



CITY OF LANSING
Council Chambers
800 1st Terrace
Lansing, KS 66043

COUNCIL AGENDA
Regular Meeting
Thursday, April 2, 2020
7:00 P.M.

WELCOME TO YOUR CITY COUNCIL MEETING

Regular meetings are held on the first and third Thursday of each month at 7 pm and are televised on Cable Television Channel 2 on Monday 7 pm, Tuesday 10 am & 7 pm, Friday 5 pm, Saturday 1 pm and Sunday 7 pm.

Any person wishing to address the City Council, simply proceed to the microphone in front of the dais after the agenda item has been introduced and wait to be recognized by the Mayor. When called upon, please begin by stating your name and address. A time designated "Audience Participation" is listed on the agenda for any matter that does not appear on this agenda. The Mayor will call for audience participation. Please be aware that the city council and staff may not have had advance notice of your topic and that the city council may not be able to provide a decision at the meeting. If you require any special assistance, please notify the City Clerk prior to the meeting.

Call To Order

Pledge of Allegiance

Roll Call

OLD BUSINESS:

1. Approval of Minutes

NEW BUSINESS:

Audience Participation

Presentations

Council Consideration of Agenda Items:

2. Leavenworth County Port Authority Board Appointment
3. Conditional Use Permit Renewal – 422 N. DeSoto Road

Reports:




Department Heads: City Attorney; City Engineer; City Administrator; Councilmembers

Proclamations

Other Items of Interest

Adjournment

AGENDA ITEM

TO: Tim Vandall, City Administrator 
THRU: Sarah Bodensteiner, City Clerk 
FROM: Shantel Scrogin, Assistant City Clerk 
DATE: March 25, 2020
SUBJECT: Approval of Minutes

The Regular Meeting Minutes for March 19, 2020 are enclosed for your review.

Action: Staff recommends a motion to approve the Regular Meeting Minutes for March 19, 2020 as presented.

AGENDA ITEM #

CITY OF LANSING

CITY COUNCIL MEETING

REGULAR MEETING MINUTES
March 19, 2020

Call To Order:

The regular meeting of the Lansing City Council was called to order by Mayor Mike Smith at 7:00 p.m.

Roll Call:

Mayor Mike Smith called the roll and indicated which Councilmembers were in attendance.

Councilmembers Present:

Ward 1: Gene Kirby and Dave Trinkle

Ward 2: Don Studnicka and Marcus Majure

Ward 3: Jesse Garvey

Ward 4: Tony McNeill and Gregg Buehler

Councilmembers Absent: Kerry Brungardt

Councilmember Kirby and Councilmember Trinkle were present via teleconference.

OLD BUSINESS:

Approval of Minutes: Councilmember Garvey moved to approve the regular meeting minutes of March 5, 2020, as presented. Councilmember Buehler seconded the motion. The motion was unanimously approved.

Audience Participation: Mayor Smith called for audience participation and no one came forward.

Presentations: Graduation of Citizens' Academy Participants: Mayor Smith stated that this has been postponed until further notice due to COVID-19 causing restrictions on gatherings of 10 people or more.

Military Saves Month Proclamation: Mayor Smith stated that April is Military Saves Month through the Armed Forces Bank. Mayor Smith signed the proclamation and it was mailed to Armed Forces Bank due to COVID-19 restrictions and city offices being closed to the public.

COUNCIL CONSIDERATION OF AGENDA ITEMS:

Request for Cereal Malt Beverage License – QuikTrip: Councilmember Trinkle moved to approve the Cereal Malt Beverage License for QuikTrip at 1205 Main Street. Councilmember Buehler seconded the motion. The motion was unanimously approved.

Approval of Bid – Street Building Rehabilitation City Project 20-01: Councilmember Studnicka moved to approve the bid from Brunson Builders in an amount not to exceed \$137,677.00 for Project No. 20-01: Street Division Building Rehabilitation. Councilmember McNeill seconded the motion.

- Councilmember Buehler asked does that include an overage, extra money added in there in case there's extra costs or is that.
 - Public Works Director Mike Spickelmier replied we do not have a contingency built into this.
 - Councilmember Buehler stated that's the word I was looking for.
 - Mayor Smith stated that's exactly why we're doing this now. That building, it's been at the top of the list. Any other discussion. Go ahead Tim, go ahead.
 - City Administrator Tim Vandall stated one thing I would say, we penciled in \$141,000 for this. It did come in a little bit less so there's a slight flexibility.
 - Mayor Smith responded good, any other comments.

The motion was unanimously approved.

Site Plan – 633 South Main Street: Community & Economic Development Director Matthew Schmitz stated this is really just an FYI. The Site Plan went to Planning Commission last night. They approved it with conditions. Those conditions were that they meet the requirements that were outlined in the staff report. That was some very minor things that we pointed out. Wastewater Director had a couple of things he wanted noted on the plans. Some nomenclature for some of the manholes and stuff like that.

- Mayor Smith asked Matt, is this the bank.
 - Community & Economic Development Director Matthew Schmitz replied yes, Mutual Savings Association.
 - Mayor Smith responded ok, thank you.
 - Community & Economic Development Director Matthew Schmitz stated, and I think if I remember right when we did the packet there was a Site Plan in there. It included the rendering too so you guys could see what it was going to look like. So that is really it.
- Councilmember Buehler asked so what were the conditions.
 - Community & Economic Development Director Matthew Schmitz responded general stuff. So, you guys don't have a copy of the Planning Commission staff report but when we do the staff reports now, we do a list of open items. So, it's anything that's outstanding that hasn't been addressed. Storm water was one of those things because this site will drain to the pond that is down by, down in the bottom there at Fawn Valley. There was a storm drainage report that was prepared back in 2002 or 2003 that included this entire area as one big development.
 - Councilmember Buehler asked including the one and a half acres next to it.
 - Community & Economic Development Director Matthew Schmitz replied correct, including the area where Mutual Savings is going to build. It was all designed to work together to have a regional detention basically and that is what they want to take advantage of. From a Planning Department perspective, we would like them to take advantage of that because obviously the ground right next to K7 is our most valuable ground. We don't want to put a detention basin there, so it works well for that. There are still a few things related to the calculations that were done for that. The C value for example, the City Engineer had some questions about the C value issues and the formula to do that calculation. They are working that stuff out with GBA. Nothing that can't be taken care of.
 - Councilmember Studnicka asked how is that storm water going to be carried down.
 - Community & Economic Development Director Matthew Schmitz responded the existing drainage ditch that's there, that is back there between the houses that will be the channel it flows through when it comes from MSA.
 - Councilmember Studnicka asked so going into 9 mile and then down.
 - Community & Economic Development Director Matthew Schmitz replied no, 9 mile is the creek that the pond drains into.
 - Councilmember Garvey stated its above ground.
 - Councilmember Studnicka replied I'm confused now. We're building here.
 - Community & Economic Development Director Matthew Schmitz responded right.
 - Councilmember Studnicka stated the pond is down there on the other end.
 - Community & Economic Development Director Matthew Schmitz replied correct.
 - Councilmember Studnicka stated by the creek. Where's the water going to go.
 - Community & Economic Development Director Matthew Schmitz responded so it drains underground until it gets on the east side of 1st Terrace and in between those homes there that are part of Fawn Valley and part of, what's the drive.
 - Councilmember Studnicka stated Reagan Dr.

- Community & Economic Development Director Matthew Schmitz responded Reagan Drive, yes. In between there, there is a creek or a valley that runs down through there and there's a pond at the bottom of that valley. That's how it's getting to that pond and they ran calculations on that to make sure that drainage way was sufficient to handle that water without any adverse impacts or long-term erosion or anything like that. We wanted to make sure we weren't going to be on the hook, you know, to fix anything 10 years from now.
 - Councilmember Studnicka replied I understand totally. That is why I am asking these questions.
 - Community & Economic Development Director Matthew Schmitz responded absolutely.
 - Councilmember Studnicka stated we had problems years ago. Thank you.
- Councilmember Majure stated so let me ask this, so based on that drainage study we're talking about a lot of pavement. So how did they do a study based on the amount of water when we're talking a lot of pavement here that increases velocity and increases water flow. That's not going to be a problem?
 - Community & Economic Development Director Matthew Schmitz replied no. When they did the original calculations, they based it on ultimate build out, i.e. pad sites, pavement, etc. all being there. And what MSA is putting in is actually just a little less than what they calculated when they did it originally.
 - Councilmember Majure stated they planned for overage. Ok.
 - Community & Economic Development Director Matthew Schmitz responded right. They planned for ultimate build out when they designed the whole thing.
- Councilmember Garvey asked the access points, there is one on 1st Terrace and the other is adjacent to Petro, right.
 - Community & Economic Development Director Matthew Schmitz responded it's shared with the drive with Petro Deli. There is an access easement there already that was on the books before MSA ever decided to build there. It was designed for this purpose, to give access to the lot Greenamyre owned which MSA is building on as well as Petro.
 - Councilmember Majure stated I like that.
- Mayor Smith asked any other questions on this one.

REPORTS:

Department Heads: Department Heads had nothing to report.

City Attorney: City Attorney Greg Robinson had nothing to report.

City Engineer: City Engineer Matt Harding had nothing to report.

City Administrator: City Administrator Tim Vandall reported on what each department is doing to mitigate the risk of contracting/spreading Coronavirus as the pandemic takes over the United States. The Finance, Utility Billing and Administration Departments at City Hall are closed to the public, but staff is present during normal business hours to assist over the phone or by email. Social distancing is being practiced within offices. Desks have been moved and even for this evenings Council Meeting, we have spread everyone out. Trash and yard waste pick up occurred today as normal however bulk item pick ups are on hold for the foreseeable future. Citizens will not incur late fees on utility bills at this time. Some cities have allowed Commercial accounts to do a payment plan on their utility bills until they are up and running at their normal level. The Council agreed that would be best for our businesses. Community Center rentals have been cancelled and renters have been very understanding given the circumstances. City Administrator Tim Vandall asked for the Council's opinion on holding next week's Work Session.

- Mayor Smith suggested since there is only one item on the agenda that we cancel until the April meeting.

Parks & Recreation has cancelled the Spring soccer season. Residents will be receiving a refund in the coming weeks. The Activity Center has been closed to the public. Baseball, T-ball and Softball registrations will likely be extended and they're hoping they don't have to cancel the season. Staff will be putting signs up at City parks letting residents know it's a play at your own risk since we can't guarantee that they are disinfected.

- Mayor Smith asked since sales tax dollars aren't coming in right now, if our reserve will take a hit.
 - City Administrator Tim Vandall stated one of the first things they heard is the building going up at 400 N Main is on hold because they are unsure once it's built, they will be able to rent out spaces. We'll keep tabs on our local businesses. LCDC has reached out to businesses as well. The City has been wanting to do something for the volunteer boards so that has been ramped up. They will each be getting a \$40 gift card to local restaurants. We want these businesses to do well and the current situation is worrisome. It will have an impact on our sales tax.

Along the lines of Public Works, we did have a letter and survey ready for Adams Acres so the Council will get a copy of that. KDOT has sent some people home, but work can continue on DeSoto Rd. Engineers are still working on the K-7/Eisenhower intersection. There has been talk about a Federal Stimulus package, but we don't know what it will entail. We are nudging our engineers to finish up the design for the roundabout at 4H and DeSoto. If there is money for infrastructure projects in the next stimulus package, hopefully we can apply for it.

- Councilmember McNeill asked about the asphalt quantity estimate. He asked if it's typical they underestimate by that amount. Over time, other engineering firms do the estimate, drill and then find rock and we take the hit. This one they underestimated the asphalt and we have to suck up those costs. At what point do we tell these companies to make the estimate somewhat reasonable to where they would be penalized.
 - City Administrator Tim Vandall explained they were told that, and he got the impression the company may contribute a little bit to the financing of the extra amount if needed.
 - Councilmember McNeill stated we need to keep track of the engineering firms that keep putting us in this position and not use them anymore.
 - Mayor Smith asked if these subcontractors are being hired by the engineering firm and they are the ones failing to see if rock or whatever is there.
 - Public Works Director Mike Spickelmier replied in this case, he believes it was just an oversight of the consultant. They just didn't do their math right. They omitted a portion of the project.
 - Councilmember Studnicka asked if we can add penalties to the contract if they miscalculate.
 - Public Works Director Mike Spickelmier replied that could drive our consulting costs through the roof because they will bid high. He stated they understand we are not pleased with their performance.

The Police Department has been wiping down vehicles at the beginning and end of every shift. They will not be entering homes on medical calls for the foreseeable future unless they are needed. Municipal court dates and trials have been pushed back. Pet registrations have been extended until June 1st. The Library has closed to the public. Library Director Terri Wojtalewicz has increased digital downloads for patrons. Staff is present and you can request books for staff to bring to your car. The Wastewater project is still moving forward. They are slightly behind schedule but moving forward. Our Public Information Officer will be helping out with public messaging and the Joint Information Center for the County Health Department. There has been a lot of discussion at the County about rules for restaurants and establishments during these times. A clarification letter was sent out the day before that if there are 10 or less people, they can dine in but they have to ensure no more than 10 people are in the establishment.

- Councilmember Studnicka asked if any of the City staff would be affected by the slow down. Do we anticipate anyone being laid off?
 - City Administrator Tim Vandall stated not at this time, while things might be slower for all the staff there are things that can be done in all the offices and buildings.

Governing Body: Mayor Smith stated this virus has caught us off guard and staff is doing a great job getting information out multiple times a week. This is tough on businesses so if you are able to do curbside, please support the businesses in our community.

Councilmember Trinkle thanked City Administrator Tim Vandall and staff on everything they have accomplished so far. We know now we can do this digitally for however long this takes us to recover from without sacrificing anyone's health.

Councilmember Kirby agreed City Administrator Tim Vandall and staff have done a great job making adjustments. The library has done an excellent job changing and adapting on an almost daily basis even shorthanded with staff. We are in uncharted waters and we aren't going to get answers to a lot of questions but with patience we'll keep moving forward.

Councilmember Majure thanked City Administrator Tim Vandall and city officials for going above and beyond informing the public. They are pushing information out on all platforms as quickly as they can. He did want to highlight the first responders as he witnessed first-hand how quickly they respond to an incident. Councilmember Majure also pointed out the recent Fire Board meeting was long but thorough and productive. They did a nice job.

Councilmember Garvey thanked City Administrator Tim Vandall for going over all the departments in response to COVID-19. He stated Public Information Officers are very important right now and doing a great job.

Councilmember Buehler echoed everyone's sentiments on staff doing a great job. He asked if this would affect the contractors working on QuikTrip.

- Community & Economic Development Director Matthew Schmitz stated QuikTrip is moving full speed ahead as well as COOP and all other development in town. No one has pulled back to date. I think everyone understands this as a blip on the radar and we may see some affects from it, but we don't believe it's going to be a long term thing.

Councilmember Buehler also provided a fun fact, on this day in 1953, the Academy Awards was broadcast on tv for the first time.

Councilmember McNeill echoed what the other Councilmembers stated and let Public Information Officer Ken Miller know he really appreciates him getting the word out. He stated be safe and do the five things the CDC says to do to protect yourself.

ADJOURNMENT:


Councilmember McNeill moved to adjourn. Councilmember Garvey seconded the motion. The motion was unanimously approved. The meeting was adjourned at 7:39 p.m.

ATTEST:

Michael W. Smith, Mayor

Sarah Bodensteiner, City Clerk

AGENDA ITEM

TO: Mayor Smith, City Council Members
FROM: Tim Vandall, City Administrator 
DATE: March 24, 2020
SUBJECT: Port Authority Restructure & Lansing Appointment

Policy Consideration: Enclosed is the updated agreement for the Leavenworth County Port Authority, approved by the City of Leavenworth and Leavenworth County. Under the new Port Authority structure, each City gets to appoint a member, whereas before Lansing, Basehor, and Tonganoxie did not appoint any of the members.

This agreement was approved by Leavenworth County and the City of Leavenworth earlier this month, and the Port Authority would like to begin meeting again once a board is in place. Dan Gutshall is a Lansing resident and currently attends Port Authority meetings, Chaired the Spec Building Committee, and has expressed an interest in serving on the Port Authority. Mr. Gutshall's application is included, and he will be available by phone should any council members have any questions.

Financial Consideration: None.

Action: Motion to approve Dan Gutshall to Leavenworth County Port Authority Board for a two year term.

Dan Gutshall
918 S Valley Drive
Lansing, KS 66043

March 26, 2020

City of Lansing
c/o Tim Vandall
City Administrator
800 1st Terrace
Lansing, KS 66043

Dear Tim,

With the recent 2020 reorganization of the Leavenworth County Port Authority Board and the City of Lansing's need to appoint, for the first time, a representative to the new Board, I am interested in being considered to represent the City of Lansing on the new Port Authority Board.

In addition to over thirty-three years of direct involvement with Leavenworth County Industrial Development, I also live and work in Lansing. I have served as committee chairperson of the Leavenworth County Port Authority Industrial Park search committee and currently serve as the committee chairperson of the Spec Building Program. I have worked closely with Tim and Matt on different projects in Lansing.

During my tenure of economic development activities, I have also served as President of the Leavenworth County Development Corporation and have served on its Board for several years. The growth of Leavenworth County has provided appropriate cause for the reorganization of the Port Authority Board. Lansing is in a unique position to continue to benefit from the economic development opportunities in its future. As a commercial loan officer, I further bring a specialized skill set that can contribute to the common goal of development in Lansing.

The Port Authority is a unique tool that can be used in the correct set of circumstances to facilitate primary business growth that will benefit the community of Lansing. Each of the primary cities along with Leavenworth County have experienced and learned over the years that a combined effort produces quality outcomes that compliment individual City efforts. I fully desire to maintain this momentum as well as appropriately represent the City of Lansing.

Your consideration for this appointment is sincerely appreciated.

Respectfully,

A handwritten signature in black ink, appearing to read "Dan Gutshall", with a stylized, cursive script.

Dan Gutshall

**AMENDED AND RESTATED
LEAVENWORTH COUNTY PORT AUTHORITY AGREEMENT**

THIS AMENDED AND RESTATED LEAVENWORTH COUNTY PORT AUTHORITY AGREEMENT (this "Agreement") is made and entered into as of the last date of approval indicated below, by and between the City of Leavenworth, Kansas ("City"), and the Board of County Commissioners, Leavenworth County, Kansas ("County") (City and County may be referred to herein together as the "Parties").

WHEREAS, pursuant to the provisions of K.S.A. 12-3401 *et seq.* (as amended, the "Port Authority Act"), the City and the County entered into that certain Leavenworth County Port Authority Agreement dated on or about December 29, 1969 (the "Original Agreement") creating a joint port authority (referred to herein as either the "Port Authority" or the "Leavenworth County Port Authority"); and

WHEREAS, the City and County find it to be in the best interests of the citizens of Leavenworth County that the Original Agreement creating the Port Authority be amended and restated to reflect the current operation of the Port Authority, optimize the operation of the Port Authority, and allow for ex-officio participation by the other incorporated cities of Leavenworth County in the planning of economic development projects of the Port Authority; and

WHEREAS, the Parties have taken all required and necessary actions to authorize the entry into this Agreement; and

WHEREAS, this Agreement is for the purpose of amending, restating, and modifying the Original Agreement such that, hereafter, the Original Agreement shall be of no further force or effect, but this Agreement does not, and is not intended to, create a new port authority and is authorized under K.S.A. 12-3402(a); and

WHEREAS the parties deem it to be in the public interest that the cities of Basehor, Lansing and Tonganoxie, Kansas, be provided representation on the board of directors of the Port Authority ("Board of Directors").

IT IS THEREFORE AGREED that the Original Agreement between the City and County be amended and restated in its entirety as follows:

- I. **PURPOSE.** There is hereby established by the Parties a port authority pursuant to the provisions of the Port Authority Act. Such port authority shall be called the Leavenworth County Port Authority ("Port Authority"). The Port Authority shall be for the purpose of promoting commerce, prosperity, industry, improvement of the health and living conditions of the people, for the promotion of the general welfare and the economic development of Leavenworth County, Kansas.
- II. **JOINT AUTHORITY.** The Port Authority hereby established may consider the combining with other port authorities. Prior to any such combining the Port Authority shall present to the Parties a study outlining the merits of such combining. No such combining shall take place without the express approval of the Parties and the entry into an agreement in accord with the provisions of the Port Authority Act.

III. JURISDICTION. The area of jurisdiction of the Port Authority shall include all of the territory of the City and County, or combination thereof, comprising it, together with any other property outside thereof conveyed to it or over which it exercises control pursuant to K.S.A. 12-3406.

IV. BOARD OF DIRECTORS; MEMBERSHIP.

- (a) Subject to the limitations of the Port Authority Act and this Agreement, the property and affairs of the Port Authority shall be managed by the Board of Directors, and the Board of Directors shall have all those powers necessary to supervise, control, direct, and manage the same.
- (b) The Board of Directors of the Port Authority shall consist of seven (7) members/directors. Subject to subsection (c) below, two (2) members shall be appointed by the County, through the County's Board of County Commissioners; two (2) members shall be appointed by the City, through the City's City Commission; and one (1) member shall be appointed by each of the cities of Basehor, Lansing and Tonganoxie, Kansas. Each director shall serve a term of four (4) years and until their successor is appointed. Directors shall serve at the pleasure of the governing body appointing them.
- (c) The initial appointment of members of Board of Directors of the Port Authority shall be as follows: The terms of office of the directors serving at the time of entry by the parties into this Agreement shall expire on March 25, 2020. On or before March 25 2020, or as soon thereafter as is practicable, the City shall appoint two (2) directors, one for a term of office of four (4) years and one for a term of office of three (3) years. On or before that same date the County shall appoint two directors, one for a term of office of four (4) years and one for a term of office of three (3) years. The cities of Basehor, Lansing, and Tonganoxie shall each, on or before the same date, appoint one (1) director, each for a term of two (2) years. The term of office for each director thereafter appointed by the City, the County, and the cities of Basehor, Lansing, and Tonganoxie, shall be for four (4) years.
- (d) The directors shall serve without compensation, but shall be entitled to receive their necessary and actual expenses incurred by them as directors. The directors shall organize themselves, maintain regular minutes and records of the Port Authority, which records and minutes shall be open to the public. The directors shall comply with the provisions of the Kansas Open Meetings Act and Kansas Open Records Act. All directors shall comply strictly with the conflict of interest provisions of the Port Authority Act, and shall be deemed to have an affirmative duty to disclose any potential conflict of interest to the remaining directors and to the parties to this Agreement, and shall recuse themselves from participation in the business of the Port Authority in which they have a conflict of interest. "Conflict of interest" shall include, but not be limited to, any transaction, or proposed transaction, involving the Port Authority and any person or business entity in which the director has a substantial interest as defined in K.S.A. 46-229, as amended. Directors shall further

refrain from soliciting or accepting any business, gifts or anything of value which exceeds \$50 from any person or business entity transacting, or proposing to transact, any business with the Port Authority.

- (e) The Board of Directors may, from time to time, appoint honorary Ex-Officio Directors of the Board, which Ex-Officio Directors shall have a voice in all matters but shall not have a vote on any issue.

V. POWERS OF THE PORT AUTHORITY. The Port Authority shall have those powers set forth in the Port Authority Act, as may be amended. The powers of the Port Authority are to be liberally construed so as to allow for the proper exercise of authority in accomplishing the purpose of the Port Authority.

VI. FUNDING OF THE PORT AUTHORITY. The port authority shall have the authority granted to it by the provisions of the Port Authority Act, as may be amended, to acquire funding for the operation of the Port Authority. The Port Authority shall be authorized to accept funding from the federal and state governments and the agencies thereof, the County, the cities of Leavenworth County, any regional governmental agency, private contributors and donations and from the development funds created by any interlocal agreements, including but not limited to those dated October 30, 1989 and November 26, 1989.

VII. ISSUANCE OF BONDS. The port authority may exercise the authority granted it under the provisions of the Port Authority Act, as may be amended. As provided for by K.S.A. 12-3415(b) the Port Authority shall not issue bonds without first having received approval, by resolution, of the governing bodies of the Parties.

VIII. DEVELOPMENT PLANS. The Port Authority shall prepare or cause to be prepared plans for the development of the area within its jurisdiction as provided for by K.S.A. 12-3407. Such plans, as adopted by the Board of Directors of the Port Authority, may be modified as provided for by K.S.A. 12-3408.

IX. DISSOLUTION, DISPOSITION OF ASSETS AND LIABILITIES. In the event that both of the Parties jointly find that the dissolution of the Port Authority created under the Original Agreement and this Agreement is in the best interests of the citizens under the jurisdiction of that Party, that Party shall so declare the same and the Parties shall proceed to the orderly dissolution of the Port Authority and dispose of the assets and liabilities of the Port Authority as follows:

1. The assets of the Port Authority shall first be applied to the satisfaction of all liabilities of the Port Authority. In applying the assets of the Port Authority to any liabilities the Parties shall first apply all cash assets, secondly, as necessary, shall proceed to the sale of any unimproved real property of the Port Authority and thirdly, if necessary, the sale of any other remaining assets. The proceeds of such sales, if necessary, shall be applied to the liabilities of the Port Authority and the remaining funds, if any, shall be disposed of as provided for herein.

2. Except as provided for by Subsection 1 of this Section, real property (including all improvements and fixtures thereon, and rights appurtenant thereto) owned by the Port Authority at the time of dissolution shall convey to the municipal government in which the real property is located.

3. All such other assets of the Port Authority shall convey to the County, provided that such assets shall be utilized by the County only for the purpose of economic development within the County.

X. SEVERABILITY. If any one or more of the provisions of this Agreement shall be declared void, or if any provision of this Agreement shall be superseded by any legislation, the validity of the remainder of this Agreement shall not be affected.

XI. MISCELLANEOUS. The parties hereby ratify all acts of the Port Authority taken prior to the date of the entry into this Agreement. The Parties agree that all obligations of the Port Authority, whether by contract or by interlocal agreement, existing at the time of the date of the entry into this Agreement, remain in full force and effect unless otherwise modified, amended or discharged by separate agreement.

XII. EFFECTIVE DATE OF AGREEMENT. This Agreement shall become effective, and supersede the terms and conditions of the Original Agreement between the Parties, subject to the terms and conditions set forth herein, upon the adoption of this Agreement by the Parties and upon the filing of the same with the County Clerk of Leavenworth County, Kansas.

APPROVED BY THE CITY THIS _____
DAY OF _____, 20____.

CITY OF LEAVENWORTH, KANSAS

By: _____
Printed Name: _____
MAYOR

ATTEST:

By: _____
Printed Name: _____
CITY CLERK

SEAL:

APPROVED BY THE COUNTY THIS _____
DAY OF MARCH, 2020.

LEAVENWORTH COUNTY, KANSAS


By: Doug Smith
Printed Name: DOUG SMITH
CHAIRPERSON,
BOARD OF COUNTY
COMMISSIONERS

ATTEST:

By: Janet Klasinski
Printed Name: JANET KLASINSKI
COUNTY CLERK

SEAL:

AGENDA ITEM

TO: Tim Vandall, City Administrator 
FROM: Matthew R. Schmitz, Director, Community & Economic Development *MRS*
DATE: April 2, 2020
SUBJECT: Conditional Use Permit Renewal for 422 N. DeSoto Road, Lansing, Kansas

Explanation: Michelle L. Portwood, owner of the property at 422 N. DeSoto Road, has applied for a Conditional Use Permit (CUP) renewal to continue operation of an in-home daycare located on the property. A CUP is required for all daycare centers operating in residential areas within the City under the Unified Development Ordinance (UDO); however, they are not allowed in A-1 according to the UDO. Because this in-home daycare was in place prior to the adoption of the UDO, it would be grandfathered and allowed to continue to operate under a CUP as long as it does not change hands or lapse at any point in time.

Inspection of the property was completed on March 11, 2020, by City Inspector Savidge, and she found no issues or concerns. A copy of the inspection memorandum is attached for your review.

The Planning Commission voted to recommend approval of this Conditional Use Permit at its March 18, 2020 meeting with a 4-0 vote. The minutes from that meeting, CUP checklist, and Staff Report are included for your review.

Policy Considerations: None.

Action: Approve, approve with conditions, remand back to Planning Commission, or deny with a super majority vote of the governing body. Staff recommends a motion to approve the request for the CUP for 422 N. DeSoto Road for a period not to exceed five years.

AGENDA ITEM #

3

Project Facts

Applicant

Michelle L. Portwood

Address

422 N. DeSoto Road

Property ID

106-24-0-20-02-094.00-0

Zoning

A-1 – Agricultural District

Future Land Use

Single Family Residential

Land

216,947.17 SF (4.98 acres)

Requested Approvals

Conditional Use Permit



Summary

Michelle L. Portwood, owner of property at 422 N. DeSoto Road, has applied for a conditional use permit renewal to continue operation of an in-home daycare located on the property. A conditional use permit is required for all daycare centers operating in residential areas within the City under the Unified Development Ordinance (UDO); however, they are not allowed in A-1 according to the UDO. Because this in-home daycare was in place prior to the adoption of the UDO, it would be grandfathered and allowed to continue to operate under a conditional use permit as long as it does not change hands or lapse at any point in time.

There is no change to the previous conditional use permit.

Inspection Results

The City Building Inspector performed an inspection of the in-home daycare on March 10, 2020. The inspection found the following:

- The daycare meets all adopted building codes.
- The daycare meets all adopted fire codes.
- The daycare meets all licensing requirements through the Kansas Department of Health and Environment, and the license is current.

Discussion points from Checklist

The checklist was reviewed and completed by the Director of Community & Economic Development. Regarding items marked as “See attached staff report” under Item VI, the proposed conditional use permit does or does not meet the standards:

- A. The proposed conditional use does not comply with all applicable provisions of the UDO due to daycares not being allowed in A-1; however, due to this being in existence before the UDO was adopted, it is grandfathered and would be allowed to stay. Should the property change ownership or the conditional use permit lapse, staff would not recommend reissuing this permit. Due to the fact that it would be grandfathered, this item has been marked as “Yes”.
- B. Daycares certainly promote the welfare and convenience of the public and are in short supply within Lansing at the moment. Continuance of this permit would be beneficial to the community.
- C. Surrounding property values would not be impacted by this use.
- D. Because of the acreage of the property that houses this use, Staff does not believe that this conditional use would dominate the immediate neighborhood.
- E. Off-street parking and loading areas are substantial on this property, as can be seen in the aerial on the first page. Staff believes they meet the regulations and needs of this use.
- F. All utility, drainage, and other such necessary facilities are already on site and sufficient to support this use.
- G. DeSoto Road (along the west side of this property) was just improved, so adequate access to enter and exit the site is available. Staff has received no complaints about traffic due to this use.

Complaints

There have been no complaints or issues received regarding the previously issued conditional use permit on this property.

Acknowledgments

The following City of Lansing staff members reviewed this project and provided information for this report:

- Matthew R. Schmitz – Director, Community & Economic Development
- Rebecca Savidge – Building Inspector, Community & Economic Development

Notice of City Codes

The Applicant is subject to all applicable City codes within the Municipal Code – whether specifically stated in this report or not – including, but not limited to, Zoning, Buildings and Construction, Subdivisions, and Sign Code. The Applicant is also subject to all applicable Federal, State, and local laws.

Recommendation

Staff recommends approval of Conditional Use Permit Case CU-2020-1.

CONDITIONAL USE CHECKLIST

Checklist Completed by: Matthew R. Schmitz

Conditional Use Case No. CU-2020-1

Date Filed: February 14, 2020

Date Advertised: February 22, 2020

Date Notices Sent: February 25, 2020

Public Hearing Date: March 18, 2020

I. Applicant's Name: Michelle Portwood

Applicant's Authorized Agent: n/a

II. Information in Application Correct? Yes ☒ No ☐

If no, explain: _____

III. Adjacent Zoning and Land Use:

| <u>Direction</u> | <u>Land Use</u> | <u>Zoning</u> |
|------------------|-----------------------|---------------|
| North | Suburban Residential | R-1 |
| South | Suburban Residential | R-1 |
| East | Suburban Residential | R-1 |
| West | Agricultural (County) | A-1 |

IV. Present Use of Property: Single Family Home

V. Conditional Use Requested: Daycare - In home, Major

Reference Unified Development Ordinance Section 2.07, B. Review Criteria:

VI. The proposed conditional use does or does not meet the standards:

A. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations, unless specifically exempted by the provisions of these regulations. See attached staff report

Yes ☒ No ☐

B. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public. See attached staff report

Yes ☒ No ☐

C. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. See attached staff report

Yes ☒ No ☐

D. The location and size of the conditional 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 conditional 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. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to the location, nature, and height of buildings, structures, walls, and fences on the site; and the nature and extent of landscaping and screening on the site. See attached staff report

Yes ☒ No ☐

E. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect. See attached staff report

Yes ☒ No ☐

F. Adequate utility, drainage, and other such necessary facilities have been or will be provided. See attached staff report

Yes ☒ No ☐

G. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys. See attached staff report

Yes ☒ No ☐

MEMORANDUM

To: Matthew R. Schmitz, Community and Economic Development Director

From: Rebecca L. Savidge, City Inspector

Date: March 11, 2020

Subject: Inspection of Daycare – 422 North DeSoto Road

An inspection of a daycare at 422 North DeSoto Road was completed on March 10, 2020. The inspection was performed for a conditional use renewal application. The daycare is run by Michelle Portwood, who is the applicant for the conditional use.

Findings:

- * The daycare meets all adopted building codes.
- * The daycare meets all adopted fire codes.
- * The daycare meets all licensing requirements thru the Kansas Department of Health and Environment and the license is current.

Call to Order – The monthly meeting of the Lansing Planning Commission was called to order at 7:00 p.m. by Vice-Chairman Kirsten Moreland. Also in attendance were Commissioners Jerry Gies, Jake Kowalewski, and Nancy McDougal. Chairman Ron Barry and Commissioner Mike Suozzo were unable to attend and there is currently one vacancy on the board. Vice-Chairman Moreland noted there was a quorum present.

Approval of Minutes, February 19, 2020, Regular Meeting – Commissioner McDougal made a motion to approve the minutes of the February 19, 2020, regular meeting, seconded by Commissioner Kowalewski. The motion passed unanimously.

Old Business – none

New Business – 1. Public Hearing – Conditional Use Permit Application – 422 North DeSoto Road, Lansing, Kansas. Vice-Chairman Moreland stated this application was submitted by Michelle Portwood, property owner, requesting renewal of a conditional use permit to operate a licensed in-home day care at 422 North DeSoto Road, Lansing, Kansas.

Vice-Chairman Moreland opened the public hearing at 7:02 p.m. Vice-Chairman Moreland stated, as she understood it, under the new Unified Development Ordinance (UDO), if this was a new application, it would not be allowed because of the A-1 zoning and Community and Economic Development Director Matthew Schmitz stated that was correct and this was grandfathered in because it was allowed under the old Zoning Ordinance. He stated otherwise the zoning would have to be changed on the property. Commissioner Gies stated the UDO could also be amended to allow day cares in A-1 zoning. Mr. Schmitz stated that is another option, but believes, as a developing community, you would rather see day cares in subdivisions and areas where there are adequate services and properties in A-1 don't always have those.

Since there were no other questions or comments, Vice-Chairman Moreland closed the public hearing at 7:03 p.m. and stated this now begins the 14-day protest period.

Vice-Chairman Moreland then asked Commissioners for a motion regarding the checklist as a finding of fact. Commissioner Gies made a motion to approve the checklist as a finding of fact for the conditional use permit for 422 North DeSoto Road. The motion was seconded by Commissioner McDougal and was unanimously approved.

Vice-Chairman Moreland next asked for a motion to recommend approval, approval with conditions, or disapproval the conditional use permit application for 422 North DeSoto Road. Commissioner McDougal made a motion to recommend approval of the application, seconded by Commissioner Kowalewski. The motion passed unanimously.

2. Site Plan Application – Near the Northwest Corner of the Intersection of First Terrace and Fawn Valley Street. Vice-Chairman Moreland noted the application was submitted by Mutual Savings Association to build a banking facility with drive-thru near the northwest corner of the intersection of First Terrace and Fawn Valley Street, and stated the property is currently zoned B-2 General Business District.

Commissioner Kowalewski asked if the storm water issues had been identified that were outlined in the report. City Engineer Matt Harding stated he was still waiting to hear from the engineer to address those. Mr. Harding also said there is a pond behind there that someone was going to use in 2002 for which a drainage report was done, which included this area proposed to be used for the bank. He said the engineer's study for this project did not reference that drainage report and his conclusions may be changed by what was in that report. He stated those were the questions he had asked of the engineer, just to be sure we were comparing apples to apples.

Harland Russell of George Butler Associates, the civil site designers for this project, stated they met with staff after the initial submittal to discuss some of the different drainage issues and it wasn't until that meeting they found out the drainage tract had been set aside and taken over by the city around 2003. He stated Public Works Director Michael Spickelmier provided a copy of that study, which was done in 2002, to them after that meeting. Mr. Russell stated after a review of that study, they noticed that the engineer who did that study for Mr. Greenamyre had included all this area and provided all the calculations of that property in a fully developed condition. He stated that changed their report and they have revamped it, but have not yet gotten that back to Mr. Harding. Mr. Russell said Mr. Harding had some questions regarding runoff coefficients and other drainage questions and he believes they have answered all those questions and can email that to him tomorrow.

Commissioner Gies asked where the retention area is and Mr. Russell stated it's in the area where the old Fawn Valley pond originally was when the Fawn Valley area was a farm. Mr. Russell said since they didn't know about the original drainage study, they went down and topoed the pond, ran the numbers, and were pleased that they came up with basically the same numbers as the original study.

Mr. Russell said he believed the only other question was about a standard detail from the Wastewater Department about connection and he stated they recognize that and will reference all those standard city details in the construction drawings.

Commissioner Gies asked about access through the gas station and if there were any structures in the access easement. Mr. Russell stated there are some tank fill points there, but they do have a significant access across that piece of ground.

Commissioner McDougal asked if the gas station's sign would stay in the same place on that corner and Mr. Russell stated that was a good question as it's actually on their property. He stated that would be one of the things discussed when they talk about access.

Mr. Harding asked if they approached KDOT with this plan and Mr. Russell said they did not, as they specifically kept all their grading and activities off the right of way. Mr. Schmitz stated that because there was no impact to KDOT's right of way, staff did not submit it to them, either.

Since there were no other questions, Vice-Chairman Moreland asked for a motion to approve, approve with conditions, or disapprove the site plan application for Mutual Savings Association. Commissioner Kowalewski made a motion to approve with the condition they address the items outlined in the staff report. Commissioner McDougal seconded the motion and it was

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unanimously approved. To clarify, Mr. Russell asked if the conditions were the two listed as the outstanding items in the staff report and the stormwater items outlined in there as well, and Vice-Chairman Moreland stated that was correct.

Notices and Communications – Vice-Chairman Moreland asked about the Comprehensive Plan and Mr. Schmitz stated he has not moved forward with it yet as there have been a lot of things going on, but hopes it will be started in the next month or two.

Commissioner Gies asked about next month's meeting, and because no applications were submitted by the deadline, there will not be a meeting in April.

Reports – Commission and Staff Members – none

Adjournment – Commissioner McDougal made a motion to adjourn and it was approved by acclamation. The meeting adjourned at 7:17 p.m.

Respectfully submitted,

Cynthia Tripp, secretary

Reviewed by,

Matthew R. Schmitz, Community and Economic Development Director

MRS