



# CITY OF LYONS

PRIDE *of the* TRAIL

## PLANNING COMMISSION MINUTES

May 20, 2021

5:30 p.m.

### PLANNING COMMISSION MEMBERS PRESENT:

Darin Clark	Brian Leiker
Matthew Stafford	Jean Lattin
Mary Kendrick	H. R. Boroughs
Montey Gomez	Roger Swenson
Caleb Barrows	Tanner Schechter
Shawn Cox	

MEMBERS ABSENT: Wendy Arriola

### CITY STAFF PRESENT:

City Administrator, Chad Buckley
City Inspector, Brogan Jones
City Council, Allen Glendenning
Utility Accounts Manager, Debra Duntz
Utility Clerk, Jennifer Wood
Police Chief, Justin Holliday

Guests: Bruce Battershell, Doug Higgins, Rocky Gaines, Jack Wempe, Nina Massa, Gladys Espino, Edie Cress, Ben Tillman, Josh Miller, Craig Zwick, Stuart Miller, Patricia Glass, Crystall Fall, David Liska, Robert Ludwig, Dennis Bowersock, Luann Bowersock, Marlin Clark, Dona Strubhar, Katie Herrman, John Payne, Gary Folck, Mary Jane Hoffman, Barbara McAllaster, Steve Smyth, Cathy Nickerson, Jan lent, Lavada Smyth, Vickie Folck, Sharry Butcher, Kyle Johnson, Donna Whittsitt, Judy Jones, Eleanor Young, John Sayler, Susie Knight, Shelly Peverly, Pat Briggs, Clint Bieberle, Audrey Edwards, Chelsea Bieberle, Susan Tobias, Lynn Gaines, Kelly McMurphy, Kendra Liska, Junior Soeken, Dustin Schultz, Karen Snyder, Lynne Townsend, Greg Johannson, Lola Wall, Lucas Cupps, Nick Wood, Melody Adams, Manuel Gomez, Kenneta Zwick, Jessica Andrews, Audrea Rumler, Kenneth Bunton, Bridget Starbuck, Kristy Elliott, Mary Higgins, Don DeWerff, and Kim Williams

### 1. OPEN PUBLIC HEARING (5:30 p.m.)

Conditional Use Permit Request in (R-1) Residential Single-Family Dwelling District for purpose of constructing the new Lyons Recreation Commission Center (Public Building).

Presentation : Allen Glendenning/Watkins Calcara , Chtd. (Filling in for Jeff Kuhlman /City Attorney)

Explain: Intent of the Current Zoning and the Conditional Use Permit.

Public Hearing was opened at 5:30 p.m. by Chairman Clark. He asked those present to mute phones, Sign in, limit comments to five minutes, avoid repetition, and reminded the conditional use was on location. Legal Council, Allen Glendenning, explained they would hear comments from those individuals in favor first and those opposed second. He explained land use, City Zoning, and a change in zoning or process called conditional use would be required in this case. With a Conditional Use it grants a use that would otherwise not be allowed. Under quasi-judicial function, members will review information and facts presented to determine if it warrants granting the use based on information provided and provide recommended support to the Governing Body.

Chairman Clark requested the members to direct any questions to the person speaking if they have any at the time and not later.

**Clint Bieberle** addressed the Planning Commission and introduced Kelly McMurphy with Landmark Architect to present the proposed layout of the Lyons Recreation Building. Mr. McMurphy explained the direction of the layout and that the building would share 13 spaces with the parking lot of the pool. He advised it would have four ADA parking stalls on the east side off of Jay and a total of 41 spaces for parking. They would move one T-box on the golf course, to minimize impact to the golf course. Entrance would be on the north side of the building, fitness on the east side, administration and offices on northwest, and proshop on the southwest portion.

Mr. Bieberle explained the building would have Iron Works Fitness which draws the most people. East side would allow for golf cart access with both entry and exit. The trees create a blind spot, so those would be removed to widen the curb and allow for entrance and exit. The design is preliminary and can be changed. This design would allow greater access to the golf course for tournaments. The design makes the most sense, with nine hole course, fitness center and pro shop to run. Lighting - the current lighting at the pool points to the direction of the entrance. The traffic for the fitness center consists of 4-5 vehicles per hour. Times mainly 6-8 a.m. and p.m. He explained 50-60 vehicles in a 24 hour period for the fitness center. He added this would increase home value, create a nice facility and would provide public access for a progressive growing community. He explained the home values went up \$20,000 in Newton after a YMCA was built. He stated it would increase services for members and provide growth. He reviewed the hours of operation and currently there are 185-195 members. He explained the objective would be to create a healthy lifestyle and increase members.

Planning Commission Member Schechter questioned the increase in traffic if they doubled the number of members. Mr. Bieberle stated the numbers go up and down, with some members only once or twice a week. Commission Member Schechter questioned the location for the main parking of the golf course. Mr. Bieberle stated this would be for summer and November through March the fitness activity would be higher. Commission Member Schechter inquired where the pro shop was located now, in which Mr. Bieberle responded in a shed. He then asked why they didn't consider the old club house building. Mr. Bieberle stated he had been in discussion with the bank and could not make any progress.

Member Kendrick questioned who owned the building, in which Mr. Bieberle responded, the bank leased to school and recreation commission leased from school. The current building was gifted to the recreation commission and it is an 80 year old building. They would keep the building for the gym use.

Member Kendrick questioned where money would come from to build the building. Mr. Bieberle stated they have been saving and any excess funds would be through school and bank on a lease purchase.

Member Cox questioned if the old school weight room would go away, in which Mr. Bieberle stated he hoped they would keep. Member Cox then asked if there would be alcohol served, which Mr. Bieberle stated

that would be the intent. Member Stafford commented they allowed alcohol currently on the golf course. Mr. Bieberle stated yes they do. Member Cox expressed concern with alcohol with children and school using the fitness center and pool location. Member Gomez asked how they determined location. Members were directed to focus on the conditional use. Discussion and concern was expressed with the cost of construction going up and funding. Mr. Bieberle stated funding would be through school and financial institution under lease agreement. He stated the project would not start until later in the year. Member Kendrick expressed concern whether Terran Street would handle equipment and trucks. City Administrator Buckley stated they would need to take that into consideration.

**Those in support -**

**Katie Herman** - Recreation Board exhausted options for the location and have thought thoroughly about the wants and needs. She expressed her support for all the positive reasons to place at this location.

**Kyle Johnson** - Recreation Board President explained in the beginning they had very little excess funds. He stated they have worked hard to get to this point and the community needs this. They have looked for a long time and felt this would be a draw for families. Member Schechter asked if they perceived an increase in membership. Mr. Johnson commented he felt it would bring more revenue for the businesses in town. He had no concern for the traffic and best location if they needed more room for expansion, which could go west. Member Kendrick questioned if they could add to the old building. Mr. Johnson explained the old club house was landlocked for expansion. Discussion proceeded moving T-Box and ways to re-route the golf course if there would be future expansion to the new building design. Member Schechter stated as a Planning Commission they should look 20-30 years out and how this would work. Mr. Bieberle explained they had adequate parking for building design now. Kelly McMurphy explained if they expanded to the west, then the parking would be developed to the south to accommodate.

**Jessica Andrews** - Commented in support as an Iron Works members and Lyons Alumni who has used the Lyons Recreation Commission, Iron Works, and Golf Course. She explained her residential view looked out to an open field and within a year, houses went up and she wasn't happy. However, it was what the town needed and good to see development for the future.

**Those Opposed -**

**Lavada Smyth** - Explained she became aware of the project April 15 when flags went out and USD 405 approved lease purchase for 90' x 120' building. She stated she then received a letter April 29th with intentions explained for Recreation Building on the golf course. She advised it would devalue real estate looking at a metal building. She carefully reviewed the intent of a R-1 Residential district. Safety and order were a concern for the residents of that area. She added it would compromise safety and order with golfers using Terran and Jay Street and pool congestion. Every car would use entry and exit, even if changed to one way, and then compounded with the five way intersection to the east. She strongly opposed and felt a new pro shop should be located in a different location and not impeded her beautiful view.

**Vicky Folck** - Neighbor at 1007 Tobias purchased home because the resale value was higher when she would later move closer to her children. She purchased home because of that value. However, with a metal building of this size, she felt it would devalue her home, using the Bar-K-Bar metal building as an example and how it decreased home values in that area. She added concern for safety for children biking and the fact there were no sidewalks and the increased traffic congestion. The metal building would change the dynamics of the neighborhood and felt they should consider a more appropriate location. She added the Recreation Commission has done a wonderful job for the community, just felt this building location was not the right place.

**Kim Williams** - Neighbor north of Lavada and expressed concern due to narrow street, kids and pool traffic. She added they go faster than 20 miles an hour and the sign has been knocked over four times. She opposed the project due to traffic and alcohol mix, concern for adequate parking per code, blue building would decrease values of homes, concern school funded and serving alcohol. She stated they know they need a building, just suggested they look for a different place.

**Steve Smyth** - stated he lives in Olathe, however he was here to oppose the building with his mother Lavada. He explained they would operate as a business with membership, however do not pay sales tax. None of the revenue would go to the community, but as a public entity would increase mill levy and taxes. If it was a private owner it would bring revenue, but give it thought that they would not pay taxes. Code requires 80 parking spaces and they only are allowing 41 spaces, which include pool parking.

**Susan Tobias** - Stated she lives on South Grand and stated this choice does not work. That in the members hearts they should not make an irreversible choice that would hurt the residents. She stated there has got to be a better place.

**Shelly Peverly** - Opposed as realtor. She stated she sold three to four homes because of the view. This type of metal building would definitely bring values of the homes down. She stated they needed to support the neighborhood and not put this type of structure there.

**Lucas Cupps** - 812 Terran residence in which he is a third generation owner. He wanted to keep property in his family. He said he can see views on both sides, however he expressed concern on the school side and the terms of the lease agreement and how long, if change is made, and if something went wrong. Do members of the city understand the long term aspects, done a comprehensive study regarding location and legal consequences before they approve. He expressed concern for adequate parking by code. He thanked the members of the Planning Commission for their time serving.

**Craig Zwick** - Explained he does not live in this area, however he expressed concern with the narrow width of Terran Street and maneuvering his vehicle on the street. Concern with construction and if streets can handle the types of loads. Examples of 20 truck loads, 40-50 truck loads of dirt, cement trucks, and 3-5 semi loads for building. He added 48-60' long trucks and expressed concern how they will get in there and even make the turn. Entry from Grand or off of Taylor, either way they still have to make the turn on Terran and Jay. He emphasized the city needs to look to the future, but they need to look at the big picture is how they will pay for street repair. He stated the Newton YMCA was a little different to compare because they were located next to medical park and industrial park. Yes, housing increased, but because of the medical park or YMCA is a question. He explained they need to vote with what the people tell you and put building at a different location that will benefit future expansion.

With no further comments being heard, Chairman Clark closed the public hearing at 6:49 p.m. He requested a five minute break.

## **2. CALL TO ORDER PLANNING COMMISSION MEETING**

Chairman Clark called the meeting to order at 7:00 p.m.

## **3. APPROVAL OF AGENDA**

Commission Member Schechter moved to approve the agenda as presented. Commission Member Stafford seconded. Motion carried with all members voting yes.

## **4. GUEST COMMENTS -none**

## 5. PRESENTATIONS/BUSINESS

- a. Presentation of the Minutes of the regularly scheduled meeting of the Planning Commission held on April 15, 2021.  
Commission Member Leiker moved to approve minutes of April 15, 2021. Commission Member Cox seconded. Motion carried with all members voting yes.
  
- b. (Approval Item) Recommendation to Governing Body- LRC Conditional Use Permit.
  - Have all members had an opportunity to view the area and documents.
  - Are there any written statements to be presented.
  - Disclosure of any ex parte conversations.
  - Disclosure of any conflict of interest.
  - City Staff statements

Police Chief Holliday addressed members and explained his traffic review 2019-2020 , one accident at 120 W. Truesdell (Terran & Truesdell) and one at the Lyons Pool parking lot. He stated he met with Mr. Bieberle and explained, he deals with traffic law and not criminal law. He doesn't deal with parking requirements and ADA parking. His only concern would be golf tournaments and the traffic flow with pool activity.

Member Leiker commented on the traffic congestion for last 20 plus years. He said they could look at the what if's all the time. Accidents happen, all of the streets in Lyons are small, but can't limit activity due to those things.

Member Schechter questioned change to one way. Chief Holliday explained they changed Park School to one way for two blocks. He added you have the occasional issue where they go the wrong way and try to correct. He said it would take time and would have to work out issues.

City Inspector Jones commented he did not have any issue with building.

City Administrator refrained from an opinion. He advised as issues occurred they could be dealt with such as adding sidewalks, water, gas, and traffic flow. He is working to improve the community and will work with county, school, and recreation commission.

Member Schechter brought up the issue with street and construction. City Administrator Buckley stated it is a valid point. The street is concrete and truck access of street are concerns. Chief Holliday stated it would have to be addressed the same way as the new store and will have to stop traffic so they can get into area. They have dealt with truck issues on Taylor and Century Road and Salt Plant. Discussion proceeded regarding wear and tear on the street with City Administrator Buckley advising concrete is better than Terran being asphalt. Sidewalk was discussed and whether that would fall on the homeowners to pay for costs. Legal Council Glendenning mentioned the conditional use and parking and questioned sidewalks as part of project. Members were then asked for any ex parte conversations.

Darin Clark - Lavada Smyth on process and how it works, Sherry Butcher and numerous letters.  
Brian Leiker - Recreation Board and numerous letters.  
Matthew Stafford- Social Media  
Motey Gomez - Mary Jane Hoffman, Sherry Butcher, Jacob Edwards, and letters.  
Jean Lattin - Lois Edwards  
Roger Swenson - letters and emails  
H, R, Boroughs - conversations  
Shawn Cox - letters  
Caleb Barrows - Lavada Smyth  
Tanner Schechter - letters  
Mary Kendrick - couple of conversations  
Montey Gomez added he's a member of the Iron Works.

Chairman Clark asked for a motion to approve or disapprove.  
Commission Member Kendrick moved to table the item for further review to consider questions and finances.  
Commission Member H.R. Boroughs seconded.  
Member Schechter stated they should stick to the requirements and finance was not their business.  
Legal Council Glendenning advised they can table or list conditions or factors to consider.  
Member Barrows stated he would like clarity. Member Leiker stated they do not have a say on how the Recreation Commission operates or their finances. Member Kendrick recindeed her motion, but expressed concerns on parking, streets and sidewalks. Legal Council Glendenning stated he did not believe that sidewalks could be required in this process. Member Swenson stated he felt the streets were too narrow and it was wrong for the area. Member Stafford stated may need to consider the golf course in the future. Important to have the golf course and the recreation center for the community. Need to look at new attractions and keep LRC viable for the future. Members were reminded of the purpose was the location and granting a conditional use permit and if it fit with the intent of the zoning. Mr Bieberle injected he thought a public building was allowed and only conditional use needed for parking. It was mentioned public building for federal, state, county, and city and broad if they include school and recreation commission. Discussion proceeded to the current recreation center and location in residential and by church. Chairman Clark advised that location was grandfathered in prior to regulations. The architect McMurphy stated the golf course building was on golf course property. Clarification from Legal Council Glendenning advised if approved, the conditional use permit would allow building with less parking. Members were to review procedures and decide based on information and requirements. Recommendation goes to Governing Body for approval or can be returned for further review. Member Barrows moved to approve the conditional use permit. Commission Member Gomez seconded. Motion being put to a vote as follows:

Barrows - yes	Swenson - no	Boroughs - no	Kendrick - no
Gomez - yes	Lattin - no	Schechter - no	Cox - no

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Stafford - no                    Cox - no                    Leiker - abstained

***Motion was denied by Vote: 8 NO and 2 YES***

***Chairman Clark stated he would submit recommendation to Council on June 7th the conditional use motion was denied.***

## **6. CITY INSPECTOR REPORT**

### **a. Setback / Corner Lot / Double Frontage – review examples**

City Inspector Jones reviewed with members options of changes to the setback requirements and examples of flexibility to alter one side. He explained with this flexibility, the city can work with owners and actual projects can be done.

### **b. Building Permit / Violations Report**

City Inspector Jones reported 14 building permits and 19 trade permits with a value of \$247,000.

### **c. Additions to City Code – Electrical Main Disconnects**

Members were informed of the concern expressed by Midwest Energy and safety for power disconnect. Not been implemented in Lyons and situations such as these could prove deadly for electric lineman.

City Inspector Jones reviewed with members the permitting process and in past permits were not required for siding, doors, windows etc. He expressed concern if there would be dry rot and this would be covered up. He added the IBC Code requires permitting.

## **7. CITY ADMINISTRATOR REPORTS**

### **a. ARP – American Rescue Plan**

Members were informed funding of \$490,000, would be over the next two years. The spending allowed on water line, sewer projects, and broadband. East Avenue North water line replacement could be a potential project due to water line break every six months.

### **b. ATP Development- Development Agreement -status**

Water line installed with the assistance of ATP digging and backfill, fire hydrant install, and waiting on KDHE for sewer line approval.

### **c. Gas Main Extension - status**

- ATP – Century Road
- Dinsmore – annexed property

Members were informed they hope to perform several projects at one time to keep cost down. Once water line installation has been completed then, scheduled to move forward on installation of gas line.

### **d. Area of Influence outside city limits- status**

Members were informed Council approved the three mile area of influence. Next step to County Commissioners.

### **e. Sidewalk extension – Railroad Tracks and Blair**

Members were informed sidewalk was installed on east main at the railroad tracks due to handicap individual in motorized wheelchair. Had several close calls with trucks and with sidewalk will be able to get across railroad tracks. Members were informed the sidewalk on Blair is pending due to being short handed. The sidewalk for the tracks involved an immediate safety concern. Member Swenson mentioned the Blair Street sidewalk needed for school.

### **f. West Fifth Street Drainage Improvement**

Members were informed of planned improvements where gravel washed out, clean ditches, and culvert replacement. He added a future plan for a building and the improvement would aid in that development.

g. Fire Hydrant Flushing

Members were informed of the plan to flush fire hydrants, crew to start at lowest point and work to highest point. This will aid in the clean up of water lines.

h. Mike Younger/EBH – water line installation

Members were informed of the approval from KDHE.

Chairman Clark inquired if there was a chance for a grant for line on Dismore Street.

Member Stafford stated under the ARP the Biden administration wanted infrastructure.

City Administrator Buckley informed members they were performing an insurance review.

He added the KLIP Project was slated for May 25 at 10 a.m. Then they would consider whether to add projects. Members were informed Sherman and Main needed repaired for some time. Next would be Logan and Main. Lyons Pharmacy road has potholes and Miles street curb needed.

He was glad to report the sewer plant building has been erected. They were lucky to purchase prior to building costs going up.

City Administrator Buckley stated he has been reviewing the NRP with Stacy. The county NRP is set to expire. It has been suggested the city discontinue their NRP and go with one in the county. This is set to go before the Council as a study session.

Commission Member Gomez asked if it was possible to make a one time payment on the gas bill. Members were informed the decision of Governing Body was to spread a flat fee over a ten year period.

## **8. PLANNING COMMISSION CHAIRMAN REPORT**

a. Entrance Signs – additional discussion

b. Expansion Plan – (Develop plan and available building criteria)

- Residential
- Industrial
- Commercial

Chairman Clark stated no change and to move on.

## **9. GENERAL DISCUSSION/REVIEW**

a. Next Planning Commission -June 17, 2021

Chairman Clark informed members June 17th, next scheduled meeting. He then thanked Mr. Glendenning and Police Chief Holliday for their attendance of the meeting.

Members discussed process and Legal Council Glendenning stated the Board of Zoning Appeals usually hears exceptions to ordinances and codes. This is then final and goes to court if there is an appeal. Members discussed executive sessions for Planning Commissions. Member Schechter stated it was strongly suggested to not enter an executive session. Legal Council Glendenning stated Board of Zoning Appeals reviews amendments and appeal goes to court. With the current process, the Governing Body reviews and votes yes or no. To override this vote there must be a petition. The Zoning Ordinance directs the Planning Commission this way and may need to review Conditional Use verse Special Use and change process. Members discussed the confusion regarding the conditional use for building or required for the parking. Legal Council Glendenning added the golf course is an accessory use. When you add the iron works, then it becomes something different and is not a commercial use and legal question if under Public Building as listed under zoning requirements. Members reviewed the written application and Member Stafford stated the

application said building. Member Schechter stated he sees this as a good thing for the community. Member Gomez questioned what the hold up was for the old middle school location and why the school didn't use that site.

**10. Tabled till June 17, 2021 Meeting:**

**CITY ATTORNEY REPORT**

- a. Introduction of City Attorney – Jeff Kuhlman
- b. Pending – Additional review or action
  - (1) Salvage Yards / Fence
  - (2) Industrial Park
    - Palleton – Property / Fence
    - Signage
    - Semi-Trailer Parking

**11. ADJOURN MEETING**

Member Kendrick moved to adjourn the meeting with no further business. Member Gomez seconded. Motion carried with all members voting yes. Meeting adjourned at 8:59 p.m.

Debra K. Duntz