

Garnett, Kansas
April 11, 2017

The Governing Body of the City of Garnett met in regular session on April 11, 2017 at 6:00 p.m. at City Hall with the following present: W. Gordon Blackie, Mayor; Greg A. Gwin and Jody M. Cole, City Commissioners; Joyce E. Martin, City Manager and Terry J. Solander, City Attorney. Absent: Kristina L. Kinney, City Clerk and Jeremy Dupont, ACHS Youth in Government representative.

CALL TO ORDER

Mayor Blackie called the meeting to order at 6:00 p.m.

The Pledge of Allegiance was recited followed by Reuben Esh of the Beacon of Truth Church giving the invocation.

APPROVAL OF MINUTES

A motion was made by Mayor Blackie, seconded by Commissioner Cole to approve the minutes of March 28, 2017, March 29, 2017 and April 3, 2017 as written. On roll call, the following vote was recorded: Ayes – three; noes – none.

COMMUNICATIONS & REPORTS

Mayor Blackie commented that the Commission was moving forward on hiring a new city manager. He said that the City Attorney is doing the negotiations on behalf of the commission. There is nothing to report as yet but he said the commission is moving forward.

Commissioner Gwin thanked the city staff for arranging the retirement party for Andy Frye. He said the past week-end was very busy because of the garage and sidewalk sales and go-kart races.

City Attorney Terry Solander said he had received an e-mail from the prospective candidate and it would be necessary to conduct an executive session at the end of the meeting to address issues raised in that communication.

Mr. Solander, as a member of the Anderson County Historical Society, extended an invitation to the commissioners to attend their annual banquet to be held on April 20, 2017 at the high school. Bud Fraker will be honored.

The City Manager provided Jeremy Dupont's report. He has arranged another Pizza Hut fundraiser this week. He is also trying to get the skateboarders more involved in the money-making projects. They plan to sell Krispy Kreme donuts with the help of Mr. Sibley.

At this time, Mayor Blackie read the following: Consideration of an application by the city's own motion to rezone 202 West 4th, 206 West 4th, 225 West 5th, 409 South Walnut and 417 South Walnut in Garnett, Kansas from an R-2 zoning district to an O-I zoning district.

City Attorney Solander explained that because Mayor Blackie is an interested party and spoke against the rezoning at the Planning Commission hearing that was held on February 21, 2017, he would not be able to participate in the discussions as Mayor and could not vote to accept or reject the recommendations from the Planning Commission. Since Mr. Blackie will not receive any financial profit from the project he can speak as he did at the Planning Commission meeting but cannot take an official stance on the issue; in other words he will have to take his Mayor's hat off.

Mr. Blackie said he was not objecting to the new owners of 202 West Fourth starting a business and is thankful that someone wants to open a business in Garnett. He said he didn't want to do anything to discourage a new business but didn't want to open the door to some sixty (60) different types of businesses that can be in an O-I zone without any further permission required. This doesn't seem the right way to do this because gas stations and liquor stores could come in once the zoning is changed. He said he wasn't speaking against the business but believes the city needs a better procedure that doesn't allow for sudden change. Now that the door is open the city won't be able to stop someone who has a bed and breakfast from selling to someone else who might want to put in an inappropriate business.

City Attorney Solander said Mr. Blackie's statements were correct. However, he explained that Mr. Blackie had left the public meeting before it was adjourned. Members of the Planning Commission heard this discussion from Burt Peterson and one other board member that spoke in that general direction. Mr. Solander said he would like to have a study session at the next Planning Commission meeting to make amendments to the grid that lists what businesses can locate in an O-I district. The Planning Commission will meet on April 18, 2017 to go over his recommendations and those of the Zoning Administrator. He said that some businesses listed on the grid should be on a special use permit basis not as a permitted use. He believes the Planning Commission would likely agree with this statement. This needs to be looked at with the view towards tightening up permitted uses in an O-I district. Some of the businesses currently listed as permitted seem to be pretty extreme.

Mr. Blackie said it feels like we have no zoning. He looked at the grid and counted sixty (60) businesses that could locate in the O-I district without any approval from the Planning

Commission or the City Commission. At this point, the commission needs to have time to look at all of this. We need to consider the recommendation of the Planning Commission and vote.

Mr. Blackie continued by saying he doesn't want to delay these gentlemen in what they are doing but he thinks the commission needs to be more careful.

City Attorney Solander said he talked to former Zoning Administrator Andy Frye the day after the Planning Commission meeting. They hope the two (2) gentlemen are successful and will be there for many years. Based on the responses of two (2) of the Planning Commission members, they have "jumped" on this and already have a good start to make recommendations to change the grid. They asked for a work study session and will have one on April 18th.

Mr. Blackie asked if the City Attorney felt they could review sixty (60) items in one meeting.

City Attorney Solander said he is prepared to give them some help on what should be done. They should be able to weigh in on this at that meeting and staff should be able to have this on the commission's June 13, 2017 agenda.

Commissioner Cole said she felt this was the best scenario to allow the Planning Commission to work this out.

City Attorney Solander said we need to take these people at their word and let them give their business a try to see what will work for them. If they come to the decision that it's not going to work, it will take time for them to find a buyer and take time for the new buyer to approach the city as far as zoning matters are concerned.

Mr. Blackie said if they decide to bail, then one of those undesirable businesses could locate there. City Attorney Solander said while this is correct it is highly unlikely this will happen given the extensive presentation the two (2) owners gave at the Planning Commission meeting.

Commissioner Cole asked if it would be possible for the Planning Commission to have this buttoned up by the April 25th meeting. City Attorney Solander replied that he didn't know if that could happen that fast since there are about five (5) dozen uses the Planning Commission will need to consider. He said he is trying not to mislead either side of this matter; however there is a possibility they can get this done on April 18th.

Commissioner Gwin asked if the commission was to approve the requested zoning change, could it be contingent on receiving the structural engineer's report in the event the building is found to be an unsafe structure that should be torn down and become a vacant lot.

City Attorney Solander said he believes what the developers are proposing is comparable to a museum and that is what city staff classified it as. This zoning change was selected because it appeared to be the vehicle to include a museum or some other historical type operation and also be consistent with the Baptist Church's long standing as a non-conforming use. He explained that parking lots are permitted in O-I districts and it is the developer's plan to use the vacant lot west of the doctor's office as a potential parking lot. If their business goes well, they can expand the parking to that side of their property.

Mr. Blackie questioned if a bed and breakfast would be covered? City Attorney Solander said there would have to be an ordinance adopted to change the grid to allow this use. Mr. Blackie asked if the commission could act outside a recommendation from the Planning Commission. City Attorney Solander said he would have a concern to do this because the statutes require the Planning Commission to have a public hearing to change any zoning classification. He said there isn't an easy way to do this and the commission needs to be on pretty solid ground whenever a change is made.

City Attorney Solander said he would suggest that the commission take up the matter of the zoning change tonight and either grant or deny the Planning Commission's recommendation on this specific application as submitted by the City. If the zoning change is allowed, then the commission could make a motion to suspend the issuance of any further permits in the O-I district to allow time for the Planning Commission to deliberate and study the matter further.

Commissioner Gwin says his only concern is the results of the engineering study to determine if the building is a safe or unsafe structure. City Attorney Solander said by the time the Planning Commission gets a handle on the matter the engineering study should be done.

City Manager Martin offered that if staff conducts an unsafe structure hearing and the building is condemned and ordered to be removed from the property, the owners will have an opportunity to show they have a plan to make the necessary repairs and the money to do so. She said the city is often criticized about demolishing structures; however she assured the commission that staff does everything they can to save a structure if possible.

Zoning Administrator Gary Giczewski said he would echo the City Attorney's recommendation to allow time for the Planning Commission to look at the zoning grid and make their views known to the city commission and also suspend the issuance of any further zoning permits in the O-I zone until the matter is resolved.

Mr. Blackie asked that the Commission be told immediately if a business wants to locate in an O-I zone before the commission has a chance to review any recommendations made.

Commissioner Cole said she liked what she heard; that she just wants to find a way to move forward. She offered that she likes history and would not like to see the building destroyed. She also said that if the building was deemed to be unsafe, the owners need to have a chance to try and make the necessary repairs to make it safe.

City Attorney Solander said the city's role would be to issue the occupancy permit. If the owners don't do anything in view of an engineering or architectural ruling, they won't get the permit. They will have to comply with the structural engineering report.

A motion was made by Commissioner Cole, seconded by Commissioner Gwin to approve the recommendation of the Planning Commission to rezone 202 West 4th, 206 West 4th, 225 West 5th, 409 S. Walnut and 417 South Walnut, Garnett, Kansas from an R-2 zoning district to an O-I zoning district. On roll call, the following vote was recorded: Ayes – Cole and Gwin; abstaining – Blackie.

A motion as made by Commissioner Cole, seconded by Commissioner Gwin to suspend the issuance of any further permits in the O-I zoning district to allow time for the Planning Commission to deliberate and study the matter further. On roll call, the following vote was recorded: Ayes – Cole and Gwin; abstaining – Blackie.

NEW BUSINESS

The City Manager reported that a group of city employees are willing to help with the fireworks display this year provided they can receive some transient guest tax funds to help with the expense of purchasing the fireworks and paying for a shooter. Commissioner Gwin said that the employees should follow procedures and make an application for their funds to the Tourism Advisory Board. A motion was made by Commissioner Gwin, seconded by Mayor Blackie to approve up to \$2,500 in transient guest tax funds for Libertyfest pending the decision made by the Tourism Advisory Board. On roll call, the following vote was recorded: Ayes – three; noes – none.

CLAIMS, BONDS & COMMERCIAL LIABILITY INSURANCE

Ordinance No. 4178 was read as follows: AN ORDINANCE FOR THE APPROPRIATION OF CERTAIN CLAIMS. A motion was made by Mayor Blackie, seconded by Commissioner Cole to approve the warrants in the amount of \$127,377.88. On roll call, the following vote was recorded: Ayes – three; noes – none.

Mayor Blackie said it would be necessary to conduct an executive session to continue their discussions on negotiations with the city manager candidate. A motion was made by Commissioner Gwin, seconded by Commissioner Cole to adjourn to executive session at 7:20 p.m. for approximately 20 minutes until 7:40 p.m. At 7:40 p.m. Mayor Blackie called the regular meeting back to order. The City Attorney suggested an additional executive session of 20 minutes to permit conclusion of discussions regarding contract negotiations with the city manager candidate. Commissioner Gwin moved to extend the executive session for 20 minutes or until 8:00 p.m. Mayor Blackie seconded the motion; motion carried unanimously.

At 8:01 p.m., Mayor Blackie again called the regular meeting back to order. There being no further business to come before the Governing Body, Commissioner Cole moved to adjourn the meeting; Commissioner Gwin seconded. Motion carried unanimously and the meeting was declared adjourned.

Mayor

Attest:

City Clerk