

STATE OF KANSAS)
WYANDOTTE COUNTY)) SS
CITY OF KANSAS CITY, KS)

PLANNING & ZONING AND
REGULAR SESSION
MARCH 25, 2021

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in regular session Thursday, March 25, 2021, with eleven members present via Zoom: Bynum, Commissioner At-Large First District; Burroughs, Commissioner At-Large Second District; Townsend, Commissioner Third District; McKiernan, Commissioner Second District; Ramirez, Commissioner Third District; Johnson, Commissioner Fourth District; Kane, Commissioner Fifth District (arrived at 7:10 p.m.); Markley, Commissioner Sixth District; Walters, Commissioner Seventh District; Philbrook, Commissioner Eighth District; and Alvey, Mayor/CEO, presiding. The following officials were also in attendance: Doug Bach, County Administrator; Alan Howze, Melissa Sieben, and Bridgette Cobbins, Assistant County Administrators; Misty Brown, Chief Counsel; James Bain, Assistant Counsel; Ashley Hand, Director of Strategic Communication; Brett Deichler, Interim Unified Government Clerk; Gunnar Hand, Director of Planning and Urban Design; Juliann VanLiew, Director of Health Department; Dr. Erin Corriveau, Deputy Local Health Officer; Lynn Melton, Assistant to the Mayor's Office; Janet Parker, Administrative Assistant; Carol Godsil, Deputy Unified Government Clerk; and Allie Facio, Clerk's Office.

Mayor Alvey said before I call the meeting to order, I want to announce that due to COVID-19, some commissioners, staff, and public are attending remotely via phone or by Zoom. All participants joining by phone should mute their phones when not speaking to avoid background noise.

During the meeting, please make sure that you announce yourself by name and title every time you speak so that the public that is observing knows who is speaking. This is critical given the number of remote participants and is current guidance from the Kansas Attorney General.

Due to COVID-19 requirements, the public is allowed to participate by Zoom or submit comments by email prior to the meeting. Those comments will be included in the record of the meeting. I'd ask the Clerk to please call the role.

Roll call: Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Markley, Alvey.

Mayor Alvey said the invocation is being given by Commissioner Harold Johnson of Faith Deliverance Church of God in Christ.

Mayor Alvey asked the Clerk, are there any revisions to tonight's agenda?

Brett Deichler, Interim Unified Government Clerk, said there were. A blue sheet was distributed containing the following items. Under the Planning and Zoning Consent Agenda, there's a new item, No. B-2, 21683, a Special Use Permit Application #SP-2020-105 for Monserratt Perez-Mera for a shipping container at 3500 North 32nd Terrace. The second item is a Planning and Zoning Non-Consent Agenda clerical error on Item No. B-1, 21732, with a Master Plan Amendment MLP-2021-001 originally. On the blue sheet was changed to 003 because of the agenda packet we were given this morning, which caused us to issue a clerical error on this, subsequently to find out that it is actually supposed to be 001 as the last three digits. So, the original item was correct, and 003 has changed back to 001 on the MPL-2021 item.

Under the Regular Consent Agenda, we have other additional items. No. 1 on the Mayor's Agenda, new Item No. 1, 21749, a resolution revoking certain local health orders, and amending local health order 6/27/2020, pertaining to the mask and social distancing requirements. Under the Administrator's Agenda, new Item No. 3, 21751, resolution, Painter's District Council No. 3, MOU 1/1/20-12/31/21. New Item No. 4 is 21752, resolution under the United Brotherhood of Carpenters Union, MOU 1/1/20 to 12/31/21. Those are the items on tonight's blue sheet.

Mayor Alvey said tonight, we have two parts to the meeting, Planning and Zoning first, followed by Regular Commission. I'll ask the Clerk to read the statement required by state law governing the Planning and Zoning portion of our meeting, followed by the items on the Planning and Zoning Consent Agenda.

PLANNING AND ZONING CONSENT AGENDA

Brett Deichler, Interim UG Clerk, read the statement, required by law, governing the Planning and Zoning portion of the meeting.

Mr. Deichler asked if any member of the Commission wished to disclose any contact with proponents or opponents on any item on the agenda. **Commissioner Markley** said I had contact with the applicant for SP-2020-51, which is B-1 on our agenda. **Mayor Alvey** asked, any other disclosures from the Commission? Seeing none, let's get through the items.

Mr. Deichler read the items on the Planning and Zoning Consent Agenda.

Mayor Alvey asked, does any member of the Commission, the County Administrator, or public wish to set-aside any item on the Planning and Zoning Consent Agenda? If an item is not set-aside, all items on the Planning and Zoning Consent Agenda will be voted on by one vote to follow the recommendation of the Planning Commission.

Commissioner Townsend said I'm requesting that the blue-sheeted item, which was on the Consent Agenda last month. It was then identified as Petition SP-2020-105, the applicant was Monserratt Perez-Mera. At that time, I had requested, and the Commission approved, the set-aside and the delay of that item for action until this month so that I would have time to meet with the applicant and discuss alternatives to the applicant's specific request for the installation of a shipping container.

Those discussions have begun and continue. Some other options continue to be explored. So, I'm asking for the continued indulgence of the Commission to have this delayed for one more month. **Mayor Alvey** said so, you're asking to set that aside? **Commissioner Townsend** said correct.

Mayor Alvey said so, let me ask Legal, will there need to be a public hearing if we set this aside and it continues until next month? **Misty Brown, Chief Counsel**, said no, Mayor. We will not need to have a public hearing today since we are merely continuing this item another thirty days. **Mayor Alvey** said, but we will have to vote on whether to continue. **Ms. Brown** said that's correct.

Commissioner Kane asked, Commissioner Townsend, is that a motion? **Commissioner Townsend** said thank you, I was about to ask that question. I would move that this item... **Mayor**

Alvey said not yet, we've got another request for a set-aside. We'll come back to that when we have all the set-asides.

Commissioner Burroughs said, in reference to the blue sheets, I have no copy of a blue sheet. I prepared for this evening, but no blue sheet. So, I'm a little... **Mayor Alvey** said, I think they came in late, Commissioner. They should be in your email. If they're there, they should be in your email. Otherwise, can we make sure we get those forwarded to Commissioner Burroughs immediately?

Mr. Deichler said, Mayor, yes those were already sent via email. **Commissioner Burroughs** asked, under what email? The tomburroughs@wyco? **Mr. Deichler** said, from Carol Godsil at your address, yes. If it's not there, we can send it again. **Mayor Alvey** said, just go ahead and send it again, just to be sure.

Mayor Alvey said, I saw a hand up from Debra Jones. Debra Jones, you had your hand up and now you've been promoted to a panelist. If you unmute, you can speak. I see you as unmuted, Ms. Jones.

Commissioner Bynum said, I wonder if she's having an audio difficulty. If it would be possible for her to quickly email Carol Godsil, or email someone and express her desire here on this agenda.

Debra Jones said, I was just wanting to know, am I not at the right meeting for the redevelopment of 6706 Kaw Drive? The grocery store? **Mayor Alvey** said, no, ma'am you are at the right meeting. That item will come up later. **Ms. Jones** said, okay, I wasn't sure. I was kind of confused about it. Okay. So I just stay online until you bring it up. **Mayor Alvey** said, yes, thank you. **Ms. Jones** said, thank you, I'm sorry. I wasn't for sure.

Mayor Alvey said, this must be Jones BBQ, right? You're welcome anytime. **Ms. Jones** said, I just wasn't for sure, that's all.

Action: **Commissioner McKiernan made a motion, seconded by Johnson to approve all remaining items as submitted.** Roll call was taken and there were ten "Ayes,"

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Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

CHANGE OF ZONE APPLICATION

ITEM NO. 1 – 21729...CHANGE OF ZONE APPLICATION COZ-0007 - RYAN CRONK WITH KC WITH YARDS 2, LLC

Synopsis: Change of Zone from M-3 Heavy Industrial District to TND (T-6) Traditional Neighborhood Design District for a mixed use residential and commercial development at 200 South James Street, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design, 573-5751. The applicant has submitted a preliminary plat for one (1) mixed-use lot created from the current Parcel #901400. The applicant has also requested a Change of Zone from M-3 Heavy Industrial District to TND Traditional Neighborhood Design District in order to allow for a 225-unit, mixed-use development in connection with the proposed establishment of the Riverfront Tax Increment Financing (TIF) District. The Planning Commission voted 8 to 0 to recommend approval of Change of Zone Application COZ-0007, subject to:

1. Per the Mixed-Use Design Guidelines, on-site parking will be located behind the buildings. As the current site plan shows the majority of on-site parking located to the side of the primary building façade, such a deviation may only be allowed by the City Planning Commission;
2. Per the Mixed-Use Design Guidelines, a minimum of 75% of all buildings should have a zero (0)-foot setback. As the current site plan does not demonstrate this for reasons stated in the applicant's response, such a deviation may only be allowed by the City Planning Commission;
3. Per the Mixed-Use Design Guidelines, high-quality masonry building materials approved for this district are stone, brick, cast stone and stucco. Synthetic stone, such as pre-manufactured fiberglass, cultured stone, or glass-fiber reinforced concrete is permitted, provided that it is identical in appearance and of equal or greater durability to natural stone. These masonry materials shall be required on 65% of the sum total of all building façades, except single-family houses, which shall have 25% of the sum total of all facades. As the current site plan demonstrates a different mix of materials for reasons stated in the applicant's response, such a deviation may only be allowed by the City Planning Commission;
4. Per the City-Wide Master Plan Medium Density Residential standards, sidewalk/trails shall be a minimum of eight-feet (8') wide along Class A, B, or C Thoroughfares and Boulevards and six-feet (6') wide along Collectors;
5. In addition to establishing greater pedestrian connectivity throughout the development, where there are major parking lot crossings, crosswalks and/or other traffic calming devices shall be painted in the drive aisles, so residents and guests are alert to look for pedestrians;
6. All interior and public sidewalks and trails must comply with the Sidewalk and Trails Master Plan. A sidewalk should be constructed along Stale Line Road right-of-way to provide pedestrian access as part of furthering multi-modal transportation;

7. ADA compliant parking proximate to the entrance must be installed, including the required graphics and sign placards;
8. All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street;
9. A building permit is required. Please contact the Building Inspection Department to begin that process;
10. According to Sec. 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the unified government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design to begin this process; and,
11. Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the Unified Treasurer) within 30 days following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve Change of Zone Application COZ-0007, subject to the stipulations. Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

SPECIAL USE PERMIT APPLICATION

ITEM NO. 1 – 21731... SPECIAL USE PERMIT APPLICATION SP-2020-51 - DIEGO I. TOTO WITH XM AUTOMOTIVE

Synopsis: Renewal of a Special Use Permit (#SP-2017-72 - expired 5/31/2020) for an automotive repair business at 4439 Shawnee Drive, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design, 573-5751. The Planning Commission voted 8 to 0 to recommend denial of Special Use Permit Application SP-2020-51 due to failure to communicate or comply with the requirements/requests set forth by staff.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve denial of Special Use Permit Application #SP-2020-51. Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 2 – 21683...SPECIAL USE PERMIT APPLICATION #SP-2020-105 - MONSERRATT PEREZ-MERA

Synopsis: Special Use Permit for a shipping container at 3500 North 32nd Terrace, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design, 573-5751. The structure is a used container from Transport Specialist, LTD. The container was previously used to store furniture. The Special Use Permit is being sought in conjunction with a Variance, BOZA 2407, to have an accessory structure without a primary structure. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application SP-2020-105, subject to:

1. Shipping containers are temporary in nature and a permanent solution for the storage of personal items shall be sought within the next two (2) years (i.e. a detached accessory structure on a foundation);
2. Container must be placed on an improved surface. All parking, loading and maneuvering areas except those serving single-family dwellings or agricultural uses shall be graded and surfaced with a permanent bituminous or concrete pavement. The minimum such surface shall be two (2) inches of asphalt over six (6) inches of compacted gravel;
3. Only personal items such as recreational vehicles and items for property maintenance are allowed to be stored in the container. Storage of commercial inventory or equipment is not allowed;
4. The Special Use Permit is not valid for the approved use to be in operation until all the conditions of approval are met. The Applicant acknowledges that both the property owner and the business owner are collectively responsible to ensure that the use of the property is compliant with all ordinances, conditions and other requirements of this approval. Failure to meet all these requirements may result in revocation of this permit. The SP-2020-105 March 25, 2021 6 property may also be subject to enforcement actions and administrative citations;
5. Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the Unified Treasurer) within 30 days following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper; and,
6. If approved, the Special Use Permit shall be valid for two (2) years from the publication of the associated Ordinance. The Applicant is solely responsible for renewing their Special Use Permit. The Applicant should contact the Planning and Urban Design Department no less than two (2) months prior to the expiration of the permit in order to begin the renewal process. Any application for renewal that is submitted after the expiration date will be considered a new application with the associated application fee and approval term. If the renewal deadline is not met, all operations must cease until such time as a new Special Use Permit is approved.

Action: Commissioner Townsend made a motion, seconded by Commissioner Kane, to continue Petition SP-2021-105 by the Commission for another 30 days to the next Planning and Zoning meeting of the Board. Roll call was taken and there were ten "Ayes," Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

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MISCELLANEOUS - ORDINANCES (Final action on previously approved items)

ITEM NO. 1 – 21737...ORDINANCE

Synopsis: An ordinance vacating right-of-way (VAC2020-001) at 9700 Leavenworth Road (east and west of main entrance), submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design, 573-5751.

Action: **ORDINANCE NO. O-39-21**, “An ordinance vacating all that part of Leavenworth Road right of way, as established in Book 3355, Page 619, lying in the South Half of Section 25, Township 10 South, Range 23 East, in Kansas City, Wyandotte County, Kansas located at approximately 9700 Leavenworth Road (east and west of main entrance)”. **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 2 – 21738...ORDINANCE

Synopsis: An ordinance vacating right-of-way (VAC2020-002) at 9700 Leavenworth Road (main entrance), submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-40-21**, “An ordinance vacating all that part of Leavenworth Road right of way, as established in Book 3355, Page 619, lying in the Southwest Quarter of Section 25, Township 10 South, Range 23 East, in Kansas City, Wyandotte County, Kansas located at 9700 Leavenworth Road (main entrance)”. **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 3 – 21739...ORDINANCE

Synopsis: An ordinance rezoning property at 3834 Bell Crossing (COZ-0005) from R-1(B) Single Family District to A-G Agriculture District, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-41-21**, “An ordinance rezoning property hereinafter described located at approximately 3834 Bell Crossing Drive in Kansas City, Kansas, by changing the same from its present zoning of R-1(B) Single Family District to A-G Agriculture District.” **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 4 – 21740...ORDINANCE

Synopsis: An ordinance rezoning property at 12525 Leavenworth Road (COZ-0003) from AG (WyCo) Agriculture District to A-G Agriculture (City) District, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-42-21**, “An ordinance rezoning property hereinafter described located at approximately 12525 Leavenworth Road in Kansas City, Kansas, by changing the same from its present zoning of AG (WyCo) Agriculture District to A-G Agriculture (City) District.” **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 5 – 21741...ORDINANCE

Synopsis: An ordinance authorizing a Special Use Permit (SU20-00096) to keep two (2) goats at 411 and 415 Stine Avenue, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-43-21**, “An ordinance authorizing a Special Use Permit pursuant to Chapter 27 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, as set forth in #SU20-00096 to keep two (2) goats at 411 and 415 Stine Avenue.” **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 6 – 21742...ORDINANCE

Synopsis: An ordinance authorizing a Special Use Permit (SP-2020-98) for continuation of a drinking establishment with live entertainment at 4220 Leavenworth Road, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-44-21**, “An ordinance authorizing a Special Use Permit pursuant to Chapter 27 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, as set forth in #SP-2020-98 for continuance of a drinking establishment with live entertainment at 4220 Leavenworth Road.” **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 7 – 21748...ORDINANCE

Synopsis: An ordinance rezoning property at 915 North 69th Street (COZ-0008) from R-1 Single Family District to MP-2 Planned General Industrial District, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Action: **ORDINANCE NO. O-45-21**, “An ordinance rezoning property hereinafter described located at approximately 915 North 69th Street, in Kansas City, Kansas, by changing the same from its present zoning of R-1 Single Family District to MP-2 Planned General Industrial District.” **Commissioner McKiernan made a motion,**

seconded by Commissioner Johnson, to approve the ordinance. Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

PLANNING AND ZONING NON-CONSENT AGENDA

CHANGE OF ZONE APPLICATION

ITEM NO. 1 – 21730... CHANGE OF ZONE APPLICATION COZ-0001 - ENRIQUE GOMEZ WITH GOMEZ APPLIANCES

Synopsis: Change of Zone from R-1 Single Family District to C-3 Commercial District for the sale of appliances at 837 Central Avenue
and

MASTER PLAN AMENDMENT ITEM NO. 1 – 21732...MPL2021-003 - ENRIQUE GOMEZ WITH GOMEZ APPLIANCES

Synopsis: Master Plan Amendment from Urban Density to Commercial (City-Wide Master Plan), submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design. The applicant, Enrique Gomez, is applying for a Change of Zone from R-1(B) Single Family District to C-3 Commercial District. The building was built in 1920 and is designed for commercial use. It was previously used as an auto mechanic shop. After the applicant purchased the property and attempted to obtain a business license, they discovered that it is zoned for Single Family Homes. The applicant would like to obtain a change of zone to use the store to sell home appliances. This proposal will require a Master Plan Amendment in order to accommodate commercial use. This case is being heard in conjunction with BOZA2021-004 for minimum parking requirements. The Planning Commission voted 8 to 0 to recommend approval of Master Plan Amendment MPL2021-003. The Planning Commission voted 7 to 1 to recommend approval of Change of Zone Application COZ-0001, subject to:

1. This property will be zoned to CP-1 Planned Limited Business District rather than C-3 Commercial District;
2. All repairs of appliances and sales shall be conducted within the building;
3. If approved, the applicant will need to file and maintain a current business occupation tax application with the Business License Department;
4. All signage must be properly permitted. To obtain a sign permit, please contact the Planning and Urban Design Department. Current signage that was not properly permitted and does not comply with the sign code must be removed.
5. Must adhere to the Commercial Design Guidelines, which include:

- a. Must remove exterior bars from the windows;
 - b. The site must have street trees. These either need to be planted on the property by cutting the existing asphalt, or in the planting them in the sidewalk right-of-way with tree wells/grates. This would require a Right-Of-Way Use Agreement from the Public Works Department. Contact them to begin this process;
 - c. If there are no utility conflicts along Central Avenue, two (2) street trees shall be placed in the public right-of-way. This will require a lease agreement to be obtained through Public Works. If there are utility conflicts, the Planning Commission can move to allow a deviation to the street tree requirement along a major street;
 - d. Entrance shall be enhanced by architectural details. Such details may include recessed or slightly protruding entrances, building material variations, color variations, or artistic elements and other special treatments;
 - e. We recommend sandblasting the front to show the exposed brick;
 - f. Awnings and canopies are encouraged on facades to provide weather protection and shade to pedestrians; and,
 - g. Façade lighting is encouraged. Façade lighting shall be shielded so that the light source is applied to the building and does not provide any direct light or glare on sidewalks or streets.
6. Screening will be applied as available;
 7. Trash and recycling containers shall be screened and located behind the building within a trash enclosure;
 8. Meter and utility boxes shall be painted to match the building and screened with shrubs;
 9. Rooftop mechanical equipment shall be screened from public view by the parapet of the building;
 10. Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the Unified Treasurer) within 30 days following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper.

Case
MPL2021-001 & COZ-0001

Petitioner	Address
Enrique Gomez	837 Central Avenue

Synopsis
The applicant, Enrique Gomez, is applying for a Change of Zone from R-1(B) Single Family District to C-3 Commercial District. The building was built in 1920 and is designed for commercial use. It was previously used as an auto mechanic shop. The applicant would like to obtain a Change of Zone to use the store to sell and repair home appliances. This proposal also requires a Master Plan Amendment from Urban Design to Commercial. This case was heard in conjunction with BOZA2021-004 for minimum parking requirements and approved on March 8, 2021.

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Department of Planning + Urban Design
Unified Government of Repulse County, Portland, City, Oregon

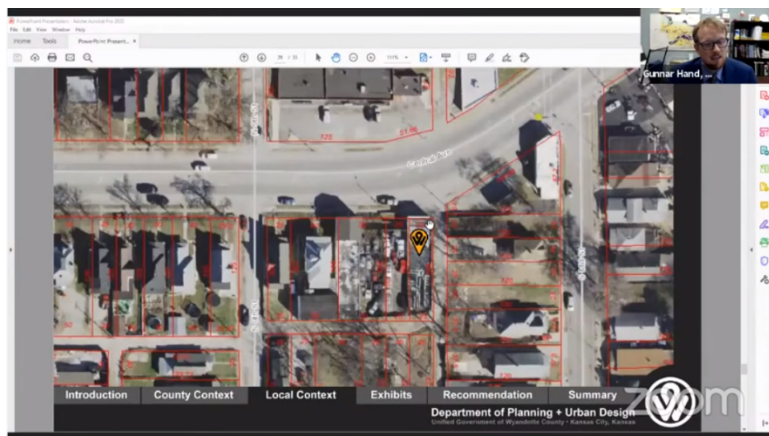
Gunnar Hand, Director of Planning and Urban Design, said these are both being heard. they will need to have separate votes eventually. You'll note that one of them, the Master Plan

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Amendment, was voted unanimously; the other one was a 7-1 vote. We decided to hear both of them on the Non-Consent Agenda accordingly.

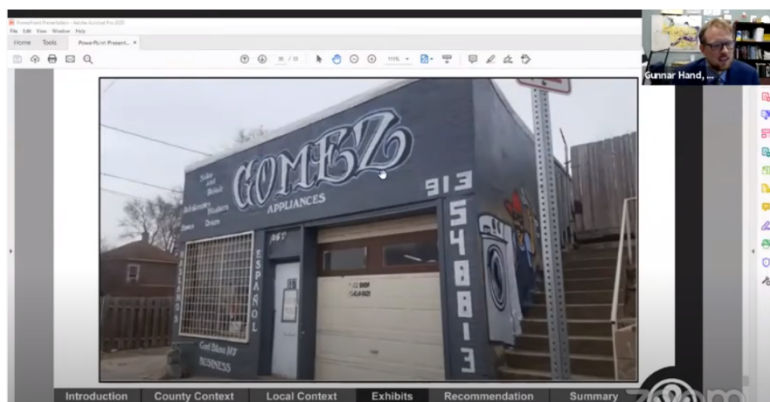
This is a historic business on Central Avenue that's been there since the '20s. It's always operated as a business, very to the character of the Central Avenue corridor. There's a lot of different mixes of uses; single family homes, commercial buildings, and other public facilities. This is just one of those pieces that had originally been used and zoned for residential uses, but again, it's always operated as a commercial business mostly through, in the more recent history, through SUPs. There had been a break in the business for over two years. Formally it was an auto repair shop operating as an SUP. Mr. Gomez would like to open his appliance store.

I would note that a Board of Zoning approval happened for a parking variance earlier this month by the Board of Zoning Appeals. We've been working with Mr. Gomez as it relates to essentially create a final solution for this property to make it finally commercial.

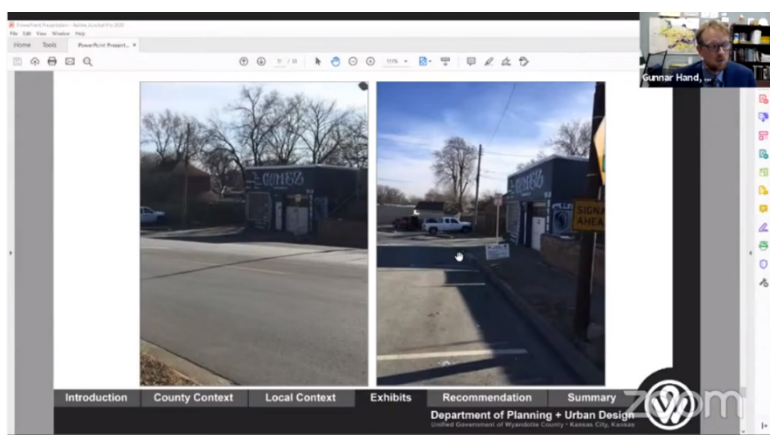


It is on a corner lot in a very constrained site. As it is essentially a new commercial business, it does have to comply with the commercial design guidelines. We've worked with Mr. Gomez on obtaining as many of those as we possibly can on such a constrained site.

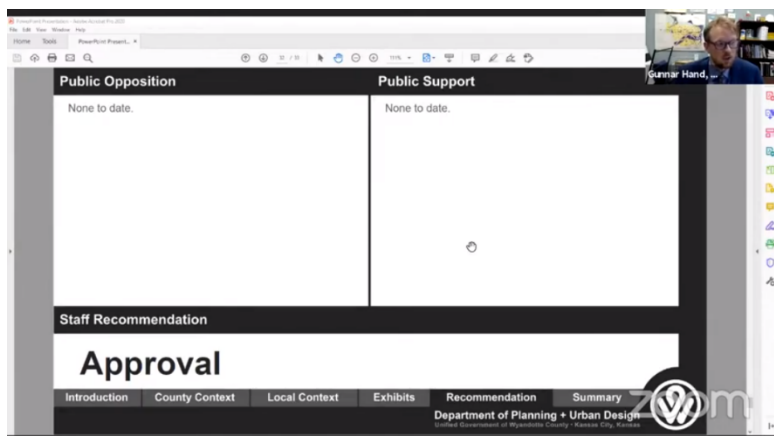
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He will have to do some additional screening. He will have to remove essentially, this is a mural that he doesn't have a sign permit for, so we will have to do some façade improvements. Again, we don't allow grated windows and such like that. So, there will be some improvements to the property that we'll work with him through the Development Review Committee, and other screening of the rear yard as there are adjacent uses.



You can see there's no parking, so the parking variance will require parking on the street, which is a common practice on Central Avenue in those constrained sites.



The staff also recommends approval and agrees with the Planning Commission on both. Happy to take any questions.

Commissioner Burroughs asked, Gunnar, how does this fit in with the Master Plan, the Central Avenue Master Plan?

Mr. Hand said, again, technically it's a Master Plan Amendment so we have to change this one parcel, but it's very much in line with the vision of the corridor. You can see these are all sort of commercial businesses all along this alley. It is adjacent to some residential uses, so there are, again, some screening issues that we're working through with Mr. Gomez.

He had originally requested the change of zone to be to C-3, which again, after the (?) after potentially Mr. Gomez's business would allow for an intensity of uses that we did not agree with. So, we had recommended that this move forward as a CP-1, which would allow Mr. Gomez to continue with his current business operation but would limit future intensity of businesses, i.e., you wouldn't see an auto repair shop on this small site ever again.

Commissioner Burroughs said thank you, Gunnar. I'm not opposed to Mr. Gomez's business, I'm just curious as how it was a handful of years that we had an auto repair business at that intersection and it didn't interfere with the traffic flow and parking. But now we have a person that has come forward with a business model and we are having this discussion this evening. I'm just trying to weigh the differences here, and how it fits into the Master Plan.

Mr. Hand said I think when Mr. Gomez approached us, it provided us—and because there was a lapse since the previous SUP for auto repair, it gave us an opportunity to create a final solution

here so that somebody wouldn't always have—so that there would be certainty on this parcel from now into the future. And, again, it meets the character of the neighborhood, which is a diversity of uses along the corridor. This is right before, as you go west, this is right before that little stretch of single-family homes on Central Avenue before 10th. **Commissioner Burroughs** said, thank you, Mayor. Thank you, Gunnar. I have no more questions.

Commissioner Ramirez said, thank you, Gunnar, for bringing this in front of us. I only have one question. For the Change of Zone Application, I see it was from a seven to one vote. What was the reasoning for the one planning Commissioner to vote against it? **Mr. Hand** said, I believe that was Commissioner Reasons—no it was Connelly, that's right. It was Commissioner Connelly who voted against it, I apologize. He never gave a reason. We're not 100% sure.

Commissioner Ramirez said, okay. I was just curious to see what was the reasoning behind their no vote. I have no other questions. Thank you.

Commissioner McKiernan said, Gunnar, I have to say I was stunned when I found out that this was zoned R-1 because there has been a commercial business in that spot for as long as I can remember, and that's decades. I don't think it was an auto repair business; I think it was an auto sound business. They were installing sound systems into cars. So, they didn't have a lot of cars that were broken down, but they occasionally did have cars pulled in or in front. I don't recall that there was any disruption of traffic flow on that street. The historic sign was a vacuum cleaner repair and sales shop. That's what was there for years and years and years. So, that's a little bit of the history. Frankly, I've always seen it operate as commercial.

I endorse the rezoning, especially with the way you have proposed to do it to, I believe, CP-1 instead of C-3. I endorse that. It is interesting for me as I look at the zoning map, overlaid on DOT Maps, that the R-1B designation—now, this doesn't have anything to do with this application, but if you look down at the two parcels that are immediately west of this building, also zoned R-1B, that sure doesn't look like a residential structure on either of those. It looks to me like a couple of dozen cars. So, I just observe that although they are screened by that wooden fence from Central, I just observe that it doesn't look like a residential usage on those two lots.

Mr. Hand said, we also saw that, too. I would add, I forgot to mention this earlier, but we have—that building's been there since 1920. It's a hundred years overdue for a change of zone.

Commissioner McKiernan said, I completely agree. Commissioner Burroughs, to your point, I think it's a point well taken that if this had not had a history of being a commercial space, then I would worry how it fits into the overall Central Area Master Plan. But given its historic use as a commercial space, I don't really see it as a change. I think it's consistent with mixed residential and commercial nature of Central Avenue. Mr. Mayor, I assume we need to have a public hearing on this, and if so, I will wait until after that is completed, but I certainly am willing to make a motion.

Mayor Alvey said, I'd ask the applicant to present his application, if he is present. Please state your name and address for the record.

Nuvia Gomez said, I'm here with my father Enrique Gomez, who does not speak English. His name is Enrique Gomez. His current address is 22 South Mill Street, Kansas City, Kansas 66102, right around the corner from 837 Central Avenue, where his place of business is. My name is Nuvia Gomez and I live at 618 Northeast 114th Terrace, in Kansas City, Missouri.

Mayor Alvey said, I think we know what your application is. I think we've got a motion. If you have anything else to say, say it now, otherwise, we'll move on.

Nuvia Gomez said, no, I just do want to point out that the lot next to it, which is 849 Central Avenue where you saw all those cars, that is also his property. Those cars have been removed by the prior owner who did operate an automotive shop and that's why all those cars were in that area. How he was able to do that without a special permit, I'm not sure. We do want to do the right thing and make sure we can rezone this so that my father can operate his business within the legality.

Mayor Alvey said, I'd ask, is there anyone present who would like to speak in favor of this? Clerk, did we receive any communications? **Brett Deichler, Interim UG Clerk**, said, no, Mayor, we have not.

Mayor Alvey asked, is there anyone present who would like to speak in opposition? As we've heard no communications, I would close the public hearing and entertain a motion.

Commissioner McKiernan said, I'm going to need to make two separate motions, but before I do that, if I may address Ms. Gomez and say, thank you for cleaning up those two lots. We really do appreciate it, and I think that demonstrates your commitment and your father's commitment to improving Central Avenue. So, thank you for that.

Action: Commissioner McKiernan made a motion, seconded by Commissioner Philbrook, to approve Change of Zone Application COZ-0001, subject to stipulations. Roll call was taken and there were ten "Ayes," Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

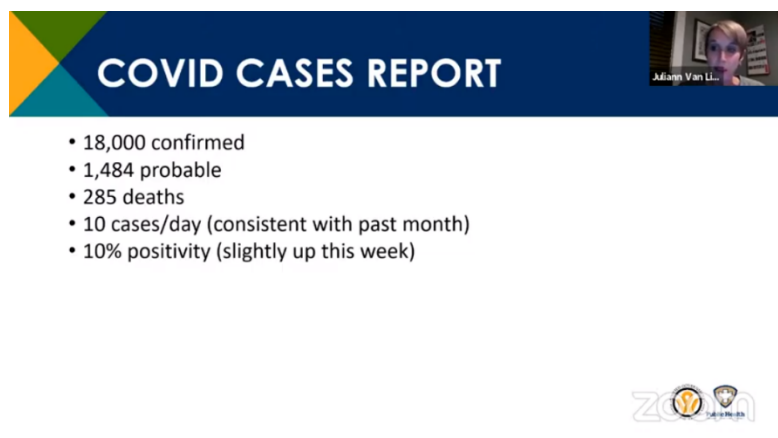
Action: Commissioner McKiernan made a motion, seconded by Commissioner Ramirez, to approve Master Plan Amendment MPL2021-001, subject to the stipulations. Roll call was taken and there were ten "Ayes," Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

MAYOR'S AGENDA

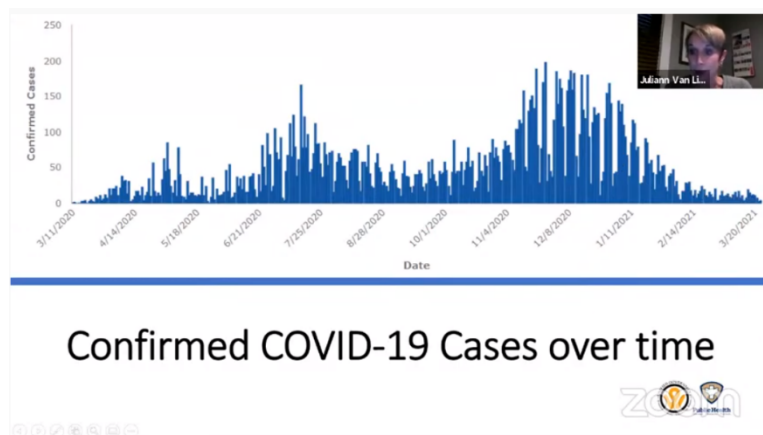
ITEM NO. 1 – 21749...HEALTH ORDER REVOCATION

Synopsis: A resolution revoking certain Local Health Orders and amending Local Health Order 6/27/2020 pertaining to the mask and social distancing requirements.

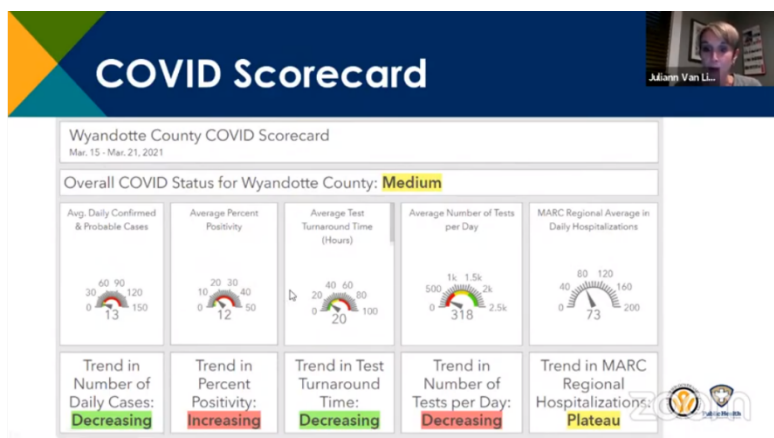
Juliann VanLiew, Director of Health Department, said, our portion of this is going to be very brief. We just wanted to make sure you walk into this conversation knowing the exact status of COVID in our community, so that you can make the best decision possible. So, this is just going to be a quick status update on our numbers.



As of today, earlier today, we had exactly 18,000 confirmed cases of COVID in Wyandotte County, just about 1,500 probable cases, and 285 deaths. We are still experiencing about 10 cases per day. I know it sounds a lot lower than where we were, but that's still 70 cases a week of COVID that is being detected in our community, even with low levels of testing that we're experiencing right now. Our percent positivity is ticking up slightly. Over the course of the past week, we were down to 78% and now we are at 10%. So, still 1 in 10 people being tested for COVID in our community are receiving positive test results.



We are, of course, in a much better position than we were over November, December, January, but I do want folks to kind of watch that tail end here to the right where it is very possible and probable that we are going to start seeing some cases tick up here. Dr. Corriveau will speak to that here in a moment.



Lastly, for my part, our weekly COVID scorecard that we update every Wednesday for the previous week has the overall COVID status for Wyandotte County at medium. We have it that way because we have a number of trends that are moving in the right direction. Our number of daily cases as of March 15 through 21 were going down, but our percent positivity, as I mentioned, is trending up. Our average number of tests per day is not moving in the direction that we would like it to be. Lastly, which again, Corriveau will speak to you, our hospitalizations are plateauing and actually, over the last couple of days, starting to tick up.

So, overall, our status is not as positive as we would like it to be given the potential need to modify our health orders at this time.

Concerns with relaxed orders

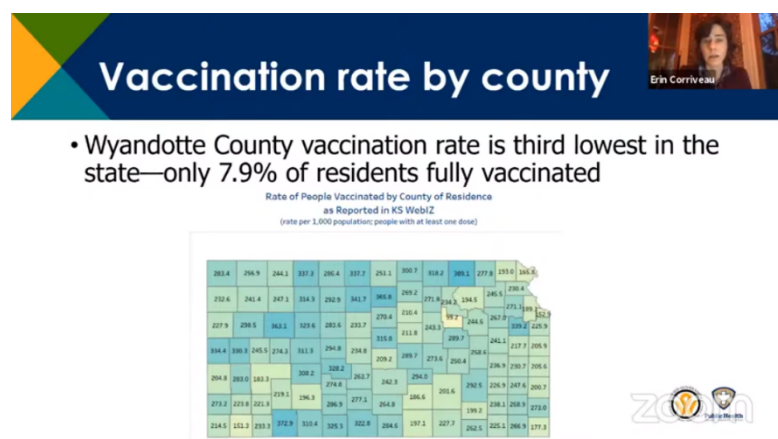
- Increased cases across US and Europe
- Uptick in hospitalizations in recent days
- Variants – potential for new surges
- Very low vaccination rate in Wyandotte
 - Hardest hit communities are among lowest rate of vaccinated

Dr. Erin Corriveau, Deputy Health Officer, said, just wanted to discuss a little bit about what's happening around the country and the world. Many of you, I'm sure, have seen that there are cases ticking up in Europe and then on the coast of the United States and a couple of other large cities. In our community, we are, within our county, seeing a bit of an uptick in hospitalizations, unfortunately, in recent days. Still far below that time during the winter when we were really

having a rough time controlling the cases and were building new wards to hold patients and such. We're certainly not in that situation, but we're watching this very closely. The reason is, is because previously, during other surges in the pandemic, we've really followed closely behind other parts of our country and Europe so, we're concerned.

What's driving the uptick in other parts of the world and other parts of the country are actually these variants that I'm sure many of you are hearing about. It is well known that we have the British variant within the metro area here, and that's been sampled even as far back as, I believe, January in the wastewater in surrounding areas. Very near to home, here, so it's concerning to us.

We also, unfortunately, are so far seeing a very low vaccination rate in Wyandotte. That is not without a hearty effort, I can tell you. We are doing our very best. However, under 8% of our people in Wyandotte County have completed the two doses of vaccination at this point in time.

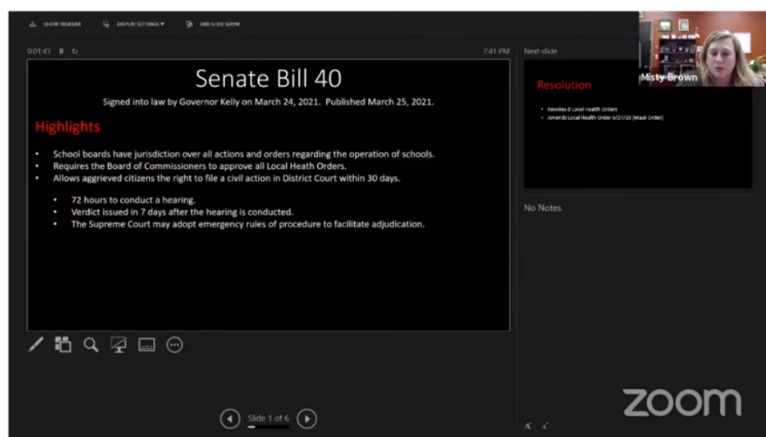


So, just to show you this map here. Again, you can see that just shy of 8% of our residents are fully vaccinated. Many more people have their first shot, at least, and then we're hoping that they'll come back for their second, but you can see at a more granular level how we're doing here.

Given what we've presented to you this evening, and this is our last slide from the Health Department here, I do want to make the point that the orders that we have put forth I think are good. I think that they're appropriate given the level of disease that we're seeing in our community and then the level of uptick that we're seeing outside of our community. Just making the case that we want to be careful and protect, of course, those who are most vulnerable within Wyandotte County which has, the entire time throughout the pandemic, been our charge. So, of course, there is a new statute that has come out that we'll discuss in just a second here, but if it had not been for the new statute, Dr. Greiner and I would not want to be changing these health orders at this time.

With that, we can conclude and we'll pass it over to Misty with our Legal Department. Thank you.

Misty Brown, Chief Counsel, said I, first of all, want to thank Juliann and Dr. Corriveau for their overview. As Dr. Corriveau alluded to, I am here to talk about Senate Bill 40. James and I will—he's going to share his screen with you. He's prepared something to help with this. But James and I will kind of walk through where we are today, the landscape of our legislation.



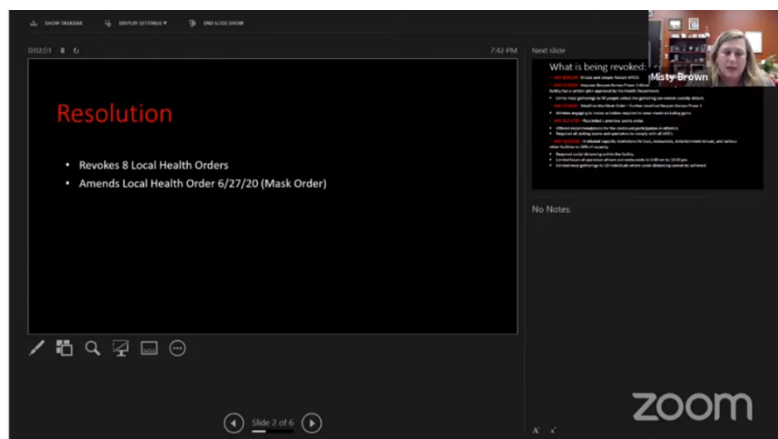
I believe everyone knows, or has heard, that Senate Bill 40 was signed by the Governor yesterday. It was published today and it is good law as of today. The, I guess I'll call them, highlights of that bill and the major component that we talked about is, the bill makes it very clear that any type of COVID-related health order or anything that pertains to school boards that would affect the operations of the schools are under the school board's exclusive jurisdiction.

In addition, it requires that any type of health order that a local governing body were to pass that would require masks, restrict movement of the population, or affect businesses would have to be actively passed by the governing body. In the past, we've had local health orders that were signed into effect by our local health officer; and the Commission, as of last summer, had the authority to amend or revoke them. Now, if there's going to be a health order that would require masks, masking, mask gathering restrictions, or movements of the population, the Commission would have to actively review and approve such an order.

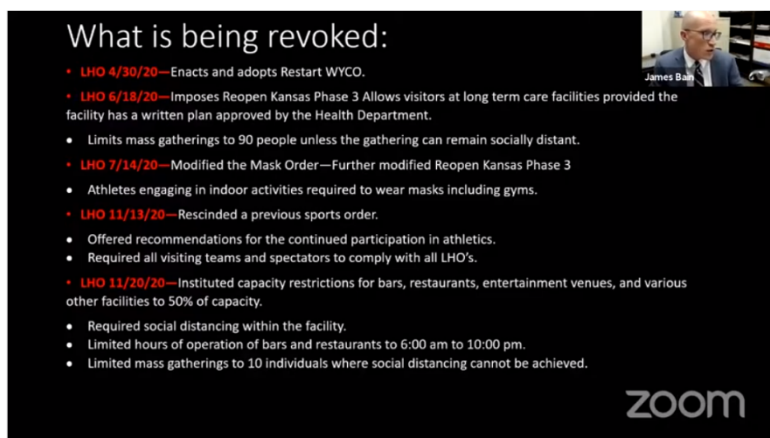
Then, another component is, this bill does allow any citizen who is aggrieved by a local health order to file an action in District Court within 30 days. From there, it goes quite quickly that after a citizen were to file an action, the court would have to have a hearing within 72 hours, and a

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verdict would be issued within 7 days because this legislation has specifically called out that the Supreme Court could adopt some emergency rules and procedures to facilitate this adjudication.



Then finally, Senate Bill 40 also sets out some parameters that local health orders would have to follow to withstand judicial scrutiny. So, with that in mind, James and I have prepared a resolution tonight that we are asking the Commission to consider that provokes eight of our current local health orders, and amends the Local Health Order 6/27/2020, which is the Mask Order. At this point, I'm going to turn it over to James to walk through what is being revoked and what the resolution with the amended order covers.



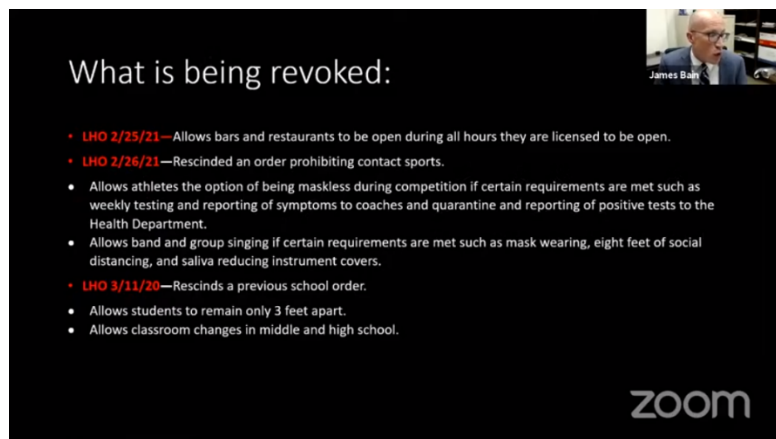
James Bain, Assistant Counsel, said, I'll take you through kind of the eight current orders that we have today and that are being proposed that we revoke. The first two are pretty similar. They're from the spring and summer when we were operating under Restart WYCO at the beginning of the pandemic. You'll remember the Mayor's committee that set the plans for how we operated and how we were going to reopen businesses and reopen our way of life. In the middle of the

summer, we transitioned over and reopened Kansas, which was the Governor's reopen plan. So, LHO 4/30/2020 and LHO 6/18/2020 both dealt with those reopening plans and both of those are still active today. Those are the orders where we get our current social distancing orders, where we're getting our current capacity orders for businesses, and long-term care facility orders.

LHO 7/14/2020 was our second mask order. It's clarified mask orders for athletics and gyms, and so there will be a little bit of a change in the resolution we are proposing tonight. We are proposing that individuals in a gym workout setting still need to wear masks, however, organized sports, competition, or practice do not need to wear masks. One thing to remember about the Senate Bill 40 is that nothing we do deals with schools. Our health orders no longer have jurisdiction over schools, and so that goes for athletics and mask-wearing.

LHO 11/13/2020, those sports offered recommendations for how sports could be continued in a safe manner and required all visiting teams and spectators to comply with local health orders, which were mainly masking and social distancing.

LHO 11/20/2020 instituted capacity restrictions for bars, restaurants, entertainment venues, and various other facilities to 50% capacity. This is where we probably see the biggest change in what we are proposing, going from this 50% capacity cap to social distancing and limiting your capacity based on how many people you could manage six feet apart. This LHO 11/20/2020 is the bar/restaurant hours of operation. You'll remember, it was ten o'clock; back in November, moved to midnight. In January and then February, we moved to allowing bars and restaurants to stay open for however long they were licensed to stay open.



What is being revoked:

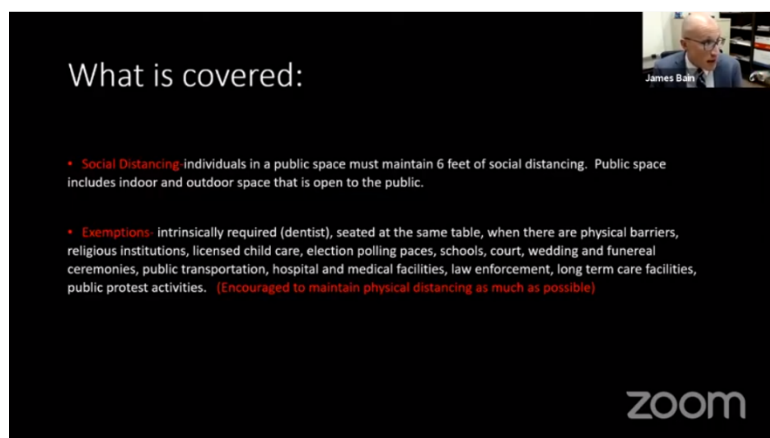
- LHO 2/25/21—Allows bars and restaurants to be open during all hours they are licensed to be open.
- LHO 2/26/21—Rescinded an order prohibiting contact sports.
- Allows athletes the option of being maskless during competition if certain requirements are met such as weekly testing and reporting of symptoms to coaches and quarantine and reporting of positive tests to the Health Department.
- Allows band and group singing if certain requirements are met such as mask wearing, eight feet of social distancing, and saliva reducing instrument covers.
- LHO 3/11/20—Rescinds a previous school order.
- Allows students to remain only 3 feet apart.
- Allows classroom changes in middle and high school.

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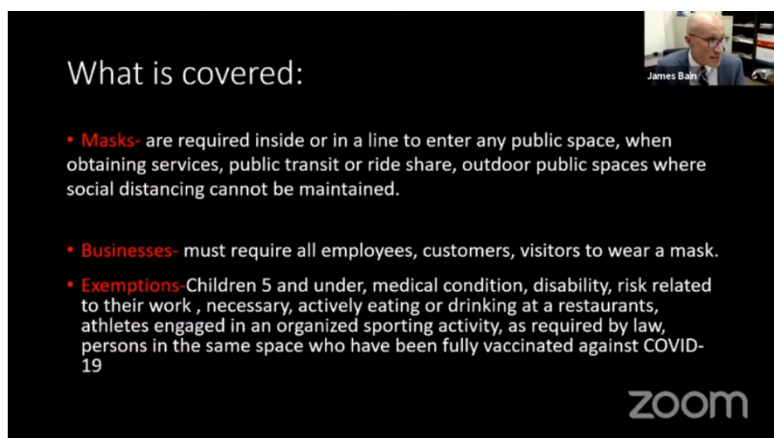
Three more orders that we are proposing be revoked. 2/25/21, that is the order that allowed bars and restaurants to stay open for as long as they are licensed. LHO 2/26/21, another sports order.

This is the order that allowed sports to be played maskless if certain requirements were met. Those requirements dealt with weekly testing, reporting to coaches, reporting positive tests to the Health Department. That order also started opening up band. If bands could use the equipment that would reduce saliva into the air, and some spacing requirements for bands.

Finally, LHO 3/11/2020, that is a school order. It took us to CDC recommendations of three feet in between schools. It dealt with quarantine of students that are sitting around a student that tested positive. So, those are the eight orders that would be revoked if the resolution is passed tonight.



So, what does the new resolution do? It does two main things. Continues social distancing in indoor spaces, indoor public spaces and outdoor spaces that are open to the public. There are some exceptions dealing with businesses that are required to have less than six feet—dentists, hair, things like that; a lot of things that we’ve already been doing. When folks are seated at the same table at a restaurant, they don’t have to be six feet apart. We’ve seen physical barriers in restaurants, and that will continue. Religious services, and you see the list there. Government events, court hearings, medical facilities, public transportation, people are not required to be six feet apart. So, a lot of this is the same way we’ve been operating. Stores still have the stickers on the floor when you’re in line, and those things will continue.



What is covered:

- **Masks-** are required inside or in a line to enter any public space, when obtaining services, public transit or ride share, outdoor public spaces where social distancing cannot be maintained.
- **Businesses-** must require all employees, customers, visitors to wear a mask.
- **Exemptions-** Children 5 and under, medical condition, disability, risk related to their work, necessary, actively eating or drinking at a restaurant, athletes engaged in an organized sporting activity, as required by law, persons in the same space who have been fully vaccinated against COVID-19

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The other thing that is covered in the new order is masking and that, again, will remain consistent to what we are currently operating under. Requiring masks inside or in any line to enter a public space, when obtaining services, on public transit or ride share. In outdoor spaces where social distancing cannot be maintained, businesses must still monitor and enforce masking by employees, customers, visitors to your office, things like that.

The exemptions as we've had, children under five, that has been exempted since the summer. Folks with medical conditions, risks in their work to having a mask, folks actively eating and drinking. We've talked about athletes engaged in organized sports activities. A new exception that I will point out, and this is a CDC recommendation I believe, is that persons in the same space who have all been fully vaccinated against COVID-19 can interact without wearing masks. That is the last slide. I know Misty and I, and I'm sure Dr. Corriveau and Juliann, are available for questions.

Doug Bach, County Administrator, said we bring this forward to you tonight as a response to what has happened at the state level. I think it's been explained by staff what our situation is. We still feel like the health risk is great for COVID in our community. We are far from getting our vaccinations done. So, we do believe what we've put forth to you is something that is very defensible under the new state laws and is needed by our community. We recommend the Commission consider this for approval tonight.

Mayor Alvey said, frankly, I am personally disappointed by the actions of the state legislature. I do not believe that we are through the pandemic yet. Clearly, what we're seeing—as we've seen, what is happening nationwide and really worldwide, we always have, perhaps, maybe a month's

look at what's happening elsewhere. But with increase in cases, now ticking up in over 30 states across the country and some states now questioning whether they relax their orders too soon, this seems like a very serious backward move.

If there's any consolation in this, I would say that there was a recent research done using phone apps, checking peoples' proximity to others, and found that in neighboring jurisdictions—those that had more restrictive shutdown orders and those that had less restrictive or none at all—there was only about a 10% difference in business activity. What really drove the decline in business activity was not the government orders to stop activity, actually. It was the fear of people contracting the virus.

So, I think it's important for our Public Health Department, our Communications Department to continue to put the word out that we are not through the virus yet, it is still moving, we need to continue to take these precautions. There's certain things we must do and we must not do to maintain public health. If we can honestly and forcefully communicate with public and let them know where we are and how the virus is moving and what measures we need to continue to take to protect ourselves and our loved ones and our businesses, then we will still be able to control the spread; not quite as much, but generally we'll be attaining that. Again, that's only if people really do understand what the virus is, and how it continues to move, and so they don't just give up, throw their arms up in the air. Thank you for all your work.

Commissioner Ramirez said, thank you Dr. Corriveau, Juliann, James, and Misty for bringing this forward. Thank you said it perfectly, Mr. Mayor. It's very disappointing on the action that the legislature took. They really—earlier when we were meeting about this, Commissioner Bynum said it perfectly that it's an infringement on our home rule. It's an infringement on our constitutional right of local control, especially on our public health and the wellbeing of our constituents.

I, all throughout this entire time, every time there's been a COVID update, we thank our Health Department for everything they have done because you have moved mountains since this pandemic started. You didn't take it politically. Every decision was made based on the data and health and wellbeing of our community, and I cannot thank you enough for all that you have done. I want you to know you—your authority now that it's no longer there, but I want the people at the Health Department to know that your work is noted. It doesn't make it less meaningful and less impactful

in our community. That just means that we, as a governing body and agency department, have to work together more to create and to get rid of this virus and all of the other health inequities in our community. Now, we just have to work together.

To our community, I ask that we continue to be resilient, that we continue to follow the orders. This isn't a political issue. This isn't about choosing if you want to do it or not. This is about our community being able to move forward and making sure that everyone is safe and healthy. So, again, thank you to our Health Department, Dr. Greiner, Dr. Corriveau, Juliann, and everyone in the Health Department. Thank you for all that you have done. This doesn't mean you're gone. You are still here front and center, but now we get to create a closer relationship to move this county forward. So, thank you.

Commissioner Bynum said, I just have a couple of questions to make sure I understand. The Senate Bill 40 that is now state law, did it speak specifically to COVID or is it basically governing any health emergency into our future? **Ms. Brown** said, Commissioner, that's a great question, and it's a little bit mixed throughout it. There definitely is a COVID emphasis in the bill. So, specifically, it's related to COVID when it—and it's this particular emergency for COVID when it comes to school boards. Now, for the governing body, it puts additional restrictions on us if we are going to enact any local health order that would require masking, restrict capacity at gatherings, or the flow of the population. So, it doesn't have the COVID sticker on there, so it would apply in the future if a health order tried to do one of those things for a non-COVID issue.

Commissioner Bynum said, I see. So, it's possible, probable in fact, that in our future lies a health emergency that's going to require local health action that's not covered by this particular law. I guess that's very possible, probably likely. Just to clarify, kind of alluding to what Commissioner Ramirez said. This state law has, I'm asking this to clarify that it's true, this state law has taken away our local control to deal with our community the way we believe is best, is that correct? To a large extent? **Ms. Brown** said, that would be my opinion, as well. I think if I was speaking strictly to the letter of it, it has taken away our authority to grant this authority to our local health officer to make these type of health orders.

Commissioner Bynum said, okay. Just one last question. The order that you're bringing forward today then, is an order such that we can still provide a couple of mitigation steps and be in compliance. Is that correct?

Ms. Brown said, that's correct. What we are actually doing is amending an existing health order to speak more clearly about the social distancing requirements that our health officer believes are necessary to handle the pandemic in Wyandotte County, and it also expands on the mask requirements to do the same thing. As we reviewed it with our health officer, we believe that this would be the very minimum steps that we can take to effectively combat the threat in Wyandotte County, but I do not wish to put words in Dr. Corriveau or Juliann's mouth at this point. **Commissioner Bynum** said, understood. Thank you so much. That's all my questions.

Commissioner Philbrook said, well, thank you for what everybody has said so far. I'm going to go a step further and ask a couple of questions, probably more into the category of, if we get all of the vaccines that we say we need to do this and get this job done, how long—I mean, what is the reality of the date we're looking at actually getting people say, at 100%? I mean, I'm just, you know, pie in the sky, 100%. Aren't we looking at least six months out? **Ms. VanLiew** said, pretty good estimate, I would say. How about you, Corriveau?

Dr. Corriveau said, I think that's right, Commissioner, but maybe sooner. Unfortunately—I'll say first, fortunately, I think our supply is increasing quite a bit. I mean, we know it is from the state. We're getting a higher allocation regularly of vaccines of various types. We're really having a rough time convincing folks, I think. People are wanting to kind of take their time and make this decision. I think they're looking around them, watching their neighbors and friends, and people who they know and talking to them about the vaccine before they decide to take the vaccine as well. So, and that's just sort of my opinion after watching a couple of our vaccine sites for the last week or so. So, I think a lot of what we're concentrating on is the messaging and putting out just correct information to people and encouragement. I do think the supply is really ramping up, so that's positive, you know. If it were only as easy as just the supply.

Commissioner Philbrook said, I know it's not, and I understand that there are some people that are very concerned about coming forward to getting the shots, you know. If there's some way that I can actually—and I hate to use this term, but I'm going to—call to arms all of our community leaders who actually get out there and get those arms, you know, present, so we can get those shots so we can all be safer. Because we are regulated by the state and the feds, it slows us down from getting our work done and getting, in my opinion, getting our (inaudible). Because I work almost everyday with patients, and you know, most of them want the doggone shot. They want

(inaudible). The happier they're going to be about it, because they're worried, and it's very stressful on people right now (inaudible) and how they feel about things, are all being impacted.

So, I would ask that we stay positive about the change that we're having to make because of the state, and just press ahead and ask people to get in and get shot in the arm, of course. Thanks, guys. You can't do—there's no way of getting through any of these meetings without giving y'all a lot of praise. So, this is just one more example of our UG team coming together, getting something done in a day. In a day. And making, hopefully, the appropriate things so the commissioners—so we can do what's right for our community. Don't think you're out of work yet, sorry. Feet to the fire, kids. We're going to be keeping you working for awhile yet, so God bless you.

Commissioner Burroughs said, Commissioners, if I may. We could have 100% of vaccines available, but we will be dealing with messaging and commitment for all members to get vaccinated in the communities. We're not only seeing it in our community where we have those that don't trust the vaccine, but those that may not even trust government in reference to getting the vaccines. So, and it's not just our community, it's state-wide, nationwide, but I will share with you this. This order that came down was nothing more than a power grab by those in the legislature who believe they are more knowledgeable and more educated than those that have our interests—in reference to our health interests—at heart.

It has been a very trying session to date in reference to how we deal with local control and deal with the pandemic. Not only state-wide, but within our individual communities. Kudos to everyone that has had the responsibilities of guiding us when you have a lot of external forces impacting our decisions. I will just state this, that the power grab is not only on local government, it is all the way to the Governor's office, and we've seen that stripped to the extent that it's almost disrespectful of the executive branch of our government and the state of Kansas.

So, while it impacts local government to the extent it does, I can only imagine how heartfelt and how excruciating it is for those that respect and value the power of the executive branch and what we're dealing with. So, I just wanted to clarify that, that we're not in this alone. It's impacted all the other communities state-wide, but this is nothing more than a power grab of executive power and of the executive branch. So, again, thank you all.

Commissioners, please know that we have been very blessed with those that have guided us through this pandemic in the extent that they have, but we—this battle is not over with yet.

Commissioner Townsend said, this does seem like a very sad move backward. Kansas was really on the forefront, it seems like, doing what it could to protect its citizens and respecting home rule. So, I'm asking these questions appropriate for either our counsel or our Health Department, just to make sure that I'm really getting what's going on here. So, is as the result of the Senate Bill 40, what would happen, I guess this is a question for counsel, if we did not revoke the orders that we were presented with tonight in a summary by counsel? We would be out of compliance with what Senate Bill 40 states, is that pretty much the sum and gist of it?

Ms. Brown said, so, yes, that's the sum of it. The actual effects of it are hard to calculate because there's no guidance currently in place over it. I have some theories that I'd be happy to share about how it could play out, but I think it would leave the Unified Government just generally overexposed if we did not take some action.

Mayor Alvey said, if I might. Commissioner Townsend, what this would mean is, we don't have to revoke the order. But, any order that we do have could be—if someone could bring lawsuit, could file a claim in District Court to say that this unnecessarily restricts their activities. So, I think the intent of the legislation was to basically put local jurisdictions on their heels, governing bodies on their heels, to be so afraid of just an onslaught of lawsuits that we have no idea how they would play out since there is no case law on this. So, it just simply is meant to put us on our heels and lead us to do this kind of action. That's my understanding.

Mr. Bain said, if I can answer as well. You saw, Commissioner, a few school orders of the eight that will be revoked. Of the entire bill, the language about schools was probably the strongest in giving control over health orders within school operations to school boards. So, we would, on the school orders that we currently have in place, we would not have any jurisdiction to enforce anything. So, those staying in place would not allow us ability to enforce them anyway.

Commissioner Townsend said, okay, and I do get that distinction, it seems like, for the school districts, but what the Mayor just articulated is more broad than that. It's basically saying anything

that a citizen could challenge some of these other orders we have in place as a result of Senate Bill 40.

So, let me ask another question, then. Can our Health Department officers, let's say we do revoke these orders in step with Senate Bill 40, regrettably so, can our Health Department officers still come to us preparing orders that have to do with, what was the big three that Counselor Brown mentioned? Masking, flow, and distancing? I might have gotten two out of the three correctly. Would we still have the ability to do that and then the Commission vote up or down on those proposed orders? **Ms. Brown** said, yes, our health officers could still come in front of the Commission and articulate the reasons why we needed to do that in those cases. So, the governing body could then pass a health order that did that. And capacity, I think, was the third one.

Commissioner Townsend said, okay. The way I'm understanding this, there's some light here at the tunnel. Even if we revoked the standing orders, the ones already in effect, to be in compliance with Senate Bill 40, that removes the possible specter that the Mayor mentioned of a round of lawsuits. And given what we're going through this time, we really don't want to strain our resources with that if we can do it, but nevertheless, we still have the opportunity and the right to hear from our health officers with orders they could propose. I understand the exception would be with the school district and that type of thing, so we still have that right, correct?

Ms. Brown said, that's correct, Commissioner. We definitely still do have that right. From a practical matter, the big thing that's changing is, we're not going to have health orders as Mr. Bain mentioned, affecting the school orders and the sports orders which are largely tied to educational facilities. Those are—we're not going to attempt to try and do that. Then, finally, the biggest thing would be the capacity restrictions that we have on events. So, that would be handled with, instead of capacity, social distancing and masking.

Commissioner Townsend said, explain that to me, again, with regard to the capacity. We can have orders that control that, or cannot? **Ms. Brown** said, we could have them as long as we made an argument that that was the most least-restrictive way of handling it. When reviewing the order and looking what some of our neighboring jurisdictions have done, it was the conclusion that imposing a social distancing rule would be the best approach instead of limiting it to numbers.

So, if a business could have sufficient—a number inside a business that was not currently allowed by our local health order but they were able to do it and socially distance and masking, then it would meet what was necessary to comply the minimum amount necessary to protect the health. **Commissioner Townsend** said, okay. Thank you.

Mayor Alvey said, Commissioner, I just want to clarify that we can keep all these orders even as they stand. We would have to bring a vote to approve them now, that's part of the legislation, part of the act. So, even a mask order and social distancing requirement—as long as the language is narrowly tailored least-restrictive, then that gives us better legal standing. However, we still could be subject to lawsuits, and we would still be really at the mercy of the court, the judge, who would decide whether even a mask order might be considered overly-restrictive. So, we can do any of these things. We have to calculate what we think the level of lawsuits might be, I think, is what it comes down to.

Commissioner Burroughs said, I do want to compliment Legal for their interpretation of legislation. Having the opportunity to be present during the debate and discussion, this was about putting the authority back into the elected bodies of those particular entities. We had this discussion early on when COVID broke out as to who really has the authority to make rules and regulations in reference to our communities and the school districts. What this does, with this legislation, actually promotes us putting the power back in those elected entities.

Legal has given a really decent overview as to the legalities of that, but these politics aren't finished yet. So, I would advise this Commission to be mindful that we can take whatever actions we want, but we could be litigated tomorrow on the actions we take today and/or tomorrow in reference to if we don't want to abide by Senate Bill 40. We have not seen the end of this just yet. The legislature is still in session, and there's still discussion in reference to the direction that those within the legislature in gaining the authority they feel they need to litigate through this pandemic that we have presently. But, I do want to thank Legal for understanding, in a short amount of time, the Senate Bill 40 ramifications and the decisions we make as a Commission.

Commissioner Ramirez said, I believe what you said and what Commissioner Burroughs said was what I was going to say. Us, as a Commission, as a governing body, we need to caution any

orders we would like to enact because it will bring—because we have to keep in the back of our mind of that citizen, within Senate Bill 40, the citizen right to bring up action against us. So, I just say caution when we bring these orders forward. Regrettably, I will support the order that we are doing tonight, but again, just in the future, just caution with what we do. Thank you.

Commissioner Townsend said, one more question about clarification. So, if we were not to revoke our standing orders so that they would be in opposition, let's say, to Senate Bill 40, we could be sued. If we did revoke them, could we still be sued? **Ms. Brown** said, yes, Commissioner. We could still be sued and, you know, I anticipate we will be sued, at least in some capacity. However, I believe that if we make the changes tonight, that we will be able to more easily defend ourselves if we are sued. **Commissioner Townsend** said, okay. You just said a mouthful right there. Thank you, Counselor.

Mayor Alvey said, if we could just review, once again, what this order does. **Ms. Brown** said, the resolution that you have in front of you amends local health order from June, the masking ordinance. It amends it to include new masking provisions that are in line with what we anticipate the executive order coming from the state would be. It also includes social distancing, and it revokes prior health orders pertaining to basically everything else, but the masking and social distancing, specifically to schools and sports activities, and also capacity limitations on businesses.

Action: **RESOLUTION NO. R-24-21**, “A resolution amending LHO 6/27/20 and revoking LHO 4/30/20, LHO 6/18/20, LHO 7/14/20, LHO 11/13/20, LHO 11/20/20, LHO 2/25/21, LHO 2/26/21, and LHO 3/11/21.” **Commissioner Kane made a motion, seconded by Commissioner Ramirez, to adopt the resolution.** Roll call was taken and there were nine “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Kane, Markley; and there was one “No,” Johnson.

REGULAR CONSENT AGENDA

Mayor Alvey asked, does any member of the Commission or County Administrator wish to set aside any item on the Regular Consent Agenda? If an item is not set aside, all items on the Regular Consent Agenda will be voted on by one vote.

Action: **Commissioner Ramirez made a motion, seconded by Commissioner Kane, to approve all items as submitted.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 1 – MINUTES

Synopsis: Minutes from Regular Session of December 3, 2020, and Special Session of February 25, 2021.

Action: **Commissioner Ramirez made a motion, seconded by Commissioner Kane, to approve.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 2 – WEEKLY BUSINESS MATERIAL

Synopsis: Weekly business material dated March 4, 11, and 18, 2021.

Action: **Commissioner Ramirez made a motion, seconded by Commissioner Kane, to receive and file.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

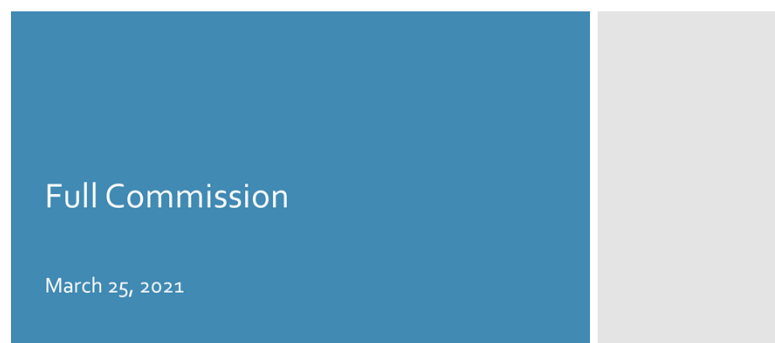
PUBLIC HEARING AGENDA

ITEM NO. 1 – 2112...PUBLIC HEARING/ORDINANCE: CONSIDER THE CREATION OF A REDEVELOPMENT DISTRICT AT 6700 KAW DRIVE

Synopsis: Conduct a public hearing to consider the ordinance creating a redevelopment district at 6700 Kaw Drive, submitted by Katherine Carttar, Director of Economic Development. On

March 25, 2021

February 11, 2021, the Unified Government Commission unanimously adopted Resolution No. R-11-21 setting the public hearing date of March 25, 2021.



Katherine Carttar, Director of Economic Development, said, this is a public hearing and subsequent ordinance for approval of a redevelopment district at 6700 Kaw Drive. This will be pretty high level. We would anticipate coming back to the Economic Development and Finance Committee and the full Commission subsequently with much more specifics in terms of development agreements and a project plan.

March 25, 2021



So, what we are referring to today is a single parcel here at 6700 Kaw Drive. It currently houses a Happy Foods, A-Lotta Stuff, Jones BBQ, Heather Beez, which has since closed during the pandemic, and The Bar. This is an area that has been designated blighted as per the enterprise zones from 1992. So, it is eligible for a tax increment financing redevelopment district. At this point, what establishing a district would do is really just signal that this is a location where we would like to see, and expect in the near future, to see a proposal for redevelopment.

I will show you kind of a very rough, I will say, caveat that this is just a preliminary plan. There is a developer interested who does have an option agreement on this property.



Their desire would be to demolish the Happy Foods and, in its place on the same parcel, build a Fresh Market. This would be a very similar concept to the Mercado Fresco on Metropolitan. It's the same owners. If anyone has been in there, it is really an exceptional full-service grocery store, meat counter, bakery, great produce, etcetera.

Then, they would anticipate additional retail and they have started discussions with Jones BBQ about what their space could look like. So, I know that these are just in the beginning stages, so

this would be—once this district is approved, then the developer, kind of having that signal that this is yes, an area that everyone would like to see developed, would then move forward with that next step and we would start actually going into the specifics and the development agreement, etcetera. So, if there are any questions, that's all I've got.

Mayor Alvey said, I would now open the public hearing. I know Ms. Jones is here to speak in favor. I would also reference that we had received a letter from Greg Kindle at the Wyandotte Economic Development Council in support of this development.

Deborah Jones said, I talked to them last Friday, their lawyer, my lawyer, and the people that purchased the land. We just wanted to know where we were going to be and if we could come to some kind of agreement about what they're going to do, and where we're going to go, and if they're going to knock our building down. They said that they were going to let us stay open while they did the development in the back. We don't have anything specifically in writing, we're waiting to hear from them to say that we'll be on that end. We asked them if we could have a drive-through, just in case C-19 and other things might occur later on. We asked them about our drive-through and still a walk-up.

Also, we asked them that, because the square footage that they're asking for us to take, we were trying to see if they would be okay with us doing our sauce there, developing our sauce on part of the property next door and employing other people in the community for jobs.

Mayor Alvey said, in general, you are saying you are in support of this proposal? **Ms. Jones** said, oh yeah. Yeah, if they're in agreeance and keeping me there, sure I am. But, if they're going to boot me (inaudible) yeah, I'm for it if they're going to keep me there, but if they're going to change up on me, no.

Mayor Alvey asked, is there anyone else present who would like to speak in favor? **Brett Deichler, Interim UG Clerk**, said, Mayor, the Clerk's Office did receive another letter before the deadline from a Kelly Lane from Key Equipment that she wanted me to read. I will read that now, if that's okay.

The letter read: To whom it may concern. We at Key Equipment and Supply Company are writing this letter to express our support of the redevelopment of the businesses at 6700 Kaw Drive, currently called Fresh Market, formerly Happy Foods West, A-Lotta Stuff Thrift Store, Jones BBQ, as well as The Bar and Restaurant. Our business sits behind the property at 6700 Kaw Drive, and our front entrance faces the backside of the grocery and thrift store areas. Since relocating to our current location in 1998, our view of the backside of the building has been unsightly. The building is blighted and is in dire need of repairs.

We sell, service, and rent large municipal equipment such as street sweepers, sewer trucks, and refuse trucks. Because of their size, these trucks can only access our business by exiting Kaw Drive onto River Avenue. Our customers' large trucks are not allowed through the residential area and on the opposite side of our businesses. The loading dock for the grocery store is at an angle towards River Avenue. When a large delivery truck backs up onto the dock, they block most of the street, not allowing vehicles to pass. Not only does this not allow our customers to get to our building, but it will also prevent emergency vehicles such as an ambulance or fire truck from getting through.

We have seen the preliminary plans for the redevelopment of the store property, the redevelopment plans remedying the issues of our customers accessing our property and eliminates the safety issues that we currently see. Our small business is currently in the planning stages of updating our current building and adding a new building at our location, as well. The redevelopment of both properties will be a positive improvement for this area, in which we are very excited about. Respectfully, Kelly Lane.

Mayor Alvey asked, is there anyone present who would like to speak in opposition? Did we have any communications from the Clerk's Office? **Mr. Deichler** said, the Clerk's Office did not.

Mayor Alvey said, I will now close the public hearing.

Ms. Carttar said, I will say, sorry to interrupt. We do have the developer and their attorney. I don't think they necessarily need to say anything, but just in case there are questions, they are present on the line.

Commissioner Philbrook said, it's nice to see this great developer come in and want to do something with that property. We've been needing something done for a long time. Happy Foods has been great for us, but yes, it's long overdue and this new development can really help start the cleanup along Kaw Drive.

For Ms. Jones, I believe that I was pretty strong in my conversation when we met with the new developers that you're to be part of—not that I can make sure, he hasn't signed on the dotted line—but I was very adamant about the fact that you needed to be part of that conversation and stay with us down in that location. So, any questions, you need any help, just give me a call because I know all of us want to keep Jones BBQ. There's no question about that. You ladies are just dynamos, that's nothing else short of being shakers and movers and an example for women on what they can do with their lives and encourage younger folks to do the same. Sorry about getting sidetracked on that spiel, but when I think about you ladies, that's what comes to my mind.

So, Katherine, they're still in conversation around the exact—what's going to happen, and so I guess what I'm hearing from you is that they're still going to be talking with the Jones ladies about how they will fit in there and how they can kind of work that out. Nothing is etched in stone yet, it's just carved in jelly. **Ms. Carttar** said, that's correct. At this point, the developer is waiting to make sure that the TIF district does move forward and is established. Then at that point, I know they've had introductory conversations, as Ms. Jones mentioned, last week and they will move forward with actually getting the specifics ironed out of the plan, as well as their plan with Jones BBQ in the future here, quickly. **Commissioner Philbrook** said, so, what is it that you're wanting us to do today, Katherine?

Ms. Carttar said, so, this would be the establishment of the actual TIF district. So, that would just provide a district that's kind of the first step of the TIF statute. Put a district in place that signals that yes, this is a location where the Commission is open to redevelopment and to providing some amount of tax increment financing. So, this, again, just as that first kind of piece, then we would come back to you with a project plan. It's actually the project plan that would outline the specific deal points, exactly what the project is, exactly what the site plan is, all the budgetary side of it, and that would actually be the vote that would actually start the TIF clock and put the TIF in place.

Commissioner Philbrook said okay. So, we're just hearing about it tonight. We don't need to make any action. **Ms. Carttar** said, it is an act. So, this would be to create the redevelopment district.

Action: **ORDINANCE NO. O-46-21**, "An ordinance making findings and establishing a redevelopment district pursuant to K.S.A. 12-1770 et seq., and amendments thereto, at 6700 Kaw Drive." **Commissioner Philbrook made a motion, seconded by Commissioner Burroughs, to approve ordinance.** Roll call was taken and there were ten "Ayes," Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

STANDING COMMITTEES' AGENDA

ITEM NO. 1 – 21743... GRANT: ELEC COVID-19 INFRASTRUCTURE EXPANSION

Synopsis: Grant application to KDHE in the amount of \$923,365 KDHE ELC COVID-19 Infrastructure Expansion, submitted by Juliann VanLiew, Public Health Department Director. This grant funding is intended to provide critical resources in a broad range of COVID-19 testing and epidemiologic surveillance related activities. These awards will support testing, contract tracing, surveillance, containment, and mitigation to monitor and suppress the spread of COVID-19. Awards are based on county population but also include a base amount of \$100,000 for each health department. No match required. This item was scheduled to appear before the Administration and Human Services Standing Committee, chaired by Commissioner Markley, on March 22, 2021. It was requested, and approved by the Mayor, to fast track this item to the March 25, 2021 full commission meeting.

Mayor Alvey said, this item was presented to the Administration and Human Services Standing Committee on March 22nd. The committee voted unanimously to approve and fast track it to tonight's Commission meeting.

Commissioner Markley said, Mayor, this is a grant that doesn't require a match. As with everything, it seems COVID-related. It was just fast moving and for that reason, it was fast tracked to this agenda.

Mayor Alvey asked, any questions or comments?

Action: **Commissioner Kane made a motion, seconded by Commissioner Markley, to approve.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ADMINISTRATOR’S AGENDA

ITEM NO. 1 – 21747...RESOLUTION: ACKNOWLEDGMENT AND ASSUMPTION AGREEMENT WITH LEGEND HOTEL, LLC

Synopsis: A resolution authorizing the Unified Government to enter into an acknowledgment and assumption agreement with Legend Hotel, LLC for the purpose of developing an 87-room hotel, submitted by Katherine Carttar, Director of Economic Development. On November 19, 2020, the Unified Government and HFS KCK entered into a development agreement which authorized this assignment.

Doug Bach, County Administrator, said, before you tonight is an acknowledgement and assumption agreement for a property within our star district. This is a property that sits by the Freddy’s along Parallel Parkway. A new developer’s coming in to build a hotel on that property. As we have done in the past, when we transfer property, we have a requirement in our agreement that they come back and accept an acknowledgement and assumption of all the terms and conditions set forth through our agreements. This looks like a good project moving forward. With this, we would recommend approval.

Action: **RESOLUTION NO. R-25-21**, “A resolution authorizing the Unified Government to enter into an acknowledgment and assumption agreement with Legend Hotel, LLC.” **Commissioner Burroughs made a motion, seconded by Commissioner Ramirez, to adopt the resolution.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 2 – 21751... RESOLUTION: PAINTERS DISTRICT COUNCIL NO. 3 MOU

Synopsis: A resolution authorizing the County Administrator to execute a Memorandum of Understanding (MOU) with Painters District Council No. 3 International Brotherhood of Painters and Allied Trades, effective January 1, 2020, through December 31, 2021, submitted by Misty Brown, Chief Counsel.

Doug Bach, County Administrator, said, this week we were able to finalize with both of these labor unions, they both signed their agreements and forwarded to us midweek. The first one before you is with the Painter’s District Council No. 3. It is for years effective through 2020 and 2021. It is consistent with the terms that we’ve been bringing forward to you on other contracts. I would recommend for approval.

Action: **RESOLUTION NO. R-26-21**, “A resolution authorizing the MOU between the Unified Government of Wyandotte County/Kansas City, Kansas, and the Painters District Council No. 3 International Brotherhood of Painters and Allied Trades for the period from January 1, 2020, through December 31, 2021.” **Commissioner Kane made a motion, seconded by Commissioner Bynum, to adopt the resolution.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

ITEM NO. 3 – 21752... RESOLUTION: UNITED BROTHERHOOD OF CARPENTERS UNION MOU

Synopsis: A resolution authorizing the County Administrator to execute a Memorandum of Understanding (MOU) with United Brotherhood of Carpenters and Joiners of America, St. Louis-Kansas City, Carpenters Regional Council, effective January 1, 2020, through December 31, 2021, submitted by Misty Brown, Chief Counsel.

Doug Bach, County Administrator, said, Mayor, same issue. This is with our Carpenter’s Union. It is for years 2020 and 2021. Again, this is consistent with the terms we have set forth with these groups. I recommend for approval.

Action: **RESOLUTION R-27-21**, “A resolution authorizing the MOU between the Unified Government of Wyandotte County/Kansas City, Kansas, and the United Brotherhood of Carpenters and Joiners of America, St. Louis – Kansas City, Carpenters Regional Council for the period from January 1, 2020, through December 31, 2021.” **Commissioner Kane made a motion, seconded by Commissioner Bynum, to adopt the resolution.** Roll call was taken and there were ten “Ayes,” Walters, Philbrook, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley.

MAYOR ALVEY

ADJOURNED THE MEETING AT 8:38 P.M.

March 25, 2021

Brett A. Deichler
Interim Unified Government Clerk

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March 25, 2021