Medical Center
Judy Wimberg, Ft. Leavenworth
Emil Matula, Ft. Leavenworth

Adopted by the Leavenworth County Solid Waste Management Committee
this 21st day of December, 1994.

**CHAPTER 7 SOLID WASTE MANAGEMENT
FINANCING
RECOMMENDATIONS**

The Solid Waste Management committee developed a Draft of Financing Options (Attachment A, Chapter 7) for consideration. The Solid Waste Management Committee recommends the following sources of revenue to fund the Solid Waste Management Plan:

GENERAL OBLIGATION BOND

The acquisition of land, construction of Transfer Station Materials Recovery Facility (TSMRF), and necessary operating equipment could be accomplished using General Obligation Bonds (G.O.B.). An Ad Valorem tax can be levied to retire the G.O.B. (Attachment B, Chapter 7).

SPECIAL ASSESSMENT

The revenue needed to effectively administer the Solid Waste Management programs (Recycling, Household Hazardous Waste, White Goods, Tires, Composting and Educational activities) and to cover the cost of the operation of the facility, can be generated by a Special Assessment. A fixed rate Special Assessment can be imposed on residential properties and a variable rate Special Assessment imposed on Commercial/Industrial properties. This Special Assessment will be set before the 1st day of July of each year by Resolution of the Board of County Commissioners.

TIPPING FEE

A Tipping Fee will be set by the County Commissioners on a per ton basis to cover the expense of transporting and landfilling the Municipal Solid Waste (MSW) in an approved Subtitle D landfill. Providing a reasonable tipping fee to residents, businesses and Cities of Leavenworth County will encourage use of the TSMRF.

SUMMARY

The goal of using this combined method of funding for operation of the Solid Waste Management programs, permits a reasonable tipping fee to be maintained to encourage use of the TSMRF by municipalities and private solid waste contractors. At the same time, the Special Assessment fee on residential, commercial and industrial properties may be maintained at a moderate level.

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048

REGULAR SESSION
Monday, June 3, 2024
6:00 PM

CALL TO ORDER:

Commissioners Present

Brian Stephens
Don Homan
Kathy Kem
Maryann Neeland

Commissioners Absent

Bill Waugh
Sherry Whitson

City Staff Present

Julie Hurley, Planning Director
Michelle Baragary, Planning Assistant
Mike Stephan, PW Project Manager
Pat Kitchens, Interim City Manager
David Waters, City Attorney

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

APPROVAL OF MINUTES: June 3, 2024

Chairman Stephens asked for questions, comments or a motion on the minutes presented for approval: June 3, 2024. Commissioner Homan moved to approve the minutes as presented, Commissioner Neeland second the motion, and motion passes 4-0.

OLD BUSINESS

None

NEW BUSINESS:

1. 2024-14 SUP – 1701 S 4TH STREET

Conduct a public hearing for Case No. 2024-14 SUP – 1701 S 4th Street, wherein the applicant is requesting a Special Use Permit to allow the operation of a Solid Waste Facility on property zoned I-2, Heavy Industrial District.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated that 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 Abele's 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 "Abele's 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.

COMMISSION FINDINGS

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.

Based upon information provided, staff finds that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The proposed special use will benefit the public in a number of ways. City of Leavenworth trash trucks are currently required to drive to Shawnee to dispose of trash once full, taking an extended amount of time and negatively impacting the level of service to residential customers in Leavenworth. The ability to deposit trash at a transfer station in Leavenworth city limits would significantly reduce the amount of time spent in between loads for each truck, having a positive effect on service for Leavenworth residents. Additionally, residents will have the ability to bring their own trash and recycling items to the proposed facility, instead of needing to drive to the Leavenworth County Transfer Station to dispose of items.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

The property is zoned I-2, Heavy Industrial district, and is surrounded by other industrial properties to the east and south. Directly to the east is the City of Leavenworth wastewater treatment facility. To the east across 2nd Street is the Geiger Ready Mix facility. To the south, along 4th Street, is Tire Town. To the west, across 4th Street, are multiple commercial properties zoned GBD, General Business District. Directly adjacent to the north is the Tower Self Storage facility. To the north across Poplar Street is Stubby Park, as well as several existing single family homes.

With a number of existing heavy industrial uses in close proximity, and measures put in place to limit truck traffic and disruption for the uses to the north, there is no indication that the proposed special use will cause substantial injury to the value of other property in the neighborhood.

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 proposed special use will be accessed via 2nd Street, which already supports a number of industrial uses. The applicant indicates that they anticipate 16-20 commercial trash trucks utilizing the facility each weekday, with less than 5 on Saturdays, and 6 transfer trailers per day. The anticipated volume of commercial traffic does not indicate a significant increase above what is already present in the area. The proposed transfer station will be well contained within the 14 acre property, will be screened, and will not dominate the surrounding neighborhood.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Staff received no comments at the time the policy report was sent out last week. Since then, staff received two emails, and provided copies to the commissioners. The applicant, Bobby Hancock, also brought in a letter from a resident, which copies were provided to the commissioners.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein.

ACTION/OPTIONS:

- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions
- Motion, based upon findings as stated and conditions as presented, to recommend denial to the City Commission
- Table the issue for additional information/consideration.

City Attorney David Waters stated Kansas courts generally considered the issuance of SUP's to be very similar to rezoning's, so this commission is familiar with the 7 golden factors that are used in a lot cases that come before this commission. The 7 golden factors can generally be applicable as well, in addition to the 4 factors that Ms. Hurley covered in the policy report. Mr. Waters further stated that as the board considers this case, he encourages them to frame their comments in light of those factors; the 4 mentioned in the policy report as well as the golden factors.

Chairman Stephens asked Mr. Waters if he could go over the golden factors.

Mr. Waters stated there is the character of the neighborhood, the zoning and uses of nearby property, the suitability of the subject property for the uses to which it has been restricted, the extent which removal of the restrictions will detrimentally affect nearby property, which in this case it should be read as the extent to which granting of an SUP would affect nearby property, the length of time the property has been vacant as it is currently zoned, the relative gain to the economic development, public health, safety and welfare, the recommendations of staff, and conformance with the comprehensive plan. The last one is such other factors that might be appropriate, which are the 4 factors that Ms. Hurley listed in the staff report.

Chairman Stephens asked for questions from the commissioners about the policy report.

Commissioner Kem asked who and when does the stormwater get addressed.

Public Works Project Manager Mike Stephan stated Public Works Director Brian Faust will review it when a building plan is submitted during the permitting process.

Chairman Stephens asked about waste water possible pooling around the scale when customers come through.

Mr. Stephan stated that specifically was not discussed, however, the applicant stated it will be cleaned on a daily basis. Sanitary sewer is also available so if there is waste under the scale a drain can be installed that would either go to a grease trap or go directly to sanitary sewer. It will not go into stormwater.

Chairman Stephens asked what the city has paid the trash truck drivers in overtime driving to outside facilities.

Mr. Stephan stated he does not have that information with him but could get it for the commissioners.

Interim City Manager Pat Kitchens stated the principal issue is the travel, which is a 45 minute drive to the facility, 1-2 hour waiting in line, then a 45 minute drive back to Leavenworth. Often times, when the trash pick-up is behind or if the schedule is off, other pressures exerted on the system, including employees may be sick or a truck breaks down, etc. all contribute to those pressures, which disrupts the trash service daily. To answer the question, the cost is significant.

Chairman Stephens stated it is his understanding that Thursdays are the largest volume for our trash trucks, and asked what happens when the trash truck is full by early morning.

Mr. Stephan responded that the truck has to go to Shawnee to be dumped, which takes time away from City of Leavenworth resident's trash being picked up.

Chairman Stephens asked if the drivers come back to finish their route or is it pushed to another day.

Mr. Stephan responded the drivers attempt to finish their route if they can.

Chairman Stephens asked how staffing of CDL drivers has been in the past year.

Mr. Stephan stated we have been short staffed. It is difficult to get CDL drivers hired and even harder to retain them because of competitive salary.

Mr. Kitchens stated the principal change between now and last year was a change at the CDL requirement with the cost increasing considerably. Where normally candidates would come to the city prequalified with their CDL, it is much more expensive now which precipitates an additional problem with staffing and hiring a person who is CDL qualified.

Chairman Stephens asked if the city pays for the CDL.

Mr. Kitchens stated they are working on incentive packages where after a person is hired and gets their CDL that perhaps a salary increase would be associated with that.

Chairman Stephens asked if the proposed transfer station would have any impact on city operations.

Mr. Stephan replied that it would lessen the travel time, which would give drivers more time to complete routes in a timely manner. Would also be more convenient in the fact that recycling would be moved to the transfer station, which would free up more space at the Service Center for items that need to be stored onsite, and would not have the cost of paying someone to handle the recycling.

Chairman Stephens asked what the hours for the transfer station would be.

Ms. Hurley responded 7am-4pm Monday thru Friday, and 7am-1pm on Saturdays.

Chairman Stephens asked if those hours are more than the city's current operation is.

Mr. Stephan responded in the affirmative.

Chairman Stephens asked the applicant to speak.

Rhonda Levinson, with Bateman Law Group, stated they represent Brothers Disposal in trying to get this project going. Wants to clarify one thing and follow-up with what Mr. Waters was saying. In reference to the nature of the request that is listed on the front of the packet that Ms. Hurley went over, we would rely on the nature of the request as set out in the actual special use permit application that Brothers submitted. On page 5 of the packet, it is the First City Transfer Station, and those are the actual items that hit the golden factors that this commission should consider. Many of the items listed on that first page of the packet are items that are under negotiation with the city as part of a separate process, and they do not really have relevance to the golden factors or to whether or not the special use permit should be issued.

Applicant, Bobby Hancock (1119 Limit St), stated that he and his brother David Matthews were both raised in the City of Leavenworth, and between the two of them they have about 55 years of solid waste experience. David has managed numerous landfills and transfer stations, and Bobby has managed and worked at several hauling companies, including here in Kansas City at BFI, Allied Waste and Deffenbaugh. Started Brothers Disposal in 2011 with one commercial dumpster and one truck, which was Knights of Columbus. Fast forward a few years, and Brothers was able to purchase another company that had been here for about 35 years, which was N&J Disposal. In 2019, Brothers was able to acquire another local company called Bumpy Roads Disposal. Although the company got bigger, they stayed close to their hometown roots. Brothers currently has 12 employees, all local except for one employee who is from Atchison. Currently they service City of Easton, City of Basehor, a few home associations, and are stretched from Potter through Leavenworth County and end up down in Lenexa, and obviously Basehor and Tonganoxie in between.

Mr. Hancock further stated that 3-years ago they were contracted by the city to clean up a big area underneath the bridge on 4th Street by the old Sonic. This job was completed within two days, and they collected 14 tons of garbage out of there. Two years ago, it's hot, hard to find people to hire, and long travel times to the landfill, the city started getting behind. Mr. Hancock stated he reached out to the city to see how his company could help. Brothers helped out for 2 to 3 weeks to get the city caught up and keep the citizens happy. One year ago is when the residential carts came out. While the city was delivering carts and working through that process, Brothers helped the city out by picking up trash in designated neighborhoods. In the past five weeks, Brothers has helped the city out a lot picking up trash, with about 90 truck hours in and have even worked on Saturdays and Sundays. Mr. Hancock further stated they have grown up here and have a vested interest, so it is important to him and his crew that the city is clean.

Mr. Hancock further stated in 2011 the current owners of the subject property applied for a rezoning to I-2, Heavy Industrial District, which was approved. This is important because many of the golden factor questions that Mr. Waters pointed out look at the zoning of the property. The answer for two of the questions for that zoning is "fits the city's plan for this area". Other answers pointed out the industrial business in the direct area, the recent addition of the traffic light at Poplar Street, and the widening for turning lanes at Poplar and Marion Streets further help the industries in that area. The subject property has been vacant for approximately 14-years, and is in the direct neighborhood of a concrete plant.

Referring to the plot plans, Mr. Hancock stated the aerial pictures were taken using a drone going down 4th Street about 30' in the air. Aesthetics will be a big deal for them. The current picture is from the south traveling north,

which shows a 6' open fence, shrubbery and trees. Next picture is from the north traveling south, which shows the existing locker room, which will be the shop, and more shrubbery and trees. The entrance and exit will be off 2nd Street. The trailers will enter from Marion Street, and then take 2nd Street to the entrance of the transfer station. Having the entrance and exit off 2nd Street protects Stubby Park. After entering off 2nd Street, the trucks would come onto the scale, then continue passed the building, and then backup to the building to offload their load in the building. The building has four large bay doors, which is very important to us, and there is good reason for that. There is a word called smell, and garbage is frequently associated with that. The bay doors and misting system help mitigate any type of smells. Keep in mind this is a much smaller operation with 120 tons compared to Olathe, which is about 500 tons.

Mr. Hancock further stated they expect a parklike atmosphere and want to show it off. They want to bring school buses through the facility to education kids on what happens with garbage and recycling. They would be open to tours as well, if a group of people want to visit the facility.

Mr. Hancock proceeded to state that the existing recycling area is open sometimes, and other times it is not open due to a labor issue. The proposed project would have the recycling center at new facility, with a drop off area open from five-and-a-half days a week and will be fully staffed. The process works by the person going to the scale, then driving around to the citizen drop-off area, toss the couch, mattress, etc. into the roll-off box, and then drive back out of the facility. The new facility would also offer the free Saturday dump that the City of Leavenworth currently offers now. In this case, the building would be open to the public. The person's license would be checked to verify they are a resident of the city, they would drive across the scale, they dump their garbage or large items into the building, and then drive out of the facility. This is a savings for the city because they do not need to staff for this service, haul the roll-off boxes or transfer it to the landfill. The city would only be paying for the tonnage that comes across the scale. There is no garbage left on the floor at night whatsoever. The large trailers are loaded at the end of the day, the bay doors are closed and the misters are on. They anticipate six trailers leaving the facility every day, which is not even a drop in the bucket compared to a lot of the truck traffic in that area.

Mr. Hancock stated additional benefits for the city are a reliable long-term contract to dump there, the recycling center, the citizen drop-off area, first Saturday of the month dump days, and the new facility would accept car batteries, the household hazardous materials and tires. The city would also save money on fuel, labor, and wear & tear on trucks. How often does the city have to buy a truck when the trucks are driving back and forth to Kansas City as compared to driving 5-10 minutes to the proposed facility? This is a huge deal as it could change from buying a truck every two years to buying one every five years, and these trucks are expensive. Brothers expects fast dumping times. They will have a commercial lane just for commercial trucks so cash customers will not be held up. Brothers anticipates hiring an additional six new employees to their payroll.

Mr. Hancock further stated that the buildings are only up to about the 30-yard line so there is a lot of green space left. Brothers would anticipate community events to occur in that green space such as car shows, swap-n-shops, etc., and even have food trucks. That is how confident Brothers is in this facility, that it will not be an eyesore, and that it will be a state-of-the-art, aesthetically pleasing, and parklike atmosphere.

Mr. Hancock proceeded to read a couple excerpts from a letter that was sent last night. The letter is from Mike McDonald, who is the retired Public Works Director. An excerpt from that is "it was at the time, and appears still to be cost effective in the sense of dollars/ton to haul the refuse to Johnson County rather than use the County Transfer Station. Use of a local, cost effective transfer station will allow City Collection Vehicles to avoid a 1.5-3.0 hour round trip for disposal, increasing efficiency of collection. Construction of a well operated and well maintained transfer station central to Leavenworth offers the opportunity to bring performance back in-line with resident expectations

for regular refuse collection. That the property is zoned I-2 is a critical part of the approval process. Many people are not aware that Geiger Concrete, LAM (Asphalt Plant), Tire Town (retail and wholesale tire operations), Great Western Manufacturing, Wastewater Treatment Plant and other warehouse/manufacturing/material handling operations are part of the same zoning block created back in the dawn of time for Leavenworth. All of these have served the community well. I am not closely familiar with the actual plans and layout of the site, but was pleased to see that the access would be from 2nd Street. This will allow refuse trucks and transfer trailers to use the signals at Marion/4th Street to enter and exit 4th Street. This industrial use was part of the justification for the upgrading of these traffic signals over the years with substantial grants from KDOT. In conclusion, a well operated transfer station, with a commitment to hours of operation, noise/light control, and litter collection should be supported by the Planning Commission. It offers substantial opportunity for the City to stabilize refuse collection services as well". Mr. Hancock stated he thinks we are all in line with that, and that the transfer station is a win-win for the city, and a win-win for the residents. Brothers has been working toward a better community for a number of years, and this project is an extension of that goal. Brothers is excited to see what ideas the citizens can offer to use the green space leftover after the base project. Brothers believes this would be a partnership with fellow citizens, and work together for a better Leavenworth. Lastly, how does Abeles Field Transfer Station sound?

Chairman Stephens called for questions from the commissioners.

Commissioner Neeland asked if the fence along 4th Street is 6' in height.

Mr. Hancock responded in the affirmative.

Commissioner Kem stated the fencing is talked about in several places in the packet, and wants to know which type of fence will be installed. In one place it says that there will be new fencing along 4th Street and Poplar, the application states it will be replaced as necessary and the DRC notes states there was going to be plastic slats put in the fence.

Mr. Hancock responded that the slats and replacement of the fence are under negotiation. Part of the fence was hit within the past year and that area has brand new fencing. At first glance, they were going to replace the part that was not brand new. They are definitely going to put fencing and gates on the north side and then the gate on the 2nd Street side. The slats would be something nice because there are people that are worried about what they will see but the trees and shrubbery will do a great job screening the area as well.

Commissioner Kem asked about the circulation of traffic. People will be coming in off 2nd Street and going around the building so will there be two lanes?

Referring to the site plan, Mr. Hancock demonstrated how people with recycling will come in and get out without getting caught up in any type of traffic. He further demonstrated the driving path for those dropping off garbage and/or debris, dropping off large items, commercial trucks, and cash customers. The route the commercial trucks take is wider so they are able to get in and then get back out.

Commissioner Kem asked for clarification that a resident would not be in the same queue as the commercial trucks.

Mr. Hancock responded in the affirmative stating they want to focus on convenience and not have this be an intimidating experience for residents.

Commissioner Kem asked that after the trash is put into the building and it goes down the tilt floor, the trash will be put into the transfer trailers.

Mr. Hancock replied the trailers are called tipper trailers. The tipper trailers backup to the building and a machine puts the trash in the trailer. Once the trailer is full, the load is tarped and the trailer company hauls it away.

Commissioner Kem asked if the tipper trailer is inside or outside of the building.

Mr. Hancock stated the tipper trailer is backed inside the building and is at a lower elevation than the floor with the trash, so the trash is pushed down into the tipper trailer, not pushed up into the trailer.

Commissioner Kem asked that at the end of the day if the tipper trailer is not full, will it stay on site.

Mr. Hancock responded that is when the bay doors come into play. The bay doors are closed and the misters are going. They do not anticipate anything being full sitting outside because the trucks are constantly being hauled out.

Commissioner Kem asked staff if the landscape plan will go through the same process.

Ms. Hurley stated that is correct. When they come in for a building permit that would be reviewed by staff.

Commissioner Kem asked how many tons is the Leavenworth County transfer station.

Mr. Hancock replied around 150-170 tons.

Chairman Stephens asked what the proposed transfer station be comparative to the county transfer station.

Mr. Hancock responded 110-120 tons.

Commissioner Neeland stated she dumped her couch at the county transfer station and was charged her \$5. She asked what the \$5 goes to.

Chairman Stephens stated the applicant cannot speak for the county. He further asked what fees Brothers would charge and what would those fees go towards?

Mr. Hancock responded that there will be a set price to drop off items such as a couch or something like that, and these people would not need to go back across the scale. Anybody with a trailer or a construction company would need to scale back out, and at that point it is a price per ton or whatever that gate rate is set at.

Commissioner Neeland stated her question about where the \$5 went is more about if this would be taking money away from the city because in her head the city would have received the \$5 she was charged.

Mr. Hancock responded the county is no longer funded by tax dollars, and has not been for a while. That is when that gate rate went up significantly, and the city started bringing their trash to a different landfill for a better gate rate. One cannot call the county transfer station a for-profit operation because they are revenue neutral that money is used for running their facility.

Commissioner Homan asked if the wall along 4th Street will be torn down.

Mr. Hancock responded in the negative.

Commissioner Homan asked if the wall is not going to be torn down so it can have more graffiti.

Mr. Hancock replied that the wall is attached to the stands, and there is some concern of it being there for as long as it has been on what that structurally would do to 4th Street. Furthermore, that is not really graffiti on the wall but is actually a mural now. Brothers does want the aesthetics to stay pristine.

Commissioner Homan asked about how large the trees will be when planted.

Mr. Hancock responded that the trees are 8-9 feet when planted. The landscaping will include 10 gallons worth of shrubbery as well. There will be two to three different types of trees and shrubs.

Commissioner Homan asked if there will be a free drop-off day for residents.

Mr. Hancock replied in the affirmative stating instead of the free Saturday being at the Service Center where it is now, it will be at the new location at Abeles Field.

Commissioner Homan asked if Brothers will incorporate the city trucks and city employees into this new company.

Mr. Hancock responded that Brothers is not in partnership with the city but that they would have a long-term contract with the city to dump at the new facility, which would save the city money.

Commissioner Homan asked how long is the long-term lease.

Mr. Hancock stated he did not speak of a long-term lease. Brothers would be purchasing the property at Abeles Field.

Commissioner Homan asked how long would the contract be with the city.

Mr. Hancock responded that would be a negotiation with the city. It would be much like the contract that the city has with Waste Management.

Referring back to possible events being held at the open green space, Commissioner Neeland asked if people could park in the grass during an event, such as a concert, if needed.

Mr. Hancock replied that while thinking about different community events, they thought about maybe a movie night with a big screen, where people can bring their lawn chairs as well as use the existing stands. He further stated that he was thinking car shows that would be in the grass or swap & shops that would also be in the grass, with food trucks along the outside. Mr. Hancock also stated the roads will be asphalt.

Chairman Stephens asked the applicant if he has secured the funding needed to undertake this large project or is that something he is still working on.

Mr. Hancock responded they are currently in the middle of that process.

Chairman Stephens asked what the plan is to mitigate wastewater and other contaminants that are germane to this type of facility.

Mr. Hancock replied that all of that is covered through the permitting process with KDHE. There are also monthly, yearly, and surprise inspections performed by KDHE. This biggest part of this would be in the area where the trailer is, so there would be a separate drain there that would be handled by the wastewater treatment plant. The other drain would be rainwater on the outside of the pit.

Chairman Stephens asked if public utilities already exist on the property.

Mr. Hancock responded in the affirmative stating water, electric, and sewer are already there.

Commissioner Homan asked the timeframe for completing the project.

Mr. Hancock responded the KDHE permitting is anywhere from 6-9 months. During this time, Brothers will be getting the financing. He further stated it takes 90 days to get the building on-site. Overall, they anticipate 12-15 months before the facility is operational.

Commissioner Kem asked if the recycling will be taken to the same place in Lawrence as the solid waste.

Mr. Hancock responded in the negative stating the City of Leavenworth would still handle that portion and would keep any revenue from the recycling. The reason for moving the recycling to the new facility is so that the citizens could rely on open hours.

Chairman Stephens asked how large of an investment this project might be.

Mr. Hancock replied somewhere around \$2.8M, which includes the equipment.

Chairman Stephens asked staff what that does to the tax burden.

Interim City Manager Pat Kitchens responded that the team has done some preliminary calculations. Certainly, the property tax value would be significantly higher than it currently is now.

Chairman Stephens stated that currently the assessed value is \$29,000 that generated about \$4,000 worth of tax revenue for the city for 2023. If that type of money was invested into this property, then the tax revenue would increase?

Mr. Kitchens replied that it depends on where they end up landing on the number total but believes it would be in the \$80,000 - \$100,000 year.

Chairman Stephens asked the applicant if they will be charging sales tax.

Mr. Hancock responded that there is no sales tax for tipping trash or picking up trash, but there is sales tax for dumpster rentals.

Chairman Stephens asked if Brothers would be responsible for trailering the waste to Lawrence.

Mr. Hancock stated that would be contracted out to a company in Olathe, KS.

Chairman Stephens asked how much trash will be left outside during the day or overnight.

Mr. Hancock responded that there will not be any trash left outside in the trailers whatsoever. The only thing that could be left would be if there were something in the trailer at the end of the day because the trailer is not full. If a trailer is only halfway full, then it would not be hauled away until the next morning when it is full but again that trailer would be inside in the building, bay doors closed, and misters going. Trash will never be stored outside.

Commissioner Homan stated his sweet smelling sprinkler system will be working all the time then.

Mr. Hancock responded in the affirmative.

Chairman Stephens asked where the trash is stored currently when the city trash trucks cannot get the trash hauled away that day or if the facility is closed.

Mr. Hancock responded that the trash stays in the truck.

Chairman Stephens asked where the truck that still have trash in it parked.

Mr. Stephan responded at the Service Center.

Mr. Hancock further stated that Brothers is a private business so if the city trash truck is running behind, city staff can contact Brothers and Brothers would keep the facility open so the city truck can dump their trash.

Commissioner Homan asked if the city will still be picking up the trash or if there is a possibility that Brothers would be subcontracted.

Mr. Hancock stated that the city would still be picking up trash. Brothers cannot speak for the city but he thinks it would be the idea that if the city truck is not driving 25 miles away to haul off trash, the city would then have the time to pick up garbage in the neighborhoods, and then the city would not need Brothers to help pick up the garbage. This is another cost savings for the city because the city would no longer be paying Brothers to help pick up the garbage.

Before opening the public hearing, Chairman Stephens stated that he takes this seriously, has done his own research, and wants to share some of his findings. He spoke with a few city workers that drive the trucks and pick up the trash, and learned that they start out at \$16/hr. for their CDLs, where everybody else starts out at \$18-\$20/hr., so \$16/hr. for a CDB is not very competitive. The biggest complaint the city trash workers have is the two hour round trip to dump their load. This takes time away from picking up trash in the city, has the city employees working late and missing time with their families, and cost the city more with overtime pay. Chairman Stephens further stated that he asked the city workers what the proposed transfer station would do for them and their ability to serve the citizens. Generally, they were happy with the prospect of not having so much long distance road time.

Chairman Stephens continued by stating he also spent a couple hours speaking with residents who live in the apartment complex behind the existing Recycling Center at Lawrence Ave and Pennsylvania St. He specifically asked about the smell and traffic. No one complained about the smell, and it just so happened that two of the trash trucks were parked there with trash in them. Most of the complaints were about the noise, the beeping of the trucks, etc. Chairman Stephens went on to say that if you have not been to the Recycling Center, it is not just recycling. There is some waste that is there and bins that contain trash that are all out in the open.

Chairman Stephens further stated he also spoke with people who live near Stubby Park. The people he spoke with did not know about the proposed transfer station, and one couple was military who just moved here. That couple did ask about the trash and recycling regulations, was interested in knowing that there would be more, and that it was not the idea of the city that you can just put out however much trash you want, which was one of the military member's belief from hearing what other people in the city were saying. Two other people in that area had recently moved back to Leavenworth and stated the proposed transfer station did not have any impact in their views of the city, but what they were disappointed in is that it did not seem as though Leavenworth was growing like other communities. Some of the folks that have lived in that area for a while did talk about the smell that is currently there, and that is the asphalt plant. They asked if it would be more than the asphalt plant, which Chairman Stephens could not answer. They also asked if it would be worse than the sewage smell that is already there, and again Chairman Stephens could not answer that. Most people did have complaints about the traffic until Chairman

Stephens showed them the proposal. When they noticed that all of the traffic is 2nd Street, it no longer seemed to be of concern because the park would not see any of that traffic.

Lastly, Chairman Stephens mentioned the impact on property taxes, stating everyone knows property taxes have gone up and that is mostly based on the assessed values. One of the biggest sources of funding for the city is the CCA building (Corrections Corporation of America) that used to generate over a million dollars' worth of just property tax revenue. For example, 2019 was assessed at \$6.7M that generated \$867,000 for the city. After speaking with the Appraisers Office, they stated that because this property can no longer be used as a prison, the Appraisers Office had to reduce that valuation, so instead of \$6.7M it is now valued at \$4.1M, which is about \$500,000 in tax revenue just on property tax. Chairman Stephens further stated he encourages everybody to take that into consideration that when we have such a significant investment in our community, whether it is this project or your own home that increases the appraised value of things that can increase your taxes but can also have some benefits. Hopefully, everybody has listened to all this information with an open mind.

Chairman Stephens opened the public hearing for any public comment that is relevant to this Special Use Permit request. Planning Assistant Michelle Baragary has a list of the folks that have signed up to speak.

Ms. Hurley suggested that if folks have questions for the applicant on something specific they want addressed that staff and the commissioners keep track of those and circle back to all of those at the end once everybody has had a chance to speak.

Mr. Kitchens stated he has some answers for the questions that the commission asked earlier about overtime. In 2024, \$88,000 was budgeted for refuse staff overtime expenses. If we anticipate not having to work that much, about two-thirds of that will go down so we are thinking somewhere in the neighborhood of about a \$50,000 savings in overtime. There is about 1,560 trips a year driven from the City of Leavenworth to Shawnee and back, which about 78,000 miles a year, so the city trucks would have significant less travel time on them and reduction in fuel costs.

Mike Cordes, 900 S. Esplanade St., stated that listening to this evening's presentation has mitigated some of the challenges that he has with this project, but does request clarification on the mitigation of what he sees as three challenges that have not been addressed so far. First, will there be any type of trash created that would be potentially windborne with bay doors open, etc.? Second, would be mitigation of noise with the trucks backing up and alarms occurring. Third, is tire recycling. Would the used tires be stored inside a warehouse or stored outside where they would collect rainwater?

Ron Kilgore, 2214 S. 5th St., stated his concerns are windblown trash, odor and traffic. One of his black trash bags ripped open this morning as he pulled it out of the bin, and the odor forced him to run to the curb with the trash bag. He wants everyone to think about a couple hundred of those trash bags are put in that truck every day. Now Brothers is going to dump all that trash on the floor inside a building and load it into an open topped trailer. Also concerned about insects and rodents. Feels that this is the wrong place to put a facility like this no matter how well Brothers operates the facility. Leavenworth still has the original traffic design from the 1920's when they started making US and state highways. As a 35-year veteran of driving a tractor-trailer, these big rigs drive in the left lane because when you get in the right lane people in this area think they have to come to a complete stop before they pull into a parking lot or driveway. Tractor-trailers do not accelerate that fast so they stay in the left lane to avoid that, which means when you get behind one you are going to be behind it all the way passed Lansing and down to Basehor. If hours of operation for the transfer station is 7am – 4pm, and a tractor-trailer leaves the facility at 4pm, then it will be driving down 4th Street during rush hour. Believes there is a better location for this type of facility.

Dick Gervasini, 108 Vine St., stated he has a few items for consideration. First, having served on the Planning Commission as well as the Board of Zoning Appeals, he thought that special use permits were supposed to be given based on the utilization of the land, and all he heard Mr. Hancock give was a presentation on economics. Second, as the Chairman of the Waterworks Board for the city, there is a 12" water main that goes from 2nd Street to 4th Street, across 4th Street and up the road over the hill. This has not been addressed.

Michelle Becker, 1316 5th Ave., stated her concerns are the smell and seeing the facility while driving down 4th Street. There is a newly renovated park in that area, and who wants to take their family to that park to listen to trash trucks being dumped and the smell of the garbage because the doors will be open. There is also a restaurant nearby. The sewer plant already puts off a terrible odor, and now you would be adding to that smell. Asked why Leavenworth cannot team-up with the facility in Lansing, and expanding that facility.

Chairman Stephens asked Ms. Becker if the mitigation strategies provided by the applicant for the smell and the visual aspect were satisfactory.

Ms. Becker responded they were not.

Chairman Stephens asked Ms. Becker what would be to her satisfaction.

Ms. Becker replied that there is nothing that would be satisfactory if this type of facility is located on 4th Street.

Louis Klemp, 1816 Pine Ridge Dr., stated there is history on Abeles Field, and nobody in the city cares about the history. It has been interesting that now all of a sudden we have somebody that wants to take Abeles Field, which the Jewish gentleman sold to us way back when, and where ROTC used to fight wars up and down the hill, and nobody cares about any of this. Mr. Klemp further stated he knows the property is zoned industrial but there are two properties out on Eisenhower that could be used.

Chairman Stephens stated we are not here to discuss where a transfer station could be. We are here to talk about the proposal in front of us here today.

Mr. Klemp stated he does not think the proposed location is the place for a transfer station because it is a higher price than what it would be out on Eisenhower.

Chairman Stephens asked higher price for who.

Mr. Klemp responded to Mr. Hancock who is buying the property.

Chairman Stephens asked Mr. Klemp if he is advising him for his business.

Mr. Klemp responded that he is telling Mr. Hancock to look some other place because there is a zoning on Eisenhower and on 2nd Street where the oil is and where the big building is that has been there for 100 years where they launched the war wagons during World War II.

Chairman Stephens stated there is a lot of history there.

Mr. Klemp stated history is unimportant. There is no sense talking about history.

Chairman Stephens responded those are your words, sir, not mine.

Mr. Klemp stating that an article states that the board has already approved this.

Chairman Stephens responded in the negative.

Commissioner Neeland stated she thinks Mr. Klemp is referring to the fact that it was previously approved for Kaaz to rezone the property.

Chairman Stephens asked to rezone it to industrial 15 years ago?

Commissioner Neeland responded that she did not read the article but is assuming that is what the article is referring to.

Chairman Stephens stated that yes, in 2011 it was approved to be rezoned to industrial to match (inaudible, Mr. Klemp interrupted).

Mr. Klemp stated do not talk about the history because that does not mean anything since the Muncie's got here in the 1850's and the Klemp's got here in the 1860's.

Rick Averna, 4732 Shrine Park Rd., stated he is not tied to Abeles Field emotionally but he believes this is the wrong location because no matter where people drive out of it, it still butts-up against 4th Street. Mr. Averna stated he is not a trash guy but did pull an EPA study off the internet. Wastewater runoff is an issue with the plant or the areas in Kansas City. Concerned with the noise, traffic, smell and site. The renderings look nice but we know that what we plan is probably not going to be executed like that. Concerned with trash blowing out even if the trailers are covered. There is a rodent and bird issue there, and it is close to Stubby Park. Believes this is the wrong location, and that there are better locations for the transfer station. Mr. Averna further stated he has three questions. First, how big is the footprint? Second, what are these golden factors? Third, how does the money that the city would save reduce his tax burden? In the last 16 years he has owned an uranium company in Colorado so he knows how things go, and so when the applicant says they are going to mitigate this or that, it does not normally work out like that. Then there are some unintended consequences, and although Mr. Averna does not know what those unintended consequences are for the transfer station, he assumes there will be smell, garbage blowing around, and that it will affect the park. He thinks this area could be used for something much better than a transfer station, and he has ideas for what the property could be used for.

Alisha Herzog, 316 S 5th St., stated she is a citizen of the city and a user of Stubby Park. She wants to commend Brother's Disposal on their plan to create a transfer station. Based on the factors presented, believes it is very important that we create one, not only for the cost savings but to the citizens of the city. As a mother and a person who frequents the facilities at Stubby Park, she does have concern, even with the mitigation efforts that are laid out and seem to be very well thought out and planned. She recently attended a birthday party at the newly renovated shelter, which is a wonderful addition to the park, and is sorry to hear that we may potentially have a location next door that could add to the already loud sounds in that area. She is also concerned with the smell, rodents and insects that will be increased inevitably just because of the type of facility it would be.

Chairman Stephens stated he wants to remind everyone that this is a special use permit to create a transfer station, so if the special use permit is not approved, whoever owns that property can do whatever they want with it. If they wanted to fill it with unmitigated trash, they could do that with their property, so that needs to be considered as well.

Ms. Hurley stated the owner can do what they want with allowed uses in that zoning district, for instance a concrete plant.

Anna Enter, 1501 Columbia Ave., stated she has lived here since 1956, and has a lot of history at Abeles Field. Believes we need a transfer station but does not think this is the right location. When it comes to recycling, she tries to recycle herself by separating trash, plastic, paper, etc. She loads the separate boxes into her car to take to the Recycling Center just to find out that it is closed, and when she goes on Saturday's the line goes all the way around the corner. Out of frustration, she throws everything into the trash bin and sets it out on the curb, and then the trash truck does pick her trash up on time. Ms. Enter further stated she is concerned about accidents with these trash trucks trying to make the turn at Price Chopper and then again at 2nd Street. She also said this is kind of like a dream world if all of this works the way it has been presented, but wants to know if she will be stuck behind the trash trucks when using the recycling area at the new facility. She is not in favor of the location of the transfer station. Ms. Enter proceeded by stating she is part of the First City Museum and all of the old history of Leavenworth, and that Abeles Field is an almost 100-year old landmark. 4th Street is the only way you can get from Lansing to the Centennial Bridge, and it would look awful if this property on 4th Street were lined with slatted fence panels. This is supposed to be the First City of Kansas. How are we supposed to invite people to our town to help it grow with a transfer station on 4th Street?

Chairman Stephens asked Ms. Enter if she would prefer it to stay exactly as it is right now, and have people coming into the city see it how it looks today versus a transfer station.

Ms. Enter responded in the affirmative.

Chairman Stephens asked Mr. Kitchens if the intersections at 4th Street & Marion and 4th Street & Poplar were recently redeveloped, and has there been any difficulties with trucks trying to make that turn?

Mr. Kitchens responded that 4th Street and Marion (inaudible due to chattering in the audience) and 4th Street and Poplar were redeveloped for Geiger trucks and the asphalt plant. Mr. Kitchens stated that he's sure there has been accidents but would need to check to see if it has increased. The 4th Street and Marion intersection was completely widened to allow for trucks movements.

Mr. Stephan stated that before he worked for the City of Leavenworth, he worked for an engineering company that inspected the 4th Street and Marion project for the City of Leavenworth. There are many trucks that come in town, and that was a KDOT design. There is a large radius at that corner so trucks do not have to get in the left lane. Semi-trucks that deliver rock to Geiger use this intersection all the time, and the asphalt plant has semi-trucks that use it as well. This intersection was designed for trucks.

Commissioner Homan asked if this intersection was designed for coming from the south and heading northbound.

Mr. Stephan responded in the affirmative.

Commissioner Homan asked that this intersection was not so much designed for trucks going west and turning southbound.

Mr. Stephan responded in the affirmative.

Chairman Stephens called for the next person on the list to speak.

Linda Bohnsack, 701 N 12th Street, stated she lives in a beautifully renovated historic little home. This whole town is full of beautifully preserved little homes and older buildings that make this town a wonderful place to live. This city also has beautiful new subdivisions, wonderful commerce and a lot of economic development opportunities, with many of these being development over the last 25 years when she moved her. Ms. Bohnsack further stated

she came to here as a Planner for Leavenworth County, served as a Planner for Tonganoxie and Desoto, Kansas, and served on Leavenworth Planning Commission for several years. The use that is being proposed for this site is a particularly obnoxious use. The only worse use for this site would be a salvage yard. It is not about how well it can be screened because it is still going to be a loud, noisy, and distasteful use. The facility would be on the main street that runs through town, a famous historic town in the State of Kansas. Ms. Bohnsack continued by stating when she first moved here, she lived in a house on Pine Street, and she could hear the crowds cheering as the high school teams took the field. It was a beautiful part of a small city life. There are other sites for this type of use that would not be quite as public and visible. Abeles Field was built lower than the street for visibility because people wanted to see into the site. It will take many years to grow trees to buffer and screen that site from the public view. Another thing to consider is once a use like this is gone, it never leaves.

Chairman Stephens asked Ms. Bohnsack if she is okay with keeping Abeles Field in the condition it is now.

Ms. Bohnsack stated with a little bit of creativity, a lot more could be done with that site other than a dump.

Thomas Beal, 2106 S 5th St., stated he would rather see Evergreen trees that stay green all year and that do not lose their leaves. He has also seen trash truck just ignite in fire. Will there be fire hoses and fire hydrants on site or will the city fire trucks have to bring the pumpers in to put out the fire? Brothers will be charged by the other company to haul the trash away so how would this save money for the city because it would be cheaper for the city trucks to spend one-and-a-half to three hours to drive to Kansas City than to pay what Brothers would charge.

Joseph Hancock, 1119 Limit St., stated he would like to preface and say that actions speak louder than words sometimes. He believes that his and his brother's team were the last to every play on Abeles Field. In all his life he has heard about a lot of things being said to happen at this property but obviously nothing has happened. There is a lot debris, concrete piles, overgrown weeds, and the track is cracked up. It is an eyesore, and hurtful to him that he spent that amount of history on that field and to see it in the condition it is today. With all the stipulations put in place and thought from the city and Brothers Disposal, he believes it is worth giving gratitude for someone who is actually wanting to help develop our city rather than let it be a place for homeless people to sleep, graffiti on the walls, messed up concrete, and who knows what else is going to happen there. Obviously with anything, there will be implications like the waste system that is in this area. There are negatives and positives with everything, and he believes many people came tonight with a preconceived notions concerning that. Mr. Hancock further stated if not this, then who is going to step up and put something on this property to make it usable in the foreseeable future because with the hundreds of thousands of dollars that the city is spending in addition to disposing of waste when it could be done in town and it would also create more jobs, he could only imagine that tax dollars are going to raise as well, and then you are losing more money than what you were wanting to gain in the first place.

Cassandra Blakely, 1000 5th Ave., stated her opinion is that this is not the place to have a transfer station. Will Brothers be purchasing the land if this request is approved? If approved, does Brothers move forward with constructing buildings or are there more steps in the process that allow the citizens to have a voice?

Chairman Stephens addressed that question stating the Planning Commission will make their recommendation to approve, deny, or table this request. That recommendation goes to the City Commission, and the City Commission has two hearings.

Mr. Waters stated the City Commission has two readings but are not necessarily required to hold a public hearing but this does come before the City Commission, and the City Commission has the authority to decide whether to accept additional public comment.

Chairman Stephens proceeded by stating there are two readings of this and the public can make public comment to the City Commissioners even before that date. The City Commissioners are elected leaders so citizens can talk with them at any time, which is encouraged. Whatever decision is made this evening by this body goes up as a recommendation to the City Commission, and it will be announced when that is on the agenda.

Ms. Hurley stated the earliest the City Commission would hear this item is July 23rd.

To answer Ms. Blakley's other question, Chairman Stephens stated that the applicant has already addressed that they are in the purchasing process.

Commissioner Homan asked the current property owner, Mr. Kaaz, when did he purchase the property.

Steve Kaaz, 1701 S. 4th Street, responded that he purchased it when the school board sold it in 2010.

Commissioner Homan asked why nothing was done with Abeles Field before now.

Mr. Kaaz stated he is one of the owners and the property was for sell for quite a while. They had hauled dirt in to try to improve the property and make it more sellable. That did not have the outcome they wanted so they worked with an Indian Reservation but they backed out of the deal.

Commissioner Homan asked if the property was purchased as an investment.

Mr. Kaaz responded in the affirmative.

Commissioner Homan wonders why it was not taken care of even though the property was for sell.

Mr. Kaaz asked what he means by the property not being taken care of.

Commissioner Homan responded that everyone has talked about how terrible the property looks and the graffiti on the building.

Mr. Kaaz stated that the property is just a construction laydown area right now.

Chairman Stephens asked the applicant to come back up to the podium.

Referring to how a building looks, Mr. Hancock stated the tire warehouse is not the best looking building on 4th Street, and we could go from north to south and see many buildings that do not look nice. Along the wall is a mural. It used to be graffiti but now there are actual pictures along that wall. There was graffiti on the arch that has since been painted over.

Commissioner Homan stated the reason the tire warehouse building has not been torn down is an EPA problem because batteries were made there and it got into the ground so the building has to stay.

With many folks talking, Ms. Hurley stated we need to have people not talking in the background as it interferes with the recording quality, which is needed for the meeting minutes.

Chairman Stephens stated the arch and its historical significance was mentioned several times, and asked the applicant to speak of his plans for the arch.

Mr. Hancock replied that he did not hear any specifics about the arch but rather the history of the field itself. They understand there is a lot of history to this property, but the fact of the matter is it is not a football field anymore,

and it ceased being a football field well over a decade ago. When the rezoning was approved for heavy industrial, one of the permitted uses at that time was a solid waste transfer station. Since then, it has changed to requiring a special use permit. A few uses that are currently permitted by-right include an automotive parts recycling business, a junkyard/salvage yard, etc.

Chairman Stephens said in the proposal there was a plan to maintain and upkeep the arch.

Mr. Hancock responded that is under negotiation. Need to determine if it is structurally sound and what exactly does it take to keep and maintain the arch, which is probably in the six-digit figure.

Chairman Stephens asked about the pest and rodent mitigation.

Mr. Hancock stated that is part of the KDHE permitting and inspection. The biggest way for them to combat that is to not have garbage leftover outside overnight, and there would not be any such garbage. All garbage would be inside the building in the trailer with the doors closed, and not outside or even on the floor inside the building.

Chairman Stephens asked about the intersection at 4th Street and Marion.

Mr. Hancock responded that there would only be 5 or 6 tractor-trailers over a 9 hour period. This intersection was designed for these types of trucks to come in, and the tractor-trailers definitely have made it out the same way.

Commissioner Neeland asked Mr. Hancock to address the concern about tires and mosquitoes.

Mr. Hancock replied that the tires would be stacked in a box truck. Once that is full, it is taken to the tire facility. Again, nothing would be outside, even the recycle bins are enclosed.

Commissioner Neeland asked about the footprint of the facility, and how much space it will take up.

Mr. Hancock responded that the top right corner of the large building is basically where the goalpost was located. From the goalpost to the outer edge of the track is 126 feet and then 70 feet to the south. In rough numbers, it is about 50 yards by 40 yards, and that includes the concrete in front of it, which they call the apron; so it is about 50 x 40 yards for that portion. The asphalt in the middle is about the same. Just guessing, Mr. Hancock thinks there is about 9-10 acres left of green space.

Someone in the audience asked that only 5 acres would be used for the facility.

Mr. Hancock responded that they need that longer approach to avoid vehicle stacking. The line at the county transfer station goes out to Gilman Road a lot of the times.

Someone else in the audience asked to speak and Chairman Stephens said to just shout out the question.

Ms. Hurley stated we cannot have the back and forth with the audience, and it needs to be cut off.

Another person in the audience shouted that the end zone is exactly where that 12" water main is, and it was (inaudible).

Ms. Hurley stated this is not going to be in the record with comments shouted from the audience.

Mr. Hancock stated the water main is actually in the south end of the property, and it angles. It has been located and blue flags have been placed on the property indicating where the water main is.

Chairman Stephens asked about the concerns some citizens had about blowing trash.

Mr. Hancock responded that they require anyone coming in to be tarped, and if you do not have a tarp, you will be fined. Will also have people patrolling 4th Street. For the tractor-trailers, It all goes to the integrity of the company hauling the trash. There are already a lot of trash trucks around here now, and having this transfer station will not change that. In other words, it's not like we're going to ask Kansas City to bring their trash trucks here. Brothers would just be maintaining the garbage that we have now as a city.

Chairman Stephens asked if the large trailers hauling the garbage away are tarped.

Mr. Hancock responded that the tractor-trailers are open on the top so trash can be dumped in it but then they are tarped. The trucks are loaded correctly so the garbage does not rip the tarp.

Chairman Stephens asked how will the smell be mitigated.

Mr. Hancock stated the garbage needs to be removed from the floor as quick as possible, must have readily available trailers so you cannot go cheap on the amount of trailers, and you cannot go cheap on the person hauling the trailers. The misters will constantly be running and the building has bay doors. You can point at many different things that make smells, like even stagnant water, but Brothers will mitigate it as best as they can. Mr. Hancock further stated they have approximately 300 commercial customers in the city, such as the Taco Bells, Starbucks, Luigi's, etc. If their dumpsters are only dumped three times per week and that garbage is sitting in there on Tuesday and Thursday, how are people possibly eating around that but they are.

Chairman Stephens asked about fire suppression.

Mr. Hancock replied this is also regulated by KDHE, and you absolutely have to make sure that you have a fire station that knows your location. Brothers would also have fire suppression equipment in the building.

Chairman Stephens asked if there is a fire hydrant on the property.

David Matthews, co-owner of Brothers Disposal, stated it is called a dry system, and sprinklers will be installed in the building because the last thing we want is to lose the investment of our building.

Chairman Stephens asked if they will be accepting electronic waste and batteries as well.

Mr. Hancock responded in the affirmative stating we want to take as much off the city as we can. It would be silly to take part of the recycling but tell the city they have to be there for a battery.

Ms. Hurley asked Mr. Hancock if he could go over a little bit more about the traffic flow internal to the site, and how people will go through there.

Mr. Hancock responded that some citizens were concerned about stacking if you are dropping off recycling and you did not want to be around the big trucks. Referring to the site plan, Mr. Hancock stated that lane is 126 feet. So if you could picture 70 feet, 126 feet and then another 100 feet before you even get to the recycling area. A lot of things would have to happen for that to actually be bound up. To run things efficiently, such as a restaurant drive-thru, you want to work as efficiently as you possibly can because you do not want people waiting in line. Again, that is part of the issue now is people waiting in line at the existing Recycling Center.

Chairman Stephens stated it sounds like recycling traffic will be routed to one area and commercial traffic would be routed to another area.

Mr. Hancock replied that is correct. People who come to the recycling area are typically in a car or SUV with the recycling items in the trunk, and they do not need to be around the big trucks. We want to make this as easy as possible for them to come in, drop of their recycling, and drive back out.

Mr. Hancock stated that he wanted to provide more information about the trees since a citizen asked about that. On the north end of the property, there will be ten 2" Autumn Blaze Maples on the hill staggered with seven 9' Eastern Cedars between the maple trees, 10 gallon Gold Tip Juniper Spreaders, and 9 Barks and more Junipers throughout, and this is only on the north end. Looking at the rendering, you can see the trees are lined in an L-shape around the building to keep noise down.

Chairman Stephens asked for the golden factors to be read again.

Before going over the golden factors again, Mr. Waters stated he will go with a bigger picture to start. In zoning decisions like these, a city's determinations are supposed to be reasonable, and not supposed to act in an arbitrary or capricious manner. What the golden factors refers to is a case called Golden v. City of Overland Park, which is a 1978 case decided by the Kansas Supreme Court. Speaking very broadly, one of the problems the courts were facing in considering zoning matters was that they were getting records up in the court that they had no idea on what basis cities were making their determinations. Either the minutes were not very well reflected, there is no staff reports, there is nothing like that so courts had no idea how to decide these cases. What the Kansas Supreme Court did was set forth a list of 8 factors that they thought cities should be considering these factors in rezoning. Those factors are not all extensive in some ways. Sometimes 6 of the 8 factors might be applicable, sometimes one might weigh out the others, and sometimes there may be some that are not applicable at all but they try to kind of say here are some factors that we really want these cities to have a showing of consideration. Whether you decide for or against it, we need to have something that shows you considered these types of things. Now, this was a rezoning case that the Kansas Supreme Court did. Generally speaking, as SUP's and conditional use permits kind of became more popular and being used, Kansas courts have generally treated them very similar to how you should consider rezoning cases as well. So the Golden Factors named after the Golden case are: 1) that cities should consider the character of the neighborhood, 2) the zoning and uses of nearby property, 3) the suitability of the subject property for the uses to which it has been restricted, and that is generally can the property be developed as it has been zoned or is a change of some type needed, whether a change in zoning or perhaps an issuance of a special use permit, 4) the extent to which the change will detrimentally affect nearby properties, 5) the length of time the subject property has remained vacant as currently zoned; the idea being is the current zoning or the current lack of issuance of a permit somehow inhibiting development, 6) the relative gain to the public health, safety, and welfare; this is the balancing act on if you approve something how does that harm the community versus if you don't how does that harm the individual land owner and kind of where do those balance out, 7) the recommendations of your professional staff, and 8) conformance with your comprehensive plan. Now, Kansas Statue also has a statue that allows cities to enact their own regulations as well, and in this case as in your staff report, the city has four other factors that they have you consider, and those are the main factors. Some of them kind of vibe in-line with what the golden factors are. The idea being that as you consider these things, those are the types of factors you should be considering. Mr. Waters further stated he is not here to tell the commissioners one way or the other how those factors weigh but it would be his recommendation that as you discuss this and make your recommendations to the City Commission that those are the types of considerations that you take into account.

Chairman Stephens thanked Mr. Waters for the helpful information.

With no one else wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners.

Commissioner Homan stated his biggest question is if they recommend approval and the applicant does not get his loan for the project, does the special use permit stay in place.

Mr. Waters responded that it depends on what kind of conditions you put on it. If it is just a straight we are granting a special use permit on this, then another user could come in perhaps and have a special use permit to do that. If the financing does not go through for Brothers, some other future developer could come in say he does not need the special use permit because I am going to develop it for an industrial use because that is already allowed, or a new developer could request something else that requires a special use permit. There are conditions you could consider, such as the amount of time to put on something like this. Mr. Waters further stated he would need to take a little better look if it is going to be personal to a certain applicant that could be a condition of some kind. Ultimately, Mr. Waters' expectation would be that if you approve a special use permit of some kind, generally speaking it would run with the land for whatever amount of time is determined, unless and until you put on some sort of other different conditions on it. Believes staff has some examples of conditions.

Ms. Hurley stated it would depend on what this commission wanted to do but we could potentially limit it to a specific user, so the special use permit could be conditional upon being operated by Brothers Disposal, LLC, or you could put a time limit on it, etc.

Chairman Stephens asked if we voted to limit it to only Brothers Disposal that does not change the designation to a transfer station and allow somebody else to come in to use it as a transfer station as well.

Ms. Hurley responded that it would be more that the special use permit was tied not only to the land but to this certain operator, Brothers Disposal LLC. As far as the timeframe, that is generally more like a 5 or 10 year period where then it would come back for review.

Mr. Waters stated in terms of time, if that was to be a consideration, there is certainly a balancing act. You may want review periods to make sure that it is all going well. Too short of a time period does not provide a developer any incentive to get financing or a bank to approve anything if it could be taken out from under them in two years. They would never see a return on investment, so that could be a problem on that end as well. So if you wanted to put a time period on it, what is appropriate such that you have appropriate reviews or that at the very least there could be a return on investment. Maybe if you have a longer time period with the special use permit, you could impose certain conditions on it, such as annually provide KDHE certification or other sort of control factors such that if the condition is not met, the permit would come back for review, and if a condition is not satisfied the special use permit could be revoke for violation of whatever condition was not satisfactorily met.

Ms. Hurley stated the city does this for childcare centers. The childcare center must annually provide us with their license from that state, and if that is not done then the special use permit is revoked.

Chairman Stephens asked if this is standard in the transfer station business for cities.

Mr. Waters responded that when he first started practicing law the Deffenbaugh site in Shawnee was going through a 20-year special use permit process at that time, and there has been some renewal for the main dumpsite. Even the main dump that the city's trash would go to operates under a special use permit but for a longer period of time.

Commissioner Neeland stated that they could table it and decide on these factors.

Chairman Stephens stated they have three options. We can recommend approval, recommend denial or table this, and then we would have to discuss why we are tabling it.

Mr. Waters stated the statutes for this are a little unclear. He is comfortable tabling it one or two times but the statute says that a failure to make a recommendation counts as a vote for a recommendation of denial. The statute does not really speak to tabling much more than that.

Commissioner Neeland stated to Mr. Waters that he keeps going back to these four factors, and telling the us to consider them, but I just feel like what Mr. Waters is saying is do not consider all the people who spoke and said they just do not want this. Commissioner Neeland asked Mr. Waters if that is what he is indicating.

Mr. Waters responded not necessarily. The golden factors are not an exclusive list of considerations, but the key in protecting the city is that should there be a challenge of some kind, I would have to be able to show that any decision that was made by the city was reasonable and was not arbitrary. To the extent that there is not a record of your consideration of what the Kansas Supreme Court has said and what your code says are the factors that should be considered, I have a harder time doing that. That does not mean that there are factors not listed that cannot be important. There is some case law that aesthetic and cultural values can be considered, even though those may not be listed. Again, what the courts will be looking for in case of a challenge is if there evidence that there was reasonable consideration of this matter, and that it just wasn't a no because no or a yes just because yes. Whatever the decision is, it is important that there has been a consideration by you of what you and your own code have established are the factors that you are supposed to consider.

Chairman Stephens called for more discussion from the commissioners or a motion.

Commissioner Homan moved to table the issue stating we need more time between us to discuss it, and we do not have the time now. I do not know if we need to set up another meeting or what.

Chairman Stephens asked what information is expected with tabling this issue.

Commissioner Homan stated he wants to know where the applicant is on their financing and wants to see more information on their truck routes and operations.

Mr. Waters stated from a land use perspective, I do not think we are going to be in a position to provide you with types of the financials that (inaudible, Commissioner Homan interrupted).

Commissioner Homan responded he just wants to know where they are sitting in the way of their finances. Does not want to recommend approval, and then it takes 12 months to get their financing.

Mr. Waters stated that is going to be relevant to a land use discussion.

Chairman Stephens asked Commissioner Homan if that is his only reason for motioning to table the issue.

Commissioner Homan responded that he still has questions about the truck traffic and the trees.

Ms. Hurley asked if there is something more about the truck traffic that you do not feel has been answered. (inaudible, Commissioner Homan interrupted). Ms. Hurley continued by stating the answer is that the city is going to be directing them to go south on 2nd Street, through Marion, and down 4th Street.

Commissioner Homan stated he does not think 4th Street and Marion is a good spot, and does not think where they come out is a going to be a good spot.

Chairman Stephens asked if he is asking for a traffic study.

Commissioner Homan responded in the affirmative.

Chairman Stephens stated there is a motion to table the issue for additional information on traffic and operations.

Commissioner Homan elaborated on the operations asking that when they dump the trash are those doors shut after they dump the trash before the next load comes in or are they open all the time during the day.

Ms. Hurley responded that has been asked and answered already but that could be addressed again tonight, if needed.

Mr. Hancock stated there are four bay doors, and only the ones that need to be open will be open.

Commissioner Homan asked if they will be open all day.

Mr. Hancock responded only the ones that needed to be open as far as a truck dumping.

Commissioner Homan asked that once the truck dumps and it is on the floor and the truck comes out then the doors are closed.

Mr. Hancock stated they would load the garbage in the trailers, and if there is nobody else coming in then the doors will be closed, but if someone comes in the doors will need to be open for them to dump. Mr. Hancock also stated that as far as the traffic study goes, I want to refer back to the letter from the former Public Works Director Mike McDonald. This entire area is zoned industrial, either I-1 or I-2, and in the letter from Mr. McDonald it states that the industrial use was part of the justification for the upgrading of those traffic signals over the years with substantial grants from KDOT. Mr. Hancock is positive that KDOT did that work that is being asked about, and when those grants were given to the city it was based upon industrial use in this area, which most industrial uses use larger trucks. Again, we are only talking about six extra trucks. Not sure the exact number of trucks Geiger runs through Marion or Poplar but it is dozens.

Commissioner Homan stated that answered his questions, and proceeded to drop the motion.

Chairman Stephens called for another motion. With no one wishing to motion, Chairman Stephens asked if he could make a motion as the Chairperson.

Mr. Waters stated generally speaking, you are not supposed to but (inaudible).

Commissioner Neeland moved to table the issue with the conditions that within a certain time frame the trees will be planted and the fence installed.

Chairman Stephens stated a motion has been made to table this issue until we can discuss as a board in a study session the available options.

Commissioner Kem asked if that is permitted per open meeting rules.

Mr. Waters responded that it must be an open meeting. He further asked if that is the direction of staff to bring the board conditions.

Chairman Stephens asked the other commissioners if that would be another discussion of the proposal with the applicant and the public, in other words, just redoing this hearing.

Commissioner Neeland responded not to do the whole hearing but just to discuss the time frames.

Commissioner Kem asked if we could do that now because we cannot do that without the benefit of public input and staff because of the open meetings laws.

Chairman Stephens asked if there is a second to the motion.

Commissioner Homan second the motion.

Chairman Stephens stated we have a motion to table for discussion at another meeting, and a second. Chairman Stephens called for a vote. Commissioners Homan and Neeland vote yea, and Chairman Stephens and Commissioner Kem vote nay. The motion fails 2-2.

Commissioner Kem stated that there has been a lot of good discussion tonight, and looking at all the factors we have to consider staff has presented an excellent report, and I do not see anything in what they have presented that I would be opposed to in all four of these conditions. The information that has been presented supports approval of all of that. As far as the golden factors, there are some there that perhaps are not as clear-cut and perhaps not as conducive to favorably approving the special use permit as others, but there are many that do support it, such as it is in conformance with the Comprehensive Plan, recommendation from staff, and the length of vacancy, which it has been vacant for a very long time. A transfer station would not be my first choice, but I want to see the land development, and it has been vacant for a long time so we do have to consider that. It is appropriately zoned and is one of the uses that is permitted. There are other factors that are a little more problematic like the character of the neighborhood, the suitability of the project, and is it a detriment to nearby properties. In balancing all this and weighing these back and forth, the bottom line is having the ability to add some of the conditions, such as time limitations, having it reviewed periodically, having the requirement for KDHE certification to be submitted to staff on a yearly basis, and a recommendation for no slats in the fencing.

Commissioner Kem proceeded by making a motion to recommend approval with those conditions.

Mr. Waters stated we need a list of those conditions because the importance of this is that if the governing body wants to change or add that sets what type of threshold vote they might need to have.

Commissioner Kem stated that 5 years might be a standard for the length of the special use permit from what she is hearing.

Mr. Waters stated that would probably be fairly low for something like this because of the level of investment. Thinks it would be difficult to finance a project of this magnitude if it is going to expire by its own terms in 5 years.

Commissioner Kem asked the other commissioners their thoughts on 8-10 years.

Chairman Stephens stated he was thinking 7 years.

Commissioner Kem stated the conditions would include length of the special use permit would be 7 years, and the annual KDHE certification submitted to staff, or whoever the appropriate person would be. Commissioner Kem asked if there are other certifications or approvals that we might need to see beyond KDHE.

Chairman Stephens responded that KDHE certification encompasses wastewater, environmental, EPA, stormwater, etc.

Mr. Hancock further added there could be surprise visits, monthly visits, there is definitely yearly visits, and there is yearly reporting to every entity.

Commissioner Kem asked if there are other certifications you are required to have on a periodic basis.

Mr. Hancock replied there is OSHA for safety requirements, DOT, etc.

Mr. Waters asked to cover all of them could you just stated that we have to obtain all necessary permits to operate.

Commissioner Kem responded that is a given that they have to obtain all permits to operate, but this would just be a submission of their annual certifications back to the city showing they have met the certification.

Mr. Hancock further stated that when it comes to the fencing, it you do not like slats that is fine, and slats would not be used.

Chairman Stephens stated we have a motion to recommend approval to the City Commission with conditions being a 7 year special use permit and proof of obtaining regulatory annual certifications from KDHE and other regulatory entities that require re-certifications, and no slats in the fencing. Chairman Stephens also stated that he does not know if anyone is already working with the Historical Society or not but considering how many people spoke tonight of the historical significance of the land, it should be taken into consideration in their plans. We are not mandating that they keep the arch or anything like that but the historical significance of Abeles Field is (inaudible).

Ms. Hurley stated Abeles Field is not a registered property so it may be a little ambiguous to just say consider the historical significance.

Chairman Stephens responded sure.

Inaudible due to numerous comments and mumbling coming from the audience.

Ms. Hurley reiterated the three conditions: 1) that it is a 7-year special use permit that would need to be renewed at that time, meaning it would need to come back to the Planning Commission and City Commission, 2) that the KDHE certification is provided to the city annually, and 3) that there would be no slats in the fencing.

Mr. Waters stated this motion needs a second, and then if you want to add conditions you can make a motion to amend the motion.

Chairman Stephens stated he second the motion.

Commissioner Homan stated the Chairperson cannot second a motion.

Mr. Waters responded that he does not see any issue with the Chairperson seconding a motion.

Commissioner Kem stated that since the Chairperson can vote, he should be able to second a motion.

Chairman Stephens stated we have a motion and a second, and asked if there are any amendments for discussion. With no further discussion, Chairman Stephens called for a vote. Chairman Stephens and Commissioner Kem vote yea, and Commissioners Homan and Neeland vote nay. The motion fails 2-2.

Mr. Waters stated that at some point if there is not a motion that will pass, then this will be treated as a recommendation of denial, unless there is another attempt on a motion.

Ms. Levinson, with Bateman Law Group representing the applicant, asked for those who are opposed, are you just opposed to anything, and are just going to say no to any proposal, or would there be conditions that would make you say yes.

Mr. Waters stated to the commissioners that they do not need to answer that.

Commissioner Kem stated she thinks the commissioners should have more discussion.

Commissioner Neeland responded that was her motion.

Commissioner Kem replied not more discussion in delaying it but more discussion helping to get you to a decision rather than just a (inaudible, Commissioner Homan interrupted).

Commissioner Homan stated not tonight. In his opinion, they are finished for tonight.

Chairman Stephens asked if that is a motion to adjourn.

Commissioner Homan stated he moves to adjourn. Chairman Stephens asked if there is a second. Commissioner Neeland second the motion. Chairman Stephens stated there is a motion and a second, and called for a vote. Commissioners Homan and Neeland voted yea, Chairman Stephens and Commissioner Kem voted nay. The motion fails 2-2.

Chairman Stephens stated at some point we need to make a decision. If we are going to table it, we need to come up with specific things that we want to accomplish in that, or this will probably continue for a couple more votes before the city attorney shuts it down, and then it goes as a no recommendation to the City Commission, so that is just us punting to the City Commission, which I am not in favor of. The issue is in front of us and a lot of time and effort has gone into this. Looking at the golden factors, I cannot see any of them that have been strongly violated or that there are some questions that have not been resolved tonight. Everyone has said a transfer station at Abeles Field is not my top choice, however, I know my trash has not been picked up on a regular basis since we went to the bin system. My trash has sat out there for days before it was picked up. If this is something that can help with retaining our city staff, and maybe even looking at a pay raise for them, if it helps our property taxes, and relieves the pressure off personal property taxes and residential property taxes, for all of those reasons, and moving the city forward in terms of progress, I cannot see anything specific that would feed a recommendation of no.

Commissioner Homan responded that the Chairman votes when there is a tie, and there was no tie. Additionally, it would be better when we have all six commissioners here, so that is why we ought to delay it.

Ms. Hurley stated that tabling it to the August meeting is not going to guarantee that we will have all members present.

Commissioner Kem stated that those members would not have had the benefit of this public hearing either.

Commissioner Homan responded that the meeting is recorded, and that he thought the Chairman could not vote unless it was a tie.

Mr. Waters responded that there is nothing in the city code on that, and he does not have the Planning Commission's bylaws. You are all equal vote members of the Planning Commission, it is just that one of you operates as a chairman for running meeting.

Commissioner Kem asked the commissioners what kind of discussion can we have to help you guys find the answers you are looking for to be able to make a vote.

Commissioner Homan replied that he does not like 4th Street the way it is now. The east side of 4th Street is trashy once you get past Price Chopper. We have Great Western that is building a new building and there is Tire Town that

looks terrible, so we do not need a trash place next to that. Additionally, it is next to Stubby Park where kids go sledding, and we do not need that kind of traffic or that kind of mess over there. Thinks what Brothers has is a great idea, but does not think Abeles Field is the right position, and that is how I feel. I have not lived here all my life but have lived here for 42 years, and have seen a lot of things like kids play football and run track at Abeles Field.

Chairman Stephens stated that when we look at the condition of the (inaudible, Commissioner Homan interrupted).

Commissioner Homan stated it does not matter to me.

Chairman Stephens stated but when we look at the condition of the area that it is in, it is all industrial.

Commissioner Homan stated but it is not all crap. I would not say Great Western is all crap.

Chairman Stephens asked Commissioner Homan what he would classify Abeles Field as right now, and if it looks nice.

Commissioner Homan responded stating it does not look nice, and it should be cleaned up, but a transfer station will not clean it up. It does not clean up so people want to come to live in Leavenworth when they drive down 4th Street, and we have the military coming in all the time. That is my opinion, and that is how I am voting on my opinion. There is nothing you can say, Brian. You have said everything you had to say, and you do not have to ask me any other questions.

Chairman Stephens asked if he has a motion to recommend denial then, if there is nothing that will move your vote.

Commissioner Homan stated he moves to recommend denial of the special use permit. Chairman Stephens asked if there is a second. Commissioner Neeland second. Chairman Stephens called for a vote. Commissioners Homan and Neeland vote yea, Chairman Stephens and Commissioner Kem vote nay. Motion fails 2-2.

Mr. Beal hollered from the audience that in 15 years the city ain't told the Kaaz's to clean the place up. You're worried about it being a mess (inaudible).

Mr. Kitchens told Tom Beal that is enough.

Chairman Stephens asked Commissioner Neeland if she is in the same boat as Commissioner Homan, and that there is not anything that will change your mind on this.

Commissioner Neeland responded that every person who spoke, except the applicant's son, did not want it, so I would side with the majority of the citizens.

Chairman Stephens stated with that the commission is recommending a denial.

Mr. Waters stated if there is a consensus of that, then you have reached a deadlock on this, and I am seeing all the commissioner's heads being nodded as it appears that to be the case, then assuming there is a motion to adjourn without any other intervening motion here that we would take this to the City Commission as a recommendation of denial.

Chairman Stephens asked the commissioners if we have consensus, and if so, he called for a motion to adjourn. Commissioner Homan moved to adjourn, Commissioner Neeland second, and the motion passes 4-0.

Meeting adjourned at 9:03 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

DRAFT

(Summary Published in the Leavenworth Times on _____, 2024)

ORDINANCE NO. XXXX

AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE PLANNING COMMISSION TO DENY THE ISSUANCE OF A SPECIAL USE PERMIT FOR A SOLID WASTE FACILITY IN THE I-2 ZONING DISTRICT, LOCATED AT 1701 S. 4TH STREET.

WHEREAS, Brothers Disposal, LLC, as applicant, and on behalf of Abele’s, LLC, as owner, filed with the City of Leavenworth, Kansas, an application for a special use permit (2024-14-SUP) to operate a solid waste facility at that certain real property commonly known and numbered as 1701 S. 4th Street, Leavenworth, Kansas, and more particularly described as parcel ID no. 052-101-01-0-10-04-001.00-0 (the “Property”); and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on the 1st day of July, 2024, in the Commission Chambers, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas, the official date and time set out as was published in the Leavenworth Times newspaper; and mailed to all property owners within 200 feet of the said Property on the 6th day of June, 2024; and

WHEREAS, after conclusion of the public hearing, and following several motions properly made, seconded, and voted upon, the Planning Commission was not able to make a recommendation of either approval or disapproval of the special use permit, but pursuant to K.S.A. 12-757(d), if the Planning Commission fails to make a recommendation on a rezoning request (including special use permit applications), the Planning Commission shall be deemed to have made a recommendation of disapproval; and

WHEREAS, pursuant to K.S.A. 12-757(d), when the Planning Commission submits a recommendation of disapproval, the Governing Body of the City of Leavenworth, Kansas, may adopt such recommendation of disapproval by ordinance; and

WHEREAS, after consideration of the application, the evidence, and testimony presented to the Governing Body and/or the Planning Commission, including but not limited to those standards for issuance of a special use permit as set forth in Sec. 2.04 of the Development Regulations of the City, and for those reasons set forth in the staff reports and/or minutes or records of proceedings of the Planning Commission and/or the Governing Body, upon a motion made, duly seconded, and passed by a majority vote of the membership of the Governing Body, the Governing Body has determined to adopt the recommendation of disapproval from the Planning Commission and, with this ordinance, hereby denies the special use permit that is the subject of the above-described application as to the Property.

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

Section 1. That the above-described recommendation of disapproval by the Planning Commission is hereby adopted such that a special use permit for a solid waste facility shall not be issued as to the Property.

Section 2. That this Ordinance shall take effect and be in force from and after its passage, approval, and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

PASSED AND APPROVED by the Leavenworth City Commission on this ____ day of _____, 2024.

Griff Martin, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

(Summary Published in the Leavenworth Times on _____, 2024)

ORDINANCE NO. XXXX

AN ORDINANCE OVERRIDING THE RECOMMENDATION OF THE PLANNING COMMISSION TO DENY THE ISSUANCE OF A SPECIAL USE PERMIT, AND APPROVING THE ISSUANCE OF A SPECIAL USE PERMIT FOR A SOLID WASTE FACILITY IN THE I-2 ZONING DISTRICT, LOCATED AT 1701 S. 4TH STREET.

WHEREAS, Brothers Disposal, LLC, as applicant, and on behalf of Abele’s, LLC, as owner, filed with the City of Leavenworth, Kansas, an application for a special use permit (2024-14-SUP) to operate a solid waste facility at that certain real property commonly known and numbered as 1701 S. 4th Street, Leavenworth, Kansas, and more particularly described as parcel ID no. 052-101-01-0-10-04-001.00-0 (the “Property”); and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on the 1st day of July, 2024, in the Commission Chambers, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas, the official date and time set out as was published in the Leavenworth Times newspaper; and mailed to all property owners within 200 feet of the said Property on the 6th day of June, 2024; and

WHEREAS, after conclusion of the public hearing, and following several motions properly made, seconded, and voted upon, the Planning Commission was not able to make a recommendation of either approval or disapproval of the special use permit, but pursuant to K.S.A. 12-757(d), if the Planning Commission fails to make a recommendation on a rezoning request (including special use permit applications), the Planning Commission shall be deemed to have made a recommendation of disapproval; and

WHEREAS, pursuant to K.S.A. 12-757(d), when the Planning Commission submits a recommendation of disapproval, the Governing Body of the City of Leavenworth, Kansas, may override the Planning Commission’s recommendation of disapproval by a two-thirds (2/3) vote of the membership of the Governing Body; and

WHEREAS, after consideration of the application, the proofs and evidence, and testimony presented to the Governing Body and/or the Planning Commission, including but not limited to those standards for issuance of a special use permit as set forth in Sec. 2.04 of the Development Regulations of the City, and for those reasons set forth in the staff reports and/or minutes or records of proceedings of the Planning Commission and/or the Governing Body, upon a motion made, duly seconded, and passed by a majority vote of the membership of the Governing Body, the Governing Body has determined to override the recommendation of disapproval from the Planning Commission and, with this ordinance, hereby approves the special use permit that is the subject of the above-described application as to the Property, subject to the terms and conditions of this ordinance.

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

Section 1. That the above-described recommendation of disapproval by the Planning Commission is hereby overridden such that a special use permit for a solid waste facility shall be and is hereby granted as to the Property, legally defined as follows:

A tract of land in the Northeast Quarter of Section 1, Township 9 South, Range 22 East of the 6th P.M., and a part of Lots 1 through 6, Block "H", Fackler's Addition, City of Leavenworth, Leavenworth County, Kansas, as written by Joseph A. Herring PS-1296 on May 14, 2024, more fully described as follows: Beginning at the Northeast corner of said Lot 1, Block "H", Fackler's Addition; thence South 71 degrees 51'09" West for a distance of 248.35 feet along the North line of said Block "H" to the East right of way of U.S. Highway 73 as now established; thence South 15 degrees 57'22" East for distance of 246.56 feet along said right of way; thence South 01 degrees 17'40" East for a distance of 775.54 feet along said right of way; thence North 88 degrees 01'40" East for a distance of 583.48 feet parallel to the North line of said Northeast Quarter to the centerline of the vacated Kansas City Northwestern Railroad Company; thence North 04 degrees 49'41" East for a distance of 538.29 feet along said centerline; thence North 70 degrees 10'30" East for a distance of 165.59 feet to the Westerly right of way of Second Street, as now established; thence North 19 degrees 49'30" West for a distance of 319.41 feet along said Westerly right of way to the North line of said Northeast Quarter of said Section 1; thence South 88 degrees 01'40" West for a distance of 464.35 feet along said North line to the Southeast Corner of said Lot 1, Block "H", Fackler's Addition; thence North 17 degrees 36'22" West for a distance of 202.10 feet along the East line of said Lot 1 to the point of beginning, together with and subject to covenants, easements, and restrictions of record. Said property contains 14.56 Acres, more or less.

And more commonly referred to as 1701 S 4th Street and 1700 S 2nd Street, Leavenworth, Kansas.

Section 2. That the special use permit is and shall be subject to the following conditions:

[Will include any Conditions given in this section]

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

PASSED AND APPROVED by the Leavenworth City Commission on this ____ day of _____, 2024.

Griff Martin, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk