

DISTRICT V ADVISORY BOARD

Minutes

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March 5, 2007
7:00 p.m.

Auburn Hills Golf Course Clubhouse
443 S. 135th West

Eight (8) District Advisory Board Members attended the District V Advisory Board meeting. Also in attendance was four (4) City staff. Approximately 25 members of the public were present with 22 signing the sign-in sheet.

Members Present

Bob Bulman
Dave Dennis
Maurice Ediger
Jerry Hoggatt
Andy Johnson
John Marker
DeAnn Sullivan
Ann Wellborn

Staff Present

Officer Brad Haught, Police
Officer P Brock, Police
Captain Joe Dessenberger, Police
Donna Goltry, Planning
Chris Carrier, Public Works
Dana Brown, City Manager's Office

Members Absent

Dave Almes
Clarke Sandberg

Guests

Listed on page 8

Call to Order

District Advisory Board Pro Tem, David Dennis, called the meeting to order at 7:04. He welcomed the public and said they would have the opportunity to speak on any items on the agenda. He asked that they wait until they were asked to speak. He asked everyone to be courteous while others are speaking.

Dennis then asked for approval of the minutes for January 22 and February 5, 2007. The minutes were approved by a vote of 7:0 (Bulman/Almes).

Almes/Bulman approved the meeting agenda through a motion by a vote of 7:0.

Staff Reports

Community Police Report

Brad Haught, Community Police Officer for Beat 199, first acknowledged that Captain Joe Dessenberger, newly appointed Commander for West Patrol, was present. He also introduced other officers in attendance.

Officer Haught then presented the District V Police Report for Beats 16, 18, 19, & 199. No crimes showed spikes except for residential burglaries in Beats 16, 18, & 199. The perpetrator was believed to have been apprehended on February 22 in the area of Brownthrush Street. He has been charged with multiple traffic charges.

In Beat 19, the intersection of Maize & 21st has been an area of special attention. Vandalism has been reported in Forest Lakes. In Beats 18 & 119, coin boxes at carwashes have been broken.

In addition, Westlink Neighborhood Association will meet on March 13 in an effort to continue renewal efforts.

Bulman asked if mailbox theft for identity theft was a continued concern. He said that he had experienced this although his mail was found in a stolen car at a motel. He said that Officer Whiteman had been very helpful. **Officer Haught** said that although this is still an issue, the incidence had been reduced.

Officer Haught reported that Officer Lori Kimrey, Beat 199, has been working with residents in Sterling Farms about their concerns about traffic at 21st & Tyler at the Warren Theater. The Homeowner Association is asking for counts of traffic accidents.

Action: Receive and file

New Business

CUP2007-02

Donna Goltry, Planning, presented a request to amend DP-177 Sterling Farms Commercial Community Unit Plan #2 to increase height from 35 to 47-feet for a theater addition, and decrease parking to seat ratio from 1:3 to 1:3.3 on Parcel 2 at the general location of north of 21st Street N. and west of Tyler Road. The theater owner plans to expand the number of seats by adding a dinner theater, thus requiring the increased height.

Goltry explained that a conflict exists for left-turns into the Pines Subdivision on the south side of 21st Street, across from the theater to the north. Staff recommends that either left-turns be eliminated or the access be aligned on the north and the south. The Metropolitan Area Planning Commission (MAPC) voted to eliminate left-turns onto 21st Street from the theater. This would probably be handled by what is known as a “pork chop” with a curved median that would deter left turns. **Chris Carrier, Public Works Director**, confirmed that the traffic control device would most likely be used.

Board Members asked why consolidation of parcels is necessary and whether lighting for the parking lot would be affected that might cause an issue for the residential area. **Goltry** explained that both parcels belong to the theater owner so it makes sense to consolidate and that she didn't think the lighting would be a problem but the agent for the owner should address the issue.

Brad Teeter, Spangenberg Phillips & agent for the developer, addressed the Board to show a design concept and saying that they would need to remove 4 pole lights in the theater parking lot but adequate lighting would still exist without interfering with the neighborhoods. Teeter said the number of seats would be increased by just over 600 through the expansion. He also added that they would prefer left turns off 21st Street be prohibited.

Area residents spoke about how people would know that a left-turn was prohibited, the danger due to the amount of traffic on 21st Street, and a need for Tyler traffic to also be prohibited from making left turns due to a retirement area located north of the subject location.

Board Members asked if signs would be installed to prohibit left turns off 21st would be prohibited and if the increased height would be restricted in the future. **Goltry** said the median would guide traffic to make right turns only. **Carrier** added that signs could create a visual obstacle. Goltry explained that any future requests to amend the building height would have to be considered at that time. Concern was expressed due to the impact on adjacent neighborhood.

Bulman (Sullivan) moved to recommend approval of the request subject to the conditions of the staff report as well as left turns from 21st Street into the theater's entrance be prohibited and the building height increase be allowed for the expansion only.

Action: The Board voted 7:0 to recommend approval subject to the staff report conditions and the following additions: 1) right-turn only at 21st Street entrance and, 2) allow only the 47-foot increase to the building height at the expansion area.

Additional discussion took place after the vote about the possible need for a new traffic study of 21st Street due to the increased growth in the area, causing an increased traffic load on the arterial. **Chris Carrier, Public Works Director**, responded that traffic studies are conducted frequently for neighborhood areas but must be prioritized according to the funding available. Additionally, **Bulman** stated that with the end of the current District V Advisory Board Members' tenure and the loss of Council Member Bob Martz who died in January, it was also important for the Board to stress that another crossing over the floodway (Big Ditch) is very much needed due to increased traffic from the growth in District V.

Bulman (Ediger) then moved that a traffic study be conducted on 21st Street from Ridge to Maize and a report of the study be presented to the DAB V. Motion carried 7:0.

Action: The Board voted 7:0 to recommend a new traffic study for 21st Street from Ridge to Maize with the results reported to DAB V.

Proposed Development Agreement – 29th & Maize -Cadillac Lake

Chris Carrier, Public Works, presented information for a proposed agreement between the City and private developers including New Market V/George Slawson and Bruce and Esther Pearson with East Side Development for a drainage plan at 29th & Maize. The proposal will be presented to City Council on March 6, 2007. Carrier explained that the agreement is considered a good solution to allow development to progress and to resolve drainage issues in the area.

Carrier explained how the low area previously known as Cadillac Lake held water and possessed wetland characteristics but several years passed before the Corps of Engineers designated the basin as a federally protected wetland. As the surrounding area developed, more impervious structures have been built, increasing run-off in the watershed and over-taxing the wetland area to hold enough water to prevent flooding into adjacent neighborhoods to the south & east. Carrier said that past efforts in working with the late Council Member Bob Martz had included the flooding concerns in the area with recognition that issues would need to be addressed before further development could occur. As a result, a project for the area was added to the City's Capital Improvement Project (CIP) list with future funding to be identified. Developers and property owners in the surrounding area had also been in discussion with the City for moving forward with plans to address the drainage. Through that process, the development agreement has been created to reflect the intent of the parties.

The agreement outlines a plan that three different studies have supported as the best plan for the area. The plan includes a dedication of 80 acres by the developers; 54 acres would become a public use area enhanced and maintained by the developers. A storm water detention area would be built along the east side of the property and a drainage pond would be built for development west along the south edge toward the southwest corner. The City would build a pump station at the south end to regulate the amount of drainage through Chadsworth Homeowner Association area. The entire proposed project hinges on the Corps of Engineers granting a 404 permit to allow use of the wetland area.

The estimated cost of the total project is \$2.9 million with a plan for the cost to be split between the City and the developers in an upcoming petition. No funding is currently identified for the proposed project. In addition to the 404 permit from the Corps, the agreement is subject to City Council approval. If the Council doesn't approve the agreement, it will become null and void.

As noted earlier, the main concern is drainage for the northern area of Chadsworth Homeowner Association and the northern area of Bradford Homeowner Association. Carrier stated that bigger drainage problems would occur if nothing were done. If the 404 Permit is acquired, the proposed agreement would allow development in the area, impose restrictions for drainage on properties north of the subject area that are not in the City's jurisdiction, and decrease restrictions for development in the area.

DAB Members asked several questions for clarification:

- (1) Would the wetland area act more or less like a sponge with the project; Carrier said it would be about the same but the pump station would pick up additional drainage.
- (2) Has a cost-benefit analysis been conducted to include drainage control for entire area, development in Maize requiring MAPC approval; structural capability to prevent back up; and develop restrictions? Carrier said no but that the plan provides components that are structurally capable.
- (3) Who has the final say, Federal Emergency Management Agency (FEMA) or Corps of Engineers? Carrier said that FEMA handles floodplain areas and major flooding events like the "Halloween" flood which was considered a "100 year" flood. In these situations, information from similar areas is combined with judgment to address. We now have better information regarding topography, etc. b but no exact science is used. Approvals are based on the best information available at the time along with allowances.

It was pointed out that we know another benefit of the agreement to allow further development includes the creation of jobs and housing additions. A counter point was made that some might view that urban sprawl.

Tim Austin, agent for development parties of the Pearsons and East Side Development, spoke about the proposed project restating several of the points made by Carrier. Austin also stated that information had been provided to the neighboring residents, as evidenced through a copy of a letter dated January 30, 2007 that he shared with the DAB. The attachment to the letter included details of the proposed project and contact information for anyone with questions.

The public then asked questions, as follows:

- (1) **Jeff Bannon, 201 N. Wood,** asked Austin whom he was representing; **Austin** stated he represented the Pearsons & East Side Development. Upon insistence by Bannon that Austin was working for the City, Austin clarified that he was not representing the City.
- (2) **Michael Johnson, 2310 Chadsworth,** asked what would happen if the pump station failed? **Carrier** explained that the pump remains off or closed but is city-operated with

an alert signal for opening. It would be more sophisticated than pumps in the past and would have a back-up pump in order to protect the residential property.

- (3) **Ann Johnson, 2310 Chadsworth**, asked about the noise and appearance of the pump; **Carrier** said to note the pump stations along Kellogg as a comparison although those are much larger and louder than the one planned for this project.
- (4) **Jay Schweikert, 2367 N. Crestline Court & past President of Bradford Homeowner Association**, asked if the City had talked to Maize and if the City was aware of the oil & gas wells in the detention pond area that will need to be plugged. He said that the homeowner associations were kept out of the process and they want to be involved. He was also concerned about erosion.
- (5) **Cheryl Cox, President of the Bradford Homeowner Association, 8906 Ryan Circle**, said she was concerned about the safety of the children. **Carrier** said the detention area would need to be fenced.
- (6) **Robert Timmons, 2667 N. Keith Court**, spoke about the three drainage studies asking why it was necessary to have that many; Austin responded that the Corps of Engineers disputed the findings of the 2003 study and requested another, conducted in 2006 which was much more comprehensive and produced different design concepts. **Austin** said they had worked with the Corps for four years, working through the issues. Timmons stated that the City was keeping the agreement from the public and said his experience included calling Public Works on February 20th to request the agreement but being told the document was in draft status and could not be released at that point. **Timmons** said he later called the Law Department and was told that the City's policy is to not release such documents until the City Council members had received them. Timmons then called City Clerk's Office but was told that they needed time to copy the document due to the number of pages. The document was made available to Timmons on Friday, March 2, which he stated did not allow him adequate time to review prior to the DAB meeting. He also said that residents knew nothing about the plan and also questioned how platting could be accomplished without notification to the surrounding residents. **Austin** responded that on January 30, 2007, a letter with an attachment including details of the project was sent to all of the adjacent residents and the homeowner associations. In the attachment, his contact information was given to address any questions from residents. He said there is not simple solution to this issue but the agreement doesn't obligate the city to the \$1.7 million in the Capital Improvement Program list. He said the main objective for the plan was the request to the Corps of Engineers for the 404 Permit. Without it, a petition could not be developed to request moving forward on the project. Austin explained further that the wetland area is poor quality and has to be mitigated in order to improve the quality of it. This will be the developer's responsibility as well as maintenance.

Carrier explained that the petition process would allow for residents to be involved for input through public hearings. After resident input is collected during the hearings, the project will be ordered to have an engineering firm develop design concepts for construction. Public hearing will again be held to obtain citizen input from District Advisory Boards and the public before a final assessment is done with an assigned cost. At that point, the City Council votes to approve or deny the project. Only then can the bid process begin to hire a construction company. Carrier assured the public that no proposal is being made to assess the residents. In the developer agreement, only two property owners are identified to pay assessment costs.

In closing his remarks, **Timmons** said that residents were concerned about mosquitoes from the wetland area and also decreased property values from the development.

- (7) **Hank Blaes, attorney**, identified himself as representing Jeff Bannon and said that Bannon owned 20 acres north of the subject area and it only made sense to include his property in this proposal. However, he said that Bannon had never been included, even though he is in favor of the development. **Austin** stated that the petition is in draft form and there is nothing at this time preventing Bannon from petitioning with the developers. All rights are available to Bannon as they are to Austin's clients but Bannon has not chosen to exercise his option to petition.
- (8) **Bickley Foster, consultant for Jeff Bannon**, said Bannon owned parcels just north of the subject property and should be included in the agreement as a partner with the other private developers. In addition, he said that the homeowner associations in the area have not been included in the process. He recommended that the proposed agreement be sent back to staff to involve.
- (9) **Paul Tobia, 12102 Ridgepoint**, asked several questions and made some points brought out during the presentation of information. Regarding the point that the surrounding area has mixed authority including the City of Wichita, Sedgwick County, & City of Maize, influence within the MAPC exists for working with those areas on development & controlling drainage. He also asked the current replacement ratio that the USC requires for displacing wetland area and noted the Land Bank's involvement located in Topeka; Austin responded it is 4 acres to remove 10 acres from Sedgwick County but it could be a different ratios somewhere else. The Land Bank is located in Kansas City. In addition, Tobia asked what environmental groups have been involved in discussion of this proposal; Carrier said the Environmental Protection Agency, the USC, the Kansas Department of Wildlife & Parks, and a number of others have been involved. Austin added that the Federal Clean Water Act isolated wetlands. Tobia said he was referring to local groups such as the Sierra Club. He went on to say that as far as this being a letter of intent, the City lost its credibility with the Genesis example.
- (10) **Melinda Bannon, 201 N. Wood, wife of Jeff Bannon**, stated that she and her husband had put in an equal number of hours as Tim Austin (regarding Austin's reference to 1,000 hours). She said the City is oppressing us and the statement about the decision being under USC jurisdiction is a sham. Bannon said the drainage comes from the east. She said she had talked to city staff about the likeliness of a petition from individuals being successful and had been told that the City would be more apt to be successful.

The item was brought back to the DAB. Bulman asked if the City can ask the process to be postponed until more information is collected about the development agreement, specifics on the retention pond & drainage issues, and if the development could go forward with the approval of the 404 Permit. Dennis asked finding more ways to work with the City of Maize and the need for the residents and the DAB to understand all of the issues. **Dennis (Bulman)** moved for a 1-month delay of the agreement being presented to the Council and asked Carrier if he could request a postponement tomorrow morning. During discussion, Sullivan asked what the Bannon participation "look like" to which Carrier said that Bannon had been asked to participate and that he has been trying to broker with the developers during this meeting to delay presentation of the proposed agreement. Ediger stated that he was okay with the information provided by Chris Carrier and Tim Austin but would support the delay to increase the information for residents and DAB. The DAB voted 7:0 to support the motion.

Action: Board recommended unanimously that the City Council postpone action on the agreement to obtain more information.

Charitable Solicitation

Captain Joe Dessenberger, Wichita Police Department, presented a proposed ordinance for Chapter 3.26 for permits and licenses, and amendments to existing ordinance for Traffic, Section 11.44.050, to better regulate the safety for soliciting donations on street medians. He said the practice of collecting on street medians for fund raising began with the Muscular Dystrophy Association through the Firefighters' Boot Block. Gradually, other groups began to use this method and although the approval of a city license was required with only non-profits being eligible, some groups were not actually non-profits. The proposed changes would require more proof of non-profit status and require each group to have a copy of the license in their possession when collecting. The changes would designate seven intersections with raised medians on the west side of Wichita. The people collecting must wear safety vests, be at least 16 years old, and have a supervisor present at each intersection that is 21 years of age. The fundraisers may only approach a vehicle during a red light and if the driver has indicated they would like to donate. The collecting can only be conducted during daylight hours.

Ediger asked if the safety vests would be supplied by the City to which **Capt. Dessenberger** said no; the groups would need to rent those at their own expense. Another question was asked about how Police know that a collection has been permitted for their patrol area; Capt. Dessenberger said a system was set up in which patrols were notified by the License Office. **Bulman** asked other questions about hours allowed and what happens when violations occur at intersections. Captain Dessenberger said the ordinance changes would allow Police to address violations immediately on site and determine if the operation needed to be closed at all intersections.

Hoggatt moved that the proposed ordinance be recommended; motion passed 7:0.

Action: Board recommended approval of new ordinance and amendments to the existing ordinance.

Public Agenda

This is an opportunity for citizens to present items not shown as part of the regular meeting agenda.

Off-Agenda Items - None presented.

Board Agenda

Updates, Issues, and Reports

Report on activities, events, or concerns in the neighborhoods and/or District V.

Staff reported that the recommendations for amending City Code on temporary replacement of a deceased Council Member were forwarded to the Law Department for review and response.

With no further items, the meeting was adjourned at 11:15 p.m.

The next meeting for District Advisory Board V is scheduled at Auburn Hills Clubhouse on **Monday, April 2, 2007 at 7:00 p.m.**, on the regular meeting date of the first Monday of the month.

Respectfully Submitted,

Dana Brown, Neighborhood Assistant
City Council District V

Guests

Betty Ladwig	400 N. Jaax
Cherryl Cox	8906 Ryan Circle, 67205
Robert Timmons	2667 N. Keith Court, 67205
Arlen Roberson	2309 N. Keith Court
Ann Johnson	2310 Chadsworth
Mike Johnson	2310 Chadsworth
Jeff Bannon	201 N. Wood, 67212
Melinda Bannon	201 N. Wood, 67212
Hank Blaes	No address given
Brad Teeter	121 N. Mead
Joey Ellzey	107 S. Maple Dunes
Stan Brown	9111 W. 21 st Street North, #5
Marvin Keeler	9111 W. 21 st Street North, #60
Daryl Filbert	9111 W. 21 st Street North, #76
Jay Flinn	9422 Sterling
Jay Schweikert	2367 N. Crestline Court, 67205
Paul Tobia	12102 Ridgepoint, 67235
Jane Byrnes	9500 Delano, 67212
Susan Sayler	2423 Bellwood, 67205
Daniel Pierce	2420 Bellwood, 67205
Bridget Corridoni	6601 W. 34 th Street North, 67205
Bryan Frye	3109 Ridge Port, 67205